

Regulatory Impact Statement: Severe Weather Emergency Recovery Legislation (Hawke's Bay Rural Recovery Works) Order

Coversheet

| Purpose of Document | |
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| Decision sought: | This analysis will inform Cabinet decisions on the proposed Severe Weather Emergency Recovery Legislation (Hawke's Bay Rural Recovery Works) Order |
| Advising agencies: | Ministry for the Environment |
| Proposing Ministers: | Hon Penny Simmonds, Minister for the Environment |
| Date finalised: | 20 August 2024 |
| Problem Definition | |
| <p>Severe weather events in early 2023, including Cyclone Gabrielle, caused extensive damage to the North Island. This affected the economy, infrastructure, and environment, with Hawke's Bay experiencing severe agricultural and infrastructure losses.</p> <p>The Resource Management Act 1991 (RMA) includes standard provisions to enable emergency works or take preventative measures when immediate action is needed. These provisions are generally suitable for smaller events and emergencies. However, they fall short for larger scale emergency situations. Despite ongoing recovery efforts, the rural community faces significant challenges in completing necessary recovery works. Resource consent processes, which are typically appropriate, are adding significant complexity, cost, and time to these works, thereby delaying economic and social recovery. The unprecedented scale of damage and financial burdens from less than profitable agricultural conditions compound these challenges.</p> | |
| Executive Summary | |
| <h3>Background</h3> <p>In early 2023, Cyclones Hale and Gabrielle caused significant damage across the North Island, particularly in the Hawke's Bay. This has led to ongoing recovery efforts and financial uncertainty among rural landowners and occupiers.</p> <p>In the immediate aftermath of the North Island Weather Events (NIWE), the Severe Weather Emergency Legislation Act 2023 (SWELA) was passed into law on 20 March 2023 to support the immediate recovery and rebuild.</p> <p>SWELA introduced a permitted activity regime for rural landowners / occupiers by creating sections 331A-331E to the RMA which repealed on 1 April 2024. It allowed rural landowners and occupiers in affected regions to undertake emergency works on their properties immediately following the severe weather events as a permitted activity.</p> <p>SWELA was shortly followed by the Severe Weather Emergency Recovery Legislation Act 2023 (SWERLA) which was passed into law to support recovery in areas affected by the</p> | |

severe weather events and is active until 2028. The SWERLA enables certain legislation to be amended temporarily via the Orders in Council (OIC) mechanism to exempt, modify, or extend statutory obligations where necessary to support recovery in the areas affected by the severe weather events.

Progress towards recovery

The SWELA rural emergency works regime has not been fully implemented as Parliament intended it would be. In early 2024, the Hawke's Bay Regional Recovery Agency (HBARRA) and Hawke's Bay Regional Council (HBRC) surveyed rural landowners on recovery progress. About 94% of respondents still have recovery works to complete with challenges to utilising the permitted activity regime under SWELA from finance, availability of contractors and extended wet weather conditions. The HBARRA asked the Minister for the Environment to extend the regime under SWELA as, despite the emergency being over, there are ongoing recovery activities to be undertaken.

Deciding on an option to address the policy problem

Ministry for the Environment (MfE) officials have reviewed all potential pathways and have determined that an OIC is necessary to enable rural landowners and occupiers to carry out rural recovery works on their land. Other options considered are:

- a) Status quo – do nothing and utilise the existing RMA framework
- b) Amend the SWELA timeframes for RMA s331A-331E by introducing similar provisions to those in s331A-331E until 31 December 2025
- c) Further amendments to the RMA emergency provisions
- d) Global consent
- e) Schedule 1 Plan Change

Three other options were explored and discounted as unviable at this time: the inclusion of other geographic areas to the preferred option, the new Fast-track Approvals Bill process, and the Fast-track consenting pathway (retained from Natural and Built Environment Act 2023 (NBA) under the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting Act 2023 (NBA Repeal Act)).

Impacts of the preferred option

The preferred option will have benefits of speeding up rural recovery by temporarily removing RMA regulatory barriers, reducing costs for landowners/occupiers and easing the procedural burden on councils, until 30 April 2026. However, it risks environmental impacts through potential non-compliance, and requires comprehensive communications and engagement planning and ongoing monitoring to ensure adherence with environmental standards.

Consultation

Officials undertook public consultation from 2 July to 12 July 2024. In response to feedback received, officials recommend two amendments as follows:

- extend the timeframe of the OIC from 31 December 2025 (original proposed expiry date) to 30 April 2026
- include an accidental discovery protocol.

In the public engagement several stakeholders requested the OIC is extended to cover the Gisborne/ Tairāwhiti district. We do not recommend this. Developing an OIC requires a strong evidential basis to meet the tests outlined in SWERLA. To date Gisborne District Council (GDC) staff have said they are neutral on whether an OIC is needed to address rural recovery works in their district unless or until they see more supporting evidence.

The draft OIC was considered by the Review Panel and the Committee. In response to the Review Panel's recommendations, officials recommend several further amendments to the OIC:

- a) clarifying the definition of rural recovery works to ensure alignment with the SWERLA's purpose by adding the term 'reasonably necessary' for works that are considered permitted under the OIC
- b) removing the words 'beyond the boundaries of the land' when referring to rural recovery works that cause significant adverse effects, to better enable the management of cumulative and adverse effects on the environment
- c) extending the notification period for Post Settlement Governance Entities (PSGEs) from 5 to 7 working days, allowing more time for feedback
- d) minor wording changes for consistency.

The Review Panel also sought confirmation that in developing the OIC officials have taken into account the rights provided by Treaty Settlements which are triggered by the need for RMA consents. Currently, in the draft OIC, the relevant PSGE may not have the same participation or decision-making power as if the notice had come through the standard resource consent process. Officials have prepared a Treaty Impact Assessment, summarised below, which addresses the Panel's comments.

Limitations and Constraints on Analysis

Evidence

The policy issue relies upon data provided through a survey from the HBRRA, and conversations with sector organisations and the HBRC. The survey predominantly includes responses from sheep and beef farmers located in the southern region, with limited input from the more severely affected mid to north of the region, likely due to their higher financial and emotional burdens caused by the NIWE. Assumptions were made that the damage and the work required to restore properties reported by survey respondents represent the entire region, as the worst affected areas are likely too overwhelmed to respond.

The exact scale of recovery works requiring consent is unquantified, but it is assumed substantial, given the ample evidence pointing to the scale of damage, and the survey results say people still have a lot of recovery work to do. We have assumed that a substantial amount of that recovery work would require consent based on an understanding of the types of works likely required (replacing culverts, earthworks to remove sediment deposition or erosion reinstatement etc) and also that the spatial extent will match the scale of damage.

There are significant differences in the anticipated costs across the region. As some sites were more badly affected than others, the resource consent costs alone can range from \$6,000 to \$110,000 or more. Given the variables and assumptions, accurately estimating costs is extremely challenging.

Geographic scope

This proposed OIC is limited to the Hawke's Bay region. While there are indications of severe damage in Gisborne and support from Tararua District Council for such a regime there, further engagement and evidence collection are needed before extending the OIC to these regions. The decision to progress this proposed OIC for Hawke's Bay now does not prevent further OICs being developed separately for other regions and matters.

Legislative scope

All the options are limited to RMA processes (as SWERLA provides MfE with an ability to develop an OIC that exempts specified groups from the provisions of the RMA). It is considered desirable from a policy perspective that activities in scope of the RMA planning regime should be authorised (either by RMA plans or an OIC).

Thus, references to the costs are for the costs of resource consent applications, and not the costs to carry out the recovery works themselves. The RMA manages activities in the physical environment and does not address specialist contractor or machine hire fees/costs.

Timeframes

This policy issue is urgent. The key reasons for the high level of urgency are:

- The HBRRA estimate a surge in repair and rebuild activities over the next 6-12 months – particularly post-winter
- Delays in recovery are causing significant financial and emotional stress on rural landowners/occupiers. Without regulatory relief there is likely to be a significant increase in consenting, compliance and enforcement work. This will place further pressure on local authority resources which are already stretched.

Overall

Despite these limitations, there is clear data on the scale of the impact, and the survey shows an ongoing need for a regulatory response to support the recovery of this region from NIWE.

Responsible Manager

Heidi Baillie

Manager

Recovery Provisions - Adaptation

Ministry for the Environment



20 August 2024

Quality Assurance (completed by QA panel)

Reviewing Agency:

Ministry for the Environment's Regulatory Impact Analysis Team

Panel Assessment & Comment:

The Ministry for the Environment's Regulatory Impact Analysis Panel has reviewed the Regulatory Impact Summary (RIS) "Regulatory Impact Statement: Severe Weather Emergency Recovery Legislation (Hawke's Bay Rural Recovery Works) Order". The panel considers the document **meets** the Quality Assurance criteria for regulatory impact analysis. The document clearly sets out the options available and provides a convincing analysis of the reasons for the Order.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

Current state within which action is proposed (status quo)

Impacts of severe weather events in January and February 2023

1. In January and February 2023 there was significant and severe weather events experienced across the North Island, including Cyclone Gabrielle (the NIWE) In the immediate aftermath of the NIWE, the SWELA was passed into law on 20 March 2023 to support the immediate recovery and rebuild. It is to be repealed in October 2024. It was shortly followed by the SWERLA which provided for OICs to be made, to be repealed in 2028.
2. SWELA introduced a permitted activity regime for rural landowners / occupiers by creating sections 331A-331E to the RMA which repealed on 1 April 2024. It allowed rural landowners and occupiers to undertake emergency works on their properties immediately following the severe weather events as a permitted activity. It applied to the Auckland Council, Bay of Plenty Regional Council, Carterton District Council, Hawke's Bay Regional Council, Manawatū District Council, Masterton District Council, Northland Regional Council, Rangitikei District Council, South Wairarapa District Council, Tararua District Council and Waikato Regional Council.
3. The scale of the Cyclone Gabrielle floods was extraordinary and resulted in the forced revision of maximum flows for 17 out of 20 of the river sites in the region, as shown in Table 1 below. To put it succinctly, the extreme flows experienced during Cyclone Gabrielle completely changed the understanding of how big floods could be in this region. Cyclone Gabrielle was an unprecedentedly extreme event.

Table 1: Data of the river site data points peak flows recorded and compared to pre-Cyclone Gabrielle peak flows. Red fill shows where the revised maximum flood estimates more than doubled after Cyclone Gabrielle. Red dots indicate sites where Gabrielle led to the highest ever recorded flows. Data summarised from NIWA.

| Position in Hawke's bay | Site | Gabrielle Peak Flow (m ³ / sec) | Record Length (years) | Max Flood before Gabrielle (m ³ / sec) | Gabrielle Broke Record? | % that Gabrielle was higher than previous max flood estimate |
|-------------------------|--------------------------------------|--|-----------------------|---|-------------------------|--|
| Northern | Wairoa River at Marumaru | 4100 | 44 | 3583.8 | Yes | 14 |
| Northern | Waiau River at Ardkeen | 1656 | 35 | 1376.8 | Yes | 20 |
| Northern | Waiau River at Otoi | 838 | 52 | 935.6 | No | -10 |
| Northern | Hangaroa River at Doneraile Park | 2070 | 49 | 1231 | Yes | 68 |
| Northern | Ruakituri at Tauwharetoi Climate | 998 | 39 | 813.3 | Yes | 23 |
| Northern | Kopuawhara Stream at Railway Bridge | 176 | 41 | 331.6 | No | -47 |
| Mid | Tūtaekuri River at Puketapu | 4800 | 55 | 1588 | Yes | 202 |
| Mid | Mangaone River at Rissington | 1610 | 33 | 520.3 | Yes | 209 |
| Mid | Ngaruroro River at Fernhill | 6000 | 71 | 2333.1 | Yes | 157 |
| Mid | Ngaruroro River at Whanawhana | 1012 | 63 | 1026.4 | No | -1 |
| Mid | Esk River at Waipunga Bridge | 2175 | 61 | 1108.6 | Yes | 96 |
| Mid | Esk River at Berry Road | 350 | 31 | 155.6 | Yes | 125 |
| Mid | Awanui Stream at Flume | 38 | 34 | 33.1 | Yes | 15 |
| Southern | Waipawa River at RDS | 1810 | 36 | 1223 | Yes | 48 |
| Southern | Tukituki River at Tapairu Road | 1805 | 36 | 1232 | Yes | 47 |
| Southern | Tukituki River at Red Bridge | 4320 | 55 | 3043 | Yes | 42 |
| Southern | Taurekaitai Stream at Wallingford | 659 | 42 | 563.5 | Yes | 17 |
| Southern | Mangaorapa Stream at Mangaorapa Road | 690 | 22 | 254.4 | Yes | 171 |
| Southern | Pōrangahau River at Saleyards | 1590 | 14 | 762.3 | Yes | 109 |
| Southern | Tukipo at SH50 (Punawai) | 561 | 47 | 384.9 | Yes | 46 |

- This inflicted significant loss and damage with impacts on the economy, infrastructure, natural environment, primary sector businesses, and community wellbeing. Within the horticultural sector alone over 10,000 hectares of land was damaged. Lost production in 2023 was estimated at \$230m. Over 120 bridges were either significantly damaged or destroyed, and substantial areas of land in the region are no longer safe to inhabit.
- The North Island's recovery from the NIWE is an ongoing and pressing concern. Significant areas of land remain that were severely damaged by flood waters, silt and landslide particularly in the Hawke's Bay region. The attached Hawke's Bay Landslide map (refer Figure 3) shows the extent of landslides experienced in that region. Figures 1 and 2 below show aerial images and data points of the Esk Valley, where an estimated 6 million tonnes of sediment was deposited.
- MfE has been advised that many rural landowners/occupiers still have recovery activities to undertake. In early 2024, the HBRRA and the HBRC undertook a survey on recovery progress by rural landowners with properties larger than 20 hectares (over 1500 farms in Hawke's Bay) with over 200 responses received.¹
- About 98% of respondents experienced cyclone related damage on their land such as water supply damage, stock water system or dam damage, sediment across sites, planting losses, and issues with access around properties. The forestry sector has also

¹ <https://www.hbrc.govt.nz/assets/Document-Library/Farmers-Hub/ICM0524-Ruralimpactassessmentsurvey-V05.pdf>

identified culvert replacements and bridge repairs as a priority, and they anticipate the sector will also need to carry out earthworks, rebuild roads and replace existing structures damaged by the NIWE.



Figure 1: Aerial image of the Esk Valley after NIWE. Source: GNS Science.

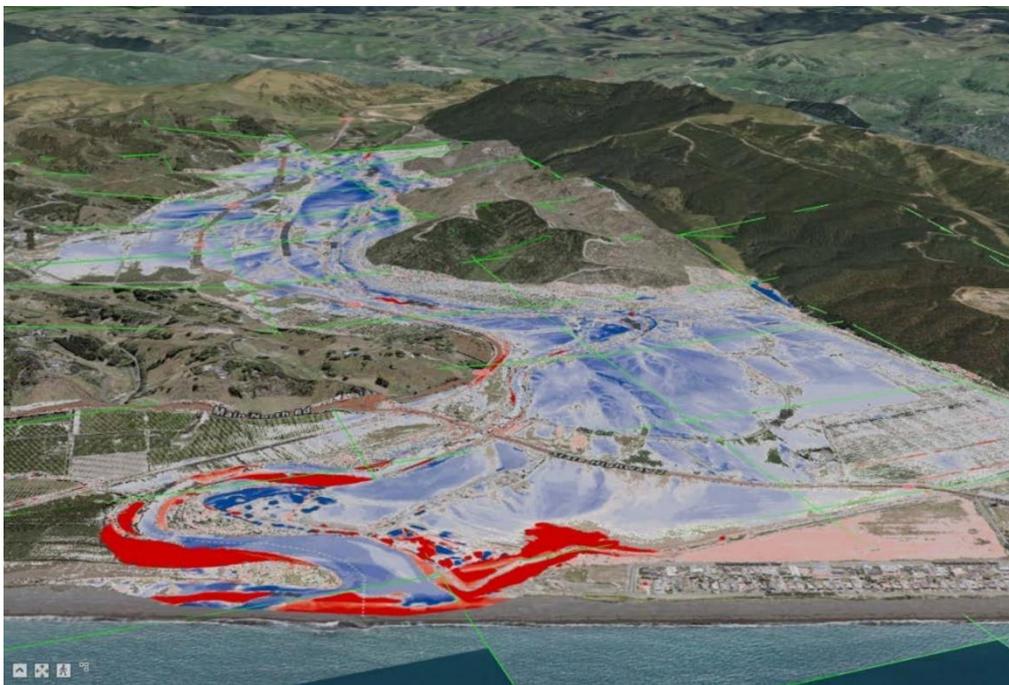


Figure 2: Aerial of Esk Valley with data sets showing silt deposition areas (blue) and eroded areas (red) after NIWE. Source: Canterbury University.

8. The SWELA rural emergency works regime has not been fully implemented as Parliament intended it would be – instead, few people were able to receive the benefit of it. Ninety-four percent of respondents to the HBRRA rural recovery progress survey still have recovery works to complete, having not been able to utilise the permitted activity regime under SWELA before its expiry due to finance, availability of contractors

and extended wet weather conditions. Comparing the responses received against GIS mapping showing the extent of landslips in the Hawke’s Bay region, the scale of consents still required to enable recovery after the NIWE is likely to be significant. The HBRRRA and the HBRC asked the Minister for the Environment to extend the regime under SWELA as, despite the emergency being over, there are ongoing recovery activities to be undertaken.

How is the status quo expected to develop if no action is taken?

9. The RMA framework manages activities within the natural and built environment under normal circumstances, and is not well suited to handling necessary activities following major civil emergencies. While the RMA includes standard provisions for emergency works and immediate preventative or remedial activities, these are generally designed for smaller scale events. For large scale events (Christchurch and Kaikoura Earthquakes or the 2023 NIWE) the needs for recovery extend far beyond the scope of the status quo management. The RMA’s provisions fall short of addressing these large-scale emergencies and the extended recovery period that follows, which can last several years. Under the status quo, remedial work required will need discretionary or non-complying activity consents under the Hawke’s Bay regional plan, district plans, and the National Environmental Standard for Freshwater (NESF) (refer Appendix A).
10. It is for these reasons that bespoke legislation and subsequent Orders in Council, like those under SWERLA, have been necessary to effectively support the recovery phase for these types of significant events. Swift recovery is essential to minimise the affected community’s vulnerability to future hazardous events. Obtaining resource consents under the standard consents process in the RMA would be a complex, costly and lengthy process (see Table 2 below) for much of the recovery work required, significantly hindering recovery efforts. The status quo RMA process can involve high application costs, which can sometimes exceed the actual cost of the recovery works, placing an additional financial burden on rural landowners and occupiers. This complexity and expense exacerbate the stress and wellbeing issues already being experienced by the NIWE impacted rural community.

Table 2: High level steps and costs of consent process

| Stage | Preparing application | Processing application | Hearing | Decision Issued |
|---|--|--|--|--|
| Steps and costs and time estimates | <ul style="list-style-type: none"> • Gathering information, choosing and employing technical resources. | <ul style="list-style-type: none"> • Council processing staff time, depending on scale, notification. | <ul style="list-style-type: none"> • Notified for 20 working days for submissions to be made. | <ul style="list-style-type: none"> • Can be appealed by submitters. |
| | <ul style="list-style-type: none"> • Time estimated between 1 and 6 months. | <ul style="list-style-type: none"> • Time estimated between 2 and 12 months, depending on scale and volume received - council have limited resources to process consents. Timeframes are compounded by the volume received. | | <ul style="list-style-type: none"> • Environment Court time and cost. |

| Stage | Preparing application | Processing application | Hearing | Decision Issued |
|-------|---|---|---------|--|
| | | <ul style="list-style-type: none"> Depending on the amount of submitters, hearings can range between 1 day and weeks. After the hearing, the commissioners make their decision. | | |
| | <ul style="list-style-type: none"> Costs estimated between \$3,000 and \$30,000. | <ul style="list-style-type: none"> Costs estimated between \$3,000 to \$80,000. | | <ul style="list-style-type: none"> Ongoing compliance and monitoring costs. |

- The prolonged consent process not only delays necessary recovery work but also puts additional strain on already stretched local authority resources. Without regulatory relief, the status quo may prevent recovery works from being completed before future severe weather events, leaving the region vulnerable to further damage. Expediting the recovery process is critical to restoring the economic stability and resilience of the Hawke's Bay rural community.

Key features and objectives of the regulatory system currently in place and key legislation of relevance

- The RMA promotes the sustainable management of natural and physical resources and sets rules and requirements to manage activities in the natural and built environment. This has been developed to promote sustainable management. The RMA contains a set of standard provisions to enable emergency works or to take preventative or remedial measures when immediate action is required. These provisions are largely appropriate for responding to smaller events and emergencies. However, they are not sufficient for larger emergency events (such as the Christchurch and Kaikoura Earthquakes and the 2023 North Island severe weather events).
- Decisions made under the RMA are usually the responsibility of regional and district/city local authorities, through regional policy statements, regional and district plans, and resource consents. Consents for the rural recovery works (see Appendix A) are required as Discretionary and Non-Complying activities under the Regional Plan, various District Plans, and the National Environmental Standards for Freshwater (NESF). The timeframes and cost estimates of this process are depicted in Table 1.
- The SWERLA came into force on 12 April 2023 and expires on 31 March 2028. The purpose of the SWERLA is to assist communities and local authorities affected by the severe weather events to respond to, and recover from, the impacts of the severe weather events of 2023. It provides for planning, rebuilding, and making safety enhancements and improvements to the resilience of land and infrastructure.
- The SWERLA also enables other legislation to operate more flexibly to support recovery. This is achieved via OICs that modify other legislation, relieving those affected by the severe weather events from certain legislative requirements. Modifications are also permitted where necessary to enable prompt action for an efficient and timely recovery. The SWERLA places restrictions on any OIC made under

it, including the requirement that OICs must be necessary or desirable for the purposes of the SWERLA.

16. Apart from the standard pathway for obtaining resource consents under the RMA, and developing an OIC under the SWERLA, other pathways also exist. These are assessed in this RIS paper further below, and include:
 - a) Amend the SWELA timeframes for RMA s331A-331E by introducing similar provisions to those in s331A-331E until 31 December 2025
 - b) Further amendments to the RMA emergency provisions
 - c) Global consent
 - d) Schedule 1 Plan Change
 - e) Inclusion of other geographic areas in the proposed OIC
 - f) The new Fast-track Approvals Bill process
 - g) Fast-track consenting pathway (retained from NBA under the NBA Repeal Act 2023).
17. Options e, f and g are, however, not viable options, as discussed below.

E – Inclusion of other geographic areas in the proposed OIC

18. Officials approached all regions and districts affected by severe weather events under SWERLA to assess the need for such a regime. The Tararua District Council confirmed support, and officials are collecting data to evaluate the need in this district. The HBRC, HBRRA, and Hawke's Bay industry organisations have reported that damage in Gisborne may be as severe as in Hawke's Bay, and this was reiterated throughout the statutory engagement period. Officials are in discussions with Gisborne District Council to assess the need there.
19. Developing an OIC requires a strong evidential basis to meet the tests outlined in SWERLA. Thus, while the survey undertaken by HBRC provided the evidential base for the Hawke's Bay region, it did not include residents of Tairāwhiti/Gisborne or Tararua districts. To incorporate these areas into this proposed OIC we would need to place the current proposal on hold while undertaking further engagement with the Gisborne District Council, Tararua District Council and Manawatū-Whanganui Regional Council to establish an evidential base equivalent to the one provided by the HBRC. This would delay the OIC development by approximately three months, which would set back recovery in the Hawke's Bay until later summer. This option is considered unviable at this time, however, progression with Hawke's Bay now does not prevent further OICs being developed separately for other regions.

F – The Fast Track Approvals Bill process

20. The Fast-Track Approvals Bill is anticipated to be based on previous fast-track consenting regimes, but with important differences to enable projects that have significant local, regional, or national benefits to be consented more quickly and more efficiently. The Bill will set out a 'one-stop shop' process for approvals under a range of legislation. The Bill may contain a list of projects that will be assessed in parallel to the development of the Bill and provided to the Minister(s) for referral assessment almost immediately upon enactment.

21. When enacted it is likely the new fast-track process will remove the need for future OICs that modify RMA consenting processes. However, as this option is a Bill, it is difficult to assess with complete certainty the final shape and scope of the Act as it may relate to rural recovery works.
22. As it stands, applications will be assessed against a set of criteria by the relevant Minister (with assistance from relevant agencies), to determine their benefits for our economy and environment. As activities that will support recovery from natural hazards, rural recovery works are eligible. However, the eligibility criteria also include, at Clause 17(2)(a), that consideration is given to 'whether the project will have significant regional or local benefits'. Cumulatively as a global consent it is possible that the rural recovery works would meet this, but individually it would not meet the eligibility criteria. As such, this option is considered unviable.

G – The Fast-track consenting pathway (retained from NBA under the NBA Repeal Act 2023)

23. The Government has retained the fast-track consenting pathway from the now repealed NBA². This is an interim measure until a new, standalone fast-track consenting legislation comes into effect and enables the fast-track consenting of a list of eligible activities including housing development and infrastructure activities³. This is not a viable option as the rural recovery works are not included in the list of eligible activities and is therefore not a realistic possibility for addressing rural recovery works.

What is the policy problem or opportunity?

The nature, scope and scale of the problem

24. Severe weather events in early 2023 caused extensive damage to the Hawke's Bay economy, infrastructure, natural environment, and community wellbeing. The extent of rainfall and erosion across the region is shown in the map at Figure 3. Despite recovery efforts and the provisions under SWELA for emergency recovery, a large proportion of rural landowners (94% of those surveyed) are facing ongoing challenges and still have recovery works to complete. This is in part due to the scale of damage and in part from the status quo of complex and costly resource consent processes, and limited financial resources and insufficient support. This delayed recovery prolongs the economic and social disruption.

Who is affected by this issue?

25. Rural landowners and occupiers are facing substantial challenges in completing necessary recovery works to return land to pre-NIWE conditions. Financial strain is exacerbated by high costs and the need for resource consents to complete the works. Many landowners are operating under less profitable conditions post-NIWE and are finding it difficult to fund recovery within a single financial year after covering basic operating expenses under poor farming conditions.
26. Local authorities, such as the HBRC, also face significant challenges due to increased workloads and strained resources. Processing and monitoring the required consents

² Refer Schedule 1 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023

³ Refer Clause 14, Part 2 of Schedule 10 of the repealed NBEA for the list of activities eligible for the fast-track consenting process.

under the status quo RMA framework further pressures their capacity. Without support, the processing times will become longer than usual given the finite capacity of local authority staff.

27. A 2024 survey of over 200 rural landowners sought to understand progress towards rural recovery one year on from the severe weather events. It revealed substantial financial impacts, with over half reporting damages exceeding \$100,000. Although insurance is a factor with more than two thirds of respondents insured, of these 60% estimated their insurance is likely to cover less than 20% of the damage incurred and only 14% estimated they had cover for more than 50% of the damage incurred. The need for additional support, such as the proposed OIC, is evident, as insurance is not a comprehensive solution on its own.

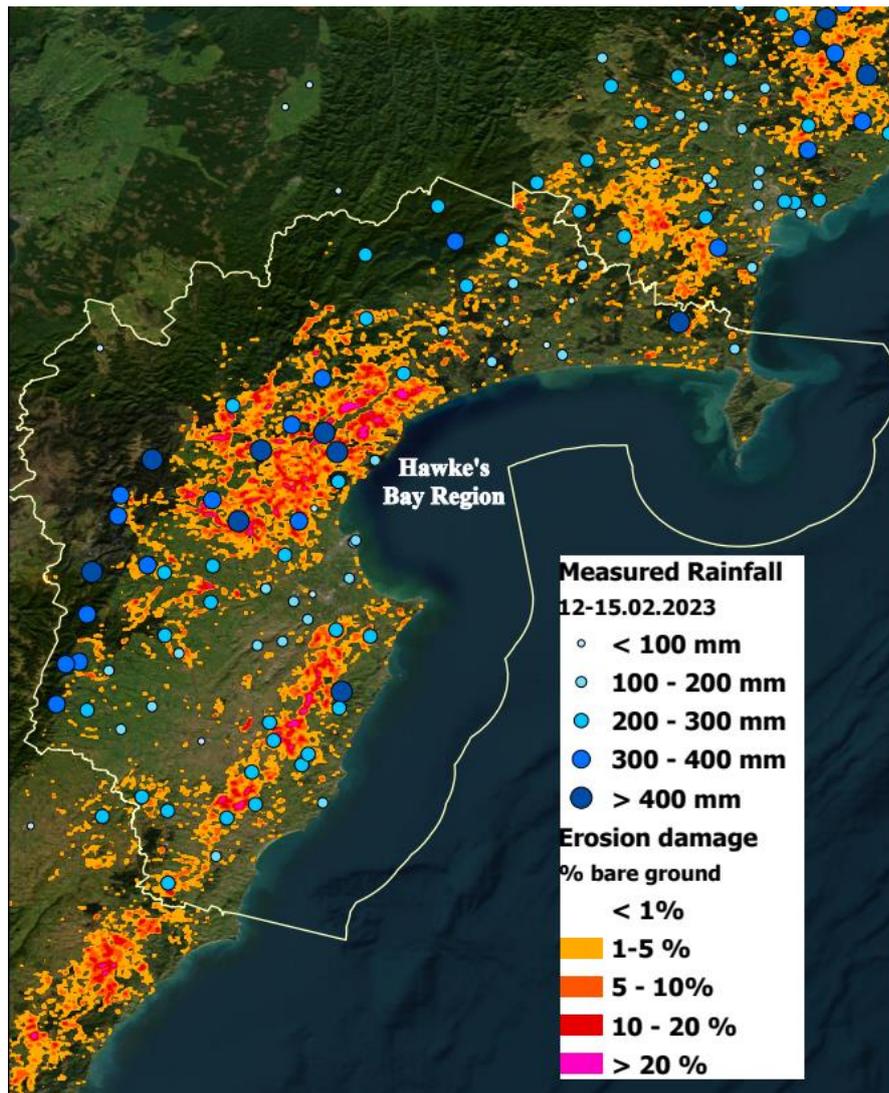


Figure 3: Map of Hawke's Bay Region showing measured rainfall over 12-15th February 2023 and the erosion damage. Rainfall data from National Institute of Water and Atmosphere. Erosion damage data from Manaaki Whenua Landcare Research.

What objectives are sought in relation to the policy problem?

28. The objective is to enable locally led rural recovery works as permitted activities, reducing costs on the rural community and council pressures, in line with Treaty of Waitangi settlements and managing adverse impacts on the environment. This in turn will support economic recovery in the Hawke's Bay region post-Cyclone Gabrielle.

Section 2: Deciding upon an option to address the policy problem

Focus of this Regulatory Impact Statement

29. This RIS discusses options for rural cyclone recovery, focusing on key benefits and risks. The analysis recognises high-level costs and benefits and without monetising them due to significant variability. Recovery costs vary widely across the more than 1500 affected rural properties throughout the Hawke's Bay, with resource consent costs alone ranging from \$6,000 to \$110,000 or more, influenced by factors such as the need for engineers or planners. Given these variables and assumptions, accurately estimating costs is extremely challenging.

What criteria will be used to compare options to the status quo?

30. We have used the following criteria to compare the different options. The criteria are equally weighted.
- a) **Reduces delay** – the ability of the option to achieve the outcome sought in the quickest timeframe
 - b) **Cost** – the ability of the option to achieve the outcome sought with the lowest financial cost
 - c) **Effectiveness** – the ability of the option to support cyclone recovery in the rural community
 - d) **Capacity constraints** – the ability of the option to reduce strain on local authority capacity
 - e) **Uphold Crown obligations under Te Tiriti o Waitangi** – the ability of the option to honour the Treaty and uphold Treaty settlements and other arrangements
 - f) **Manage risks** – the potential of the option to result in unintended consequences.

What scope will options be considered within?

31. All the options are limited to RMA processes (as SWERLA provides MfE with an ability to develop an OIC that exempts specified groups from the provisions of the RMA). The options do not remove or alter any requirements to obtain consents or authorisations under other legislation. There are no feasible non-regulatory options available, as it is considered desirable from a policy perspective that activities in scope of the RMA planning regime should be authorised (either by RMA plans or an OIC).

What options are being considered?

32. It is noted that, when discussing the various option's abilities to lower or increase costs for rural landowners/occupiers compared to the status quo, this is in reference to the cost of resource consent applications, and not the costs to carry out the recovery works themselves. This OIC is limited to amendments to the RMA, which do not address specialist contractor or machine hire fees/costs.

Option One – Status Quo

33. The status quo provides for an RMA consenting regime. This option would meet Treaty expectations and obligations, and manage environmental risks.
34. As per Table 1, the timeframes for obtaining consents can be between 3-18 months, not including Environment Court if the decision is appealed. This can cost the applicant between \$6,000 and \$110,000 for the application process. There is no assurance of outcome for the applicant. Furthermore, once relevant consents are obtained, the rural landowner/occupier then needs to carry out the works themselves.
35. The volume of consents would overwhelm the capacity of the local authorities' staff to process on top of BAU work, and the local authorities do not have the funds available to outsource the processing of this volume of consents to contractors. The corollary of this is that the timeframes for recovery under the status quo for the region would take potentially 3 to 5 years.
36. The status quo timeframes and costs to rural landowners and occupiers would be likely to undermine financial stability in the rural sector. This could have serious impacts on the Hawke's Bay rural community's ongoing social and economic recovery. There is also the ongoing risk under the status quo of the increased susceptibility of this community to damage or loss of life in future severe weather events due to the delayed recovery and resultant low resilience.

Option Two – Rural Recovery Works Order in Council (preferred option)

37. This option is a temporary exemption to the RMA that would be in place until 30 April 2026, which would remove regulatory barriers and expedite rural recovery in the Hawke's Bay. This will provide time for most of the rural landowners and occupiers with land affected by the NIWE to undertake the recovery works to reinstate their land to a pre-cyclone condition, while not indefinitely suspending the NESF and regional and district plan rules and standards under the RMA. The temporary exemption works alongside the permitted standards, which effectively avoid potentially significant adverse environmental effects and minimise other adverse effects, managing the environmental risk.
38. Rural recovery works is to be a defined term under the OIC and at time of writing this is to mean works that:
 - a) are reasonably necessary for the purpose of remediating, repairing, or mitigating damage caused by a severe weather event; and
 - b) are carried out on rural land; and
 - c) for the purposes of the RMA,—
 - i. would ordinarily require a resource consent; and
 - ii. are not a prohibited activity under sections 2 and 87A of the RMA; and

- d) do not involve –
- i. construction of new flood protection banks or bunds, structural edge protection including walls or revetments or groynes
 - ii. installation or construction of new infrastructure, including new dams, not previously in place prior to the severe weather events
 - iii. extraction or removal of gravel from the bed of a water body.
39. The OIC is to be limited to rural areas, or for land that is used for rural purposes, through the use of the following definition:
- rural land means—
- (a) land that has a rural or rural production zoning status (or the nearest equivalent zone) in the relevant district plan; or
 - (b) land that is used for the primary purpose of forestry, livestock, or horticultural farming
40. Furthermore, Schedule 1 outlines the requirements for rural recovery works to be deemed as a permitted activity. Under Schedule 1, the rural recovery works must be undertaken in such a way as to avoid, if reasonably practical, or minimise adverse effects on the environment, including:
- a) adverse effects on freshwater and coastal environments within or beyond the works boundary, with particular regard to reducing opportunity for the works to generate sediment, and
 - b) adverse effects on outstanding natural features and landscapes and significant natural areas, and
 - c) adverse effects on culturally significant land.
41. In addition, if the rural recovery works is undertaken on land identified in district plans as comprising outstanding natural landscapes and features, significant natural area, or a wāhi tapu, wāhi taonga, or area of significance to Māori, then the works must comply with the district plan's permitted activity standards.
42. We anticipate the types of activities to involve:
- a) Works in riverbeds to return to a previous alignment and diverting water to return to its pre-existing channel or course
 - b) repair, modification, extension or replacement of pre-existing river crossings, roading and tracks, including associated earthworks, soil disturbance, vegetation clearance and discharges
 - c) temporary diversion of water to undertake repair or replacement works within the bed of a river
 - d) discharge of clean fill within 20m of a river
 - e) disturbance of the bed of a river from removal of cyclone related debris, wood material and silt
 - f) earthworks and soil disturbance to remove silt deposition or reinstate erosion and the removal of excess silt/earth off site.

43. There is also a requirement in the OIC for a notice of intent to undertake recovery works to be provided to the HBRC, at least 20 working days *prior* to commencement of works, who will then forward this on to the relevant PSGE (where relevant). This notification requirement serves as the opportunity for the council to ensure that the proposed activity complies with the permitted standards/schedule 1. There is a further information request process in which a council can request further information from the applicant. Through this process it is intended that PSGEs would be able to alert council where a proposal is at risk of impacting on a wāhi tapu, wāhi taonga, or areas of significance to Māori.
44. The rural recovery works must not commence in reliance on the OIC if the council has notified the applicant that it is not satisfied that the requirements in Schedule 1 will be met. Works undertaken where they do not comply with this OIC, without first seeking resource consent, may be subject to enforcement action under the standard RMA framework.
45. There are significant cost reductions for rural landowners / occupiers compared to the status quo consent process. There are significantly less resource consents required to be processed by council staff and pressures on them are reduced.
46. This option is not proposed to have retrospective effect. The prior regime for undertaking emergency works under the SWELA lapsed on 1 April 2024. Officials remain of the view that it is not appropriate to extend the emergency works provisions for a further two or three years following Cyclone Gabrielle (more discussion see Option Three below). Officials also do not support making the proposed OIC retrospective to 1 April 2024 as this is inconsistent with the Legislation Design and Advisory Committee Legislation Guidelines (2021 edition) and could lead to poor environmental outcomes.

Development of this option after consultation

47. Public consultation took place from 2 July to 12 July 2024, in line with the requirements in SWERLA. Key stakeholders and partners, including councils, iwi, hapū, and Māori, primary industry representatives including Federated Farmers, the public, and other government agencies, were provided with information and invited to hui on the proposal. The Ministry website also included information on the OIC proposal, hui, and how to provide written feedback.
48. During public consultation, the Ministry held four online hui. One hui was held with Hawke's Bay Post Settlement Governance Entities (PSGEs) on 4 July 2024, one hui was with other Crown agencies on 5 July 2024, and one was with the general public on 9 July 2024. The fourth hui was a follow up to the PSGE hui with Tātau Tātau o te Wairoa on 10 July 2024. A total of 10 written submissions were received.
49. There was broad support for the key policy proposals to:
 - a) enable recovery works undertaken by rural landowners and occupiers on their land that are required because of Cyclone Gabrielle without the need for resource consents
 - b) include permitted activity standards to manage adverse environmental effects

- c) require landowners and occupiers carrying out the works to give at least 20 working days' notice⁴ to the Hawke's Bay Regional Council before works commence.
50. Other points raised in the feedback included the need for sufficient time to undertake the works. There was consensus from stakeholders that timeframes cannot be unlimited and need to be timebound. However, several parties sought an extension of the proposed revocation date of 31 December 2025 to enable recovery works to occur over both the 2024/25 and the 2025/26 summer periods.
51. The rationale for this change is to ensure rural landowners will have sufficient time to complete the rural recovery works. Much of the work required (e.g. construction and earthworks) is seasonal in nature and cannot feasibly be undertaken all year round due to weather conditions. In addition, there are environmental requirements which predicate against works occurring during the autumn/winter seasons. In the Hawke's Bay region there is a fish spawning season which runs 1 May to 30 September, with rules in the Hawke's Bay Regional Resource Management Plan preventing works from being undertaken during this time in the wetted bed of any waterbody without a resource consent.
52. Officials support the continued imposition of this control to ensure effects on the environment are appropriately managed. An extension to the revocation date for the OIC would give landowners an increased window in which to undertake the works and ensure that works can occur outside of the fish spawning season. On this basis, officials recommend the revocation date for the OIC is extended from 31 December 2025 to 30 April 2026.
53. Following engagement with the PSGEs in Hawke's Bay and feedback from other Crown agencies officials propose to add an accidental discovery protocol in the environmental standards in Schedule 1 of the proposed OIC. We consider that the accidental discovery protocol standard is needed to cover scenarios where landowners or occupiers come across kōiwi (human remains) or archaeological items such as undocumented wāhi tapu or wāhi taonga sites. The accidental discovery protocol provides a link to the statutory requirements under the Heritage New Zealand Pouhere Taonga Act 2014 to stop works and contact Heritage NZ if these items are discovered.

⁴ The information that must be contained in a notice given to the Hawke's Bay Regional Council is:

- (a) the name of the applicant;
- (b) the address of the rural recovery works;
- (c) contact details for—
 - (i) the applicant; and (ii) any person authorised to carry out works on the rural land by the applicant;
- (d) identification of the territorial authority (within the meaning of the Local Government Act 2002) or territorial authorities within which the rural works are to be undertaken;
- (e) a plan showing the general location of the rural recovery works on the property;
- (f) photographs showing the location of the rural recovery works on the property;
- (g) a description of the damage caused by the severe weather event;
- (h) a description of the rural recovery works to be carried out;
- (i) identification of the intended timing and duration of the rural recovery works;
- (j) identification of any relevant overlays applicable to the rural recovery works area;
- (k) identification of any water bodies within the vicinity of the works;
- (l) a description of any methods proposed to ensure that the rural recovery works comply with the requirements of the Schedule (as applicable).

54. In addition to the above, several stakeholders requested the OIC is extended to cover the Gisborne/ Tairāwhiti district. We do not recommend this, as discussed above.
55. The Review Panel considered the draft OIC on 5 August to 7 August 2024. In summary, the Review Panel's recommendations are:
- a) Amend the definition of rural recovery works in clause 6 to better align with the purpose of the SWERLA by including the words 'reasonably necessary' before describing the rural recovery works that are permitted activities under the OIC. This will ensure the rural recovery works are linked to the purpose of the SWERLA and are for the purpose of repairing or remediating land back to its pre-severe weather event condition,
 - b) In clause 1(2) of the Schedule, remove the words 'beyond the boundaries of the land' when referring to rural recovery works that cause significant adverse effects. This will better enable the management of cumulative effects and to meet the requirements in the SWERLA to avoid, remedy or mitigate adverse effects on the environment,
 - c) Extend the notification period for PSGEs to respond to any notices from 5 working days to 7 working days. The PSGEs may need to contact and obtain feedback from several iwi/hapū groups before confirming their feedback with the local authority. This will not affect the overall processing time which remains at 20 working days where no further information is required,
 - d) Clarify the language used to define rural recovery works, ensure the consistent use of terms throughout the OIC, and resolve a small number of minor technical drafting issues.
56. Officials have reviewed Treaty Settlements for PSGEs in the region and found no settlement terms directly engaged by the draft OIC. However, potential impacts on settlement agreements were identified:
- a) Many of the Treaty Settlement Deeds in the affected areas have relationship commitments which include consultation expectations for changes to resource management policy impacting PSGEs. These expectations are being met via letters updating PSGEs on the process and online hui. In addition, the statutory engagement timeframes for this OIC proposal were extended from 3 working days to 9 working days to allow for further time for PSGEs and iwi and hapū to carry out their own engagement with their members in order to fulfil kaitiaki responsibilities.
 - b) All the Treaty Settlements provide Statutory Acknowledgements or statutory overlays which set out processes for PSGE involvement in resource consent applications. Changing the status of certain activities to permitted removes the need for resource consent applications and so bypasses these processes. This is mitigated by the notice requirements, the further information process and reversion to district plan permitted activity standards.
57. The permitted standards are a significant part of the OIC and will assist with managing significant adverse effects. The requirement to notify the HBRC at least 20 working days before works commence will allow the Hawke's Bay local authorities (and any PSGE where works may impact on wāhi tapu, wāhi taonga, or sites of significance to Māori) sufficient time to ascertain whether the works are within scope of the OIC and

that works will not have significant adverse effects on wāhi tapu, wāhi taonga, or sites of significance to iwi, hapū and Māori.

58. Officials have consulted with the following agencies on the draft Cabinet paper and draft Order: Department of Prime Minister and Cabinet (both the Policy Advisory Group and the Cyclone Recovery Unit), the Ministry for Primary Industries, Department of Conservation, the Ministry of Culture and Heritage, the Department of Internal Affairs, Land Information New Zealand, Te Puni Kōkiri, the office for Māori Crown Relations – Te Arawhiti, Ministry of Business, Innovation and Employment, and the Ministry for Regulation. The agencies supported the substance of the Order with feedback limited to recommendations for minor wording amendments.
59. Overall, the changes made to reflect consultation and review body recommendations will increase the environmental safeguards, improve feedback process for PSGEs and ensure the language used is consistent, whilst still retaining the intent for a pragmatic approach to expediting rural recovery.

Option Three – Amend SWELA timeframes for RMA by introducing similar provisions to those that were in s331A-331E

60. In the immediate aftermath of the NIWE, the SWELA was passed into law on 20 March 2023 to support the immediate recovery and rebuild. It is an omnibus Act that made changes to a number of existing laws including the RMA. Specifically, SWELA introduced a permitted activity regime for rural landowners / occupiers by inserting sections 331A-331E in the RMA.
61. The permitted activity regime was designed to help rural landowners and occupiers to undertake activities on their properties immediately following NIWE without the need to apply for resource consent, providing certainty and process efficiencies. These activities included the removal of silt, clearing slips and rebuilding of smaller structures like retaining walls, culverts and bridges. Tests and safeguards in the regime included containing significant adverse effects within the site boundaries, notifying the council of the activity (within 60 working days after works started), and a requirement to obtain permission from relevant iwi or hapū if located on or impacting culturally significant land. This provided the rural community the ability to continue with their recovery from NIWE whilst notifying relevant councils of the works for potential monitoring and enforcement purposes.
62. The relevant sections of SWELA were repealed on the close of 1 April 2024. Option three would see SWELA amended via new primary legislation to introduce similar provisions to those under s331A-331E with a repeal date of 31 December 2025⁵.
63. Unlike SWELA, proposed option two has a pre-works notification process. This notification will be forwarded to the relevant PSGE (by the council) where on or may impact on wāhi tapu, wāhi taonga, or areas of significance to Māori. There are steps to include any feedback received through the proposed further information process under the proposed OIC in option two. Furthermore, where works are proposed on an area identified in a district plan or proposed plan as comprising outstanding natural landscapes and features, significant natural area or a wāhi tapu, wāhi taonga, or area of significance to Māori, the works must comply with the existing district plan provisions

⁵ Refer: <https://legislation.govt.nz/act/public/2023/0004/latest/LMS822431.html>

for these overlays. These changes proposed under option two – moving notification to *before* commencement, the option for PSGE comments to council, and the reversion to district plan rules were on wāhi tapu, wāhi taonga, or areas of significance to Māori combine to integrate iwi involvement more thoroughly in advance of works commencing and throughout the process compared to the SWELA option three.

64. This option will support recovery, removing regulatory red tape and thus lowering costs for the rural community and the processing pressures for local authority staff. However, the timeframes to achieving this primary legislative change are too long for this policy response in that they will not be in force before 2025/26 which would result in similar if not worse delays to recovery than would be experienced under the status quo.
65. However, the purpose of the legislative intent is no longer applicable, due to the 'emergency' phase being over. The need for intervention has changed from emergency to recovery – because of this an OIC is more appropriate.

Option Four – Further amendments to RMA emergency provisions

66. As part of its work on replacement legislation to the RMA, MfE is exploring policy proposals for amendments to RMA emergency provisions (below) that could assist with rural recovery post severe weather events:
 - a) Replicate the NBEA's s796 power, to make Orders in Council, into the RMA, to help respond to and recover from emergency events. The NBEA was repealed in December 2023.
 - b) Add additional powers (beyond those in s796) to allow the extension of timeframes for lodgement of retrospective consent for emergency works under s330(2).
67. Under these proposals the use of the power would be contingent on the declaration of a state of national or local emergency under the Civil Defence Emergency Management Act 2002 (CDEMA) however orders may continue to be created and apply for up to three years after the declaration ceases.
68. Option four is an ongoing body of MfE work addressing amendments to RMA emergency provisions (primary legislation) to allow for specific powers in emergency and recovery situations. It will meet Treaty obligations, manage environmental risks and support recovery by removing regulatory red tape and freeing up council staff capacity. However, the timeframes to achieving this primary legislative change are inappropriate for this policy response as it will not be in force until 2025/26, and thus delays to recovery would be similar if not worse than that experienced under the status quo. For this reason, it is not an expedient or effective option.

Option Five – Global consents

69. Global consents in this context are resource consents which cover multiple activities in different locations. Typically issued to a single organisation with interests throughout a district, these consents apply to geographically dispersed but similar activities, allowing for uniform consent conditions. They are more typically used and effective where there are works for a single issue (such as water take) and where the consent holder represents all the landowners/occupiers and/or is responsible for carrying out the work on their behalf. For rural recovery works, there is a variety of works required, with activities involving multiple (100s-1000s) of properties and several local authorities. This option requires agreement from the landowners/occupiers involved for their property to be subject to one consent.

70. The process of developing and making a decision on a global consent are typically longer than average and require considerable effort to coordinate across the many stakeholders, including iwi, hapū, Māori, local community, technical experts and local authorities. The properties are likely to be subject to different district plan rules and objectives and zones, and with some properties potentially straddling planning overlays, zones, and districts. This option is extremely complex in practice to carry out.
71. This process will eventually enable recovery works, and will meet Treaty obligations and manage environmental risks. The timeframes are longer than the status quo, and the costs are the higher. Council staff from all districts will be held up in this process for its duration, which is likely to be 6-12months. This adds significant additional demands on council staff from the status quo. There is also a risk here of excluding persons who do not wish to approach recovery through a global consent, or who do not have the funds to contribute financially to the process.

Option Six – Schedule 1 RMA plan change

72. This option has not been pursued yet due to the scale of the damage, the assumption that the SWELA's one year time limit would be sufficient, and the necessary allocation of council resources, which could be used to draft and process a plan change, to emergency response. As discussed above, various unanticipated factors prevented many landowners and occupiers from using the permitted activity regime in the SWELA.
73. Under this option plan changes are required across multiple RMA plans, which may be at varying stages. The standard RMA Schedule 1 process of submissions and appeals provides opportunity for wider public participation and meets Treaty obligations, however a standard plan change process can be lengthy, with an average processing timeframe of two years to resolve hearings and appeals. There is then the second step of a plan change being implementation, which could involve some form of consent process depending on how it is approached.
74. This process is costly for local authorities, landowners/occupiers and the public to participate in. As with option five, this process may exclude some people who have insufficient funds to participate. It will add to the workload of council resources.
75. Option six cannot address all the necessary changes to RMA regulatory documents. An RMA plan change must comply with national environmental standards, and thus this cannot promulgate changes to the NESF, which will limit its effectiveness and providing regulatory relief for the rural community.
76. Plan changes for the purpose of emergency recovery may meet the criteria for Streamlined Plan change process (Schedule 1 Part 5), but still require multiple processes and take a longer time than other options, and has the same costs involved as for a usual Schedule 1 Plan Change.

How do the options compare to the status quo?

| | Option One – Status Quo | Option Two – Rural recovery works OIC <i>Preferred option</i> | Option Three - Amend SWELA timeframes for RMA | Option Four - Further amendments to RMA emergency provisions | Option Five - Global consents | Option Six - Schedule 1 RMA plan change |
|----------------------|-------------------------|--|---|--|-------------------------------|---|
| Reduces delay | 0 | ++ | - | - | -- | -- |
| Cost | 0 | ++ | ++ | 0 | - | -- |
| Effective-ness | 0 | ++ | - | - | - | - |
| Capacity constraints | 0 | + | + | + | -- | -- |
| Treaty | 0 | 0 | 0 | 0 | 0 | 0 |
| Manage Risks | 0 | 0 | 0 | 0 | - | - |
| Overall assessment | 0 | + | - | - | -- | -- |

Key for qualitative judgements:

- ++ much better than doing nothing/the status quo
- + better than doing nothing/the status quo
- 0 about the same as doing nothing/the status quo
- worse than doing nothing/the status quo
- much worse than doing nothing/the status quo

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

77. Option two - Rural recovery works OIC, is the preferred option which will meet the policy objectives and deliver the highest net benefits. This option is the Ministry's preferred option. It presents notable advantages over the status quo and other proposed options. Specifically, the Rural Recovery Works OIC excels in expediency and cost-effectiveness, receiving the highest ratings in these categories. By swiftly enacting measures to support rural recovery, this option minimises delays in the restoration process while mitigating financial burdens for affected landowners and occupiers. Moreover, it achieves a positive overall assessment, indicating its superiority in delivering net benefits compared to the alternatives.
78. In contrast, other options, such as amending legislation or implementing global consents, demonstrate shortcomings in reducing delays, cost, and overall effectiveness, rendering them less favourable choices. The standard RMA resource consent process and other options under it (five and six) are process heavy and are not set up for addressing the unprecedented scale of damage and recovery as a result of the NIWE. In addition, the rural recovery works are unable to fit the eligibility criteria for entry into the RMA's fast-track consenting process.
79. We note the existing RMA regime, while suitable for managing activities in a normally functioning environment, does not readily address major civil emergencies. The RMA contains a set of standard provisions to enable emergency works or to take preventative or remedial measures when immediate action is required. These provisions are largely appropriate for responding to smaller events and emergencies. However, they are not sufficient for larger emergency events (such as the Christchurch and Kaikoura Earthquakes and the 2023 North Island severe weather events).
80. The existing RMA emergency provisions also do not cover the recovery period that occurs after an emergency, which can last for several years. These limitations have resulted in the need for bespoke legislation, and subsequent orders in council such as under the SWERLA to be developed to assist in response and recovery for each of the events mentioned above.
81. Therefore, the Rural Recovery Works OIC is the most viable solution, offering tangible improvements and demonstrating a commitment to addressing the challenges posed by the recovery process following the natural disaster.

What are the marginal costs and benefits of the option?

82. In this analysis we have considered the cost of the preferred option (the OIC) as compared with taking no action (using the standard RMA consenting pathway). The alternative options received net disadvantages in the Multi Criteria Assessment above, due to the effectiveness of their respective abilities to provide regulatory relief in an appropriate timeframe to assist with rural recovery in the Hawke's Bay, and therefore the RMA status quo would be the preferred option in absence of an OIC.
83. An explanation of low, medium and high impact is given below:
 - a) Low impact: The difference between the impact from the OIC pathway and the RMA pathway are expected to be nil or negligible
 - b) Medium impact: There is an expected difference between the impact from the OIC pathway and the RMA pathway, but this difference is expected to be not substantial

- c) High Impact: The difference between the impact from the OIC pathway and the RMA pathway are expected to be substantial (higher or lower).

84. In the table, impacts are described as one-off, or ongoing. One-off impacts will normally not last beyond a specific stage in the recovery works. Ongoing impacts are longer, may extend over several years, and may generate a variety of other impacts that are not anticipated here.

| Affected groups | Comment | Impact | Evidence Certainty |
|--|---|---|--------------------|
| Additional costs of the preferred option compared to taking no action | | | |
| Rural community /Residents | <p>The proposed OIC may create an equity issue between the rural landowners/occupiers who utilised SWELA and had a larger scope of activities, and those who will use the OIC after enactment.</p> <p>However, if no action is taken, then rural landowners/occupiers may face additional costs and risk if they undertake work without the OIC in place as resource consents will be required.</p> | Low (on-going until revocation) potential equity costs and low potential costs of enforcements and compliance fees if activities undertaken without consent (without the proposed OIC). | Medium |
| Rural community /Residents | There is potential that users will misinterpret the OIC and carry out activities anyway, without providing proper notification to council. | High (one-off) This could result in activities that could be harmful to the environment. | Medium |
| Local government | The proposed OIC will reduce but not eliminate the workload for council staff. | Medium (on-going until revocation) Council staff still required to process the OIC notifications. | High |
| Iwi/Hapū/Māori | <p>The proposal removes the right to object or lodge RMA appeals on consents, as the consents are to become permitted activities (where they meet the permitted standards).</p> <p>However, where the activities may impact on or are within areas of cultural significance, the relevant PSGE will be given notice in advance of works commencing by the council through the requirements of the notification clauses,</p> | No impact | |

| Affected groups | Comment | Impact | Evidence Certainty |
|---|--|--|---|
| | <p>thereby allowing for PSGEs to identify potential risks to a wāhi tapu, wāhi taonga, or areas of significance to Māori through this further information process.</p> <p>This ensures that there are no unintended impacts on culturally significant land whilst still allowing rural recovery works to proceed.</p> <p>Nb. Iwi/hapū are also rural landowners/occupiers. Refer also to the rural community and residents rows above.</p> | | |
| Residents who are not able to object or appeal the consents | <p>The proposed OIC could result in people losing their benefits that could arise from objecting or appealing RMA consents, such as financial gain or avoidance of loss.</p> <p>As the ability to object or appeal the consents may have the benefit of ensuring that consents and consent conditions are subject to a more complete and wider analysis, removing that ability may have longer-term negative impacts.</p> | <p>High (potentially on-going) impact from removal of objection or appeals under standard RMA consents.</p> <p>Medium long-term impact from removal of increased scrutiny under standard RMA consents.</p> | <p>High/Medium <i>High evidence certainty for no costs of objection through the permitted works status under the OIC.</i></p> <p><i>Medium evidence certainty for longer-term impacts of removal of that ability.</i></p> |
| Non-monetised costs | | <i>High</i> | |
| Additional benefits of the preferred option compared to taking no action | | | |
| Rural community /Residents | <p>If the OIC enables the recovery works to be completed earlier than would be possible if consents were obtained under the standard RMA pathway, farmers and rural communities will benefit from earlier recovery. For example - opening roads, restoring land to farming, better access, fewer animal welfare concerns, and higher farmgate prices.</p> | <p>High (on-going)</p> <p>High economic and social benefits from earlier recovery.</p> | <p>High</p> <p><i>(indicated throughout the recovery plan)</i></p> |

| Affected groups | Comment | Impact | Evidence Certainty |
|-------------------------------|--|--|--------------------|
| | The costs of consents for works are expected to be lower than if the standard RMA consenting pathway were used. | High (one-off) High benefit from lower costs of recovery. | High |
| Local government | The local government staff is anticipated to be under less pressure under the OIC than if the status quo standard RMA process applied. | High (on-going throughout recovery) High benefit from less pressure on council staff. | High |
| Iwi/Māori | The proposed OIC will apply to Māori owned rural zoned land, meaning that iwi/Māori are able to benefit from the OIC and undertake recovery works on land as permitted activities (where standards are met). | High (on-going until revocation) High economic and social benefits from earlier recovery. | High |
| Non-monetised benefits | | <i>High</i> | |

Total costs and benefits

85. There are assumptions made in the assessment above: the data shows that there has been large scale damage across the region. The survey response was from 200 of the 1500 farms over 20ha in the region. There are timeframe limitations for this policy issue which have constrained our ability to get additional data. We are basing this assessment off the combined evidence of widespread damage and those who responded to the survey, in which 94% said they still had recovery works to complete, with our knowledge of what types of activities would be necessary and which of those require consent. Then we have extrapolated that to cover the region as a whole. We assume that under the status quo there could be between 100s and 1000+ consents required to get the rural community back to pre-NIWE conditions.
86. In the summary table above, it is apparent that the benefits of the OIC would outweigh the costs. This is because:
- a) The OIC will allow the recovery works to begin earlier than if the standard RMA consenting pathway were used. This earlier commencement means that the benefits of the recovery will be felt earlier by the rural community across the region, lowering the significant social and economic costs currently being experienced by the rural community in the Hawke's Bay.
 - b) The benefits of an earlier recovery outweigh the main cost of using the OIC - the lack of ability to object or appeal, and the risk of temporary adverse environmental effects from non-compliance.

Section 3: Delivering an option

How will the new arrangements be implemented?

87. The OIC is still in draft form and is yet to go through the second cabinet scrutiny process. It is anticipated it will be enacted in mid to late September.
88. It is proposed that the OIC will be implemented through use of a robust communications and engagement strategy to inform the rural community in the Hawke's Bay of its enactment, and how it works. The community is already engaged through the preparation for the Hawke's Bay Flood Works OIC and the consultation held for this OIC in early July. They are thus already aware of what OICs are and for this OIC are aware of its proposed scope, and that it is being progressed with the intent to enact in spring.

How the OIC works

89. Users are to indicate an intent to use the OIC to the relevant local authority, filling out a form which requires they provide various information in order to submit it (address, location, scope of works and scale, etc.). This is then automatically submitted to the regional council who then check the proposal to ensure it is consistent with the permitted standards. Where council assess the information provided and are not certain that the activity would fit within the scope of the OIC, there is an option for council to request further information from the applicant, who then has 15 working days to provide this information. If, upon receiving and assessing the information, the council determines the activity out of scope of the OIC, the council will notify the applicant thusly within 15 working days.
90. Where identified that the site or works is within or adjacent to a site of cultural significance, the regional council will forward the information to the relevant iwi group. Where a site is identified within an outstanding natural feature or landscape, significant natural area, or a wāhi tapu, wāhi taonga, or area of significance to Māori, then the works must comply with the district plan permitted activity standards.
91. There is a further information request process in which a council can request further information from the applicant. Through this process it is intended that PSGEs would be able to alert council where a proposal is at risk of impacting on a wāhi tapu, wāhi taonga, or areas of significance to Māori through this further information process.
92. The rural recovery works must not commence in reliance on the OIC if the council has notified the applicant that it is not satisfied that the requirements in Schedule 1 will be met. Works undertaken outside of scope of the OIC, without resource consent, could be subject to enforcement action under the RMA.

OIC expiration

93. It is proposed that the OIC's modification to the RMA should last until 30 April 2026, extending from the originally proposed 31 December 2025. Consultation feedback requested two full summers for works, allowing most rural landowners / occupiers affected by the NIWE to complete the recovery works to restore their land to a pre-cyclone condition, while not indefinitely suspending the NESF and regional and district plan rules and standards.

Implementation risk and mitigation

94. Reviews of existing OICs created under SWERLA shows there is a risk that the notification requirement may be ignored and works carried out nonetheless. It is believed that a clear and comprehensive communications and engagement strategy, which specifies clearly the outcomes of non-compliance, will mitigate this risk.
95. There was low uptake of the regime under SWELA. There is a risk that the rural community were unaware of SWELA's opportunities and are unaware of this OIC. The community, however, is quite engaged at the moment having been engaged with recently on the development of the Hawke's Bay Flood Works OIC, and then again with this OIC in early July. In order to ensure dissemination of information on the opportunity presented by the OIC to reinstate land impacted by NIWE, there will be communications strategies and engagement plans coordinated between MfE and the HBRRA. This will ensure the community's ability to take up the opportunity under the OIC when they have the capacity (time, funds, access to contractors) within the parameters of the OIC's permitted activity standards.
96. The specifics of the communications strategy and engagement plan will be developed after the final OIC wording is finalised. At this stage the first draft OIC will be going to cabinet later this month, and may develop after direction from departmental and ministerial feedback.
97. The existing monitoring, enforcement and compliance powers and functions for regional and district councils under the RMA are not proposed to be altered. The current mechanisms for ensuring compliance under the RMA remain to support councils to manage the implementation risk identified.

How will the new arrangements be monitored, evaluated, and reviewed?

Monitoring and evaluation

98. Monitoring of the activities will occur when required by the relevant council compliance staff. The OIC requires users to notify the council with their intent and scope of works, which allows councils to check in advance of works occurring that the activities are in scope of the permitted works and in accordance with the permitted standards. This also gives the council the opportunity to go out on site to monitor the works as they occur. The existing RMA compliance, monitoring and enforcement powers and functions are not minimised by this OIC and are available for council staff to utilise. The process of compliance monitoring involves carrying out inspections and using compliance approaches to promote behaviour change and incorporate best practice⁶.

Review of the Order in Council

99. It is proposed that the OIC requires a review one year after enactment. This review will be undertaken by MfE as part of MfE's regular reviews (which started in early 2024) of OICs that are made under the SWERLA, and for which the Minister for the Environment is the responsible Minister.

⁶ [Regulation & Compliance | Hawke's Bay Regional Council \(hbrc.govt.nz\)](#)

100. The regular reviews are required under Section 12 of the SWERLA, which obliges the relevant Minister to decide whether to continue to be satisfied in relation to the following matters (SWERLA section 8(1)(a)):

- a) The order is necessary or desirable for one or more purposes of SWERLA
- b) the extent of the order is not broader (including geographically broader in application) than is reasonably necessary to address the matters that gave rise to the order.
- c) the order does not breach section 11⁷ of the Act
- d) the order does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990.

101. The main steps of a review by the responsible agency are:

- a) Approximately two months before a review begins, MfE informs stakeholders and Treaty partners about the information it is seeking, the relevant dates for the period to which the information refers, and opportunities for engagement.
- b) MfE engages with internal and external stakeholders, and Treaty partners, to receive feedback on the use of the OICs and the impacts they are having.
- c) MfE analyses the feedback and data received from stakeholders and Treaty partners. The draft options and recommendations for the Minister are reviewed by the Legal team and a Treaty impact analysis is completed before they are finalised.
- d) MfE advises the Minister on whether the OIC remains necessary or desirable, and whether changes are needed to ensure it remains fit for purpose. If the Minister agrees to changes, we will work with relevant parties on the amendments.
- e) Key information relating to reviews is published on the MfE website. MfE liaises with other government agencies, as appropriate, on the outcomes of reviews.

⁷ Section 11 restricts the OIC from granting or modifying a requirement to release someone from custody or to have their detention reviewed, or from granting or modifying an exemption or restriction imposed by (for example) the New Zealand Bill of Rights Act 1990.

Appendix A: Table showing types of activities identified by rural community with BAU regulatory framework that it would fall under

Nb. Abbreviations used are:

| | |
|-------|--------------------------------------|
| CHBDC | Central Hawke's Bay District Council |
| DP | District Plan |
| HBRC | Hawke's Bay Regional Council |
| HDC | Hastings District Council |
| NCC | Napier City Council |
| OIC | Order in Council |
| RP | Regional Plan |
| RRA | Hawke's Bay Regional Recovery Agency |
| WDC | Wairoa District Council |

Other regulations referred to:

NESF National Environmental Standard Freshwater

Stock exclusion OIC Resource Management (Stock Exclusion) Regulations 2020

Time extensions OIC Severe Weather Recovery (Resource Management – Time Extensions) Order 2023

Waste Management and Waste Minimisation OICs Severe Weather Emergency Recovery (Waste Management) Order 2023 / Severe Weather emergency Recovery (Waste Minimisation) Order 2023

| Work requirement identified by rural community in RRA survey | National rules District Plan Rules and standards Nb. Rules are summarised once, then cross-referenced. | | | | MfE comments / analysis |
|--|--|---|---|--|--|
| Track damage (92% respondents affected) | <p>Earthworks DP <i>Earthworks for forestry activities are permitted in Hastings District Council (HDC) (27.1.5(c)). In HDC earthworks of 2000m3 per hectare of site in the Rural Zone (100m3 for Rural Residential, Tuki Tuki and Plains Production zones (27.1.6A)) per 12 month period are Permitted Activities. Earthworks that remove less than 25m3 per site (plains production zone) or 100m3 (all other rural) per site per 12 month period are Permitted Activities (EM3), which elevate to Discretionary Activities in the PPZ (EM10 and EM11) and to RDIS in all other zones (EM6).</i></p> <p><i>Under the Wairoa District Plan (WDC) the definition (and associated exclusions) of earthworks, earthwork activities in the rural and settlement zones to maintain farm</i></p> | <p>Culvert replacement (RP) (NESF) <i>Excavations in beds of waterways, removal of structures in beds of waterways, maintenance of structures in beds of waterways) (RP rules 56, 57, 64, 72, elevates to DIS under 59 and 69).</i></p> <p><i>The placement, alteration, extension or reconstruction of a culvert in the bed of any river or connected area is a permitted activity under the NESF regs 62 and 63 (standards reg 70) where information on location and design is provided to council within 20 days of works commencing. Elevates to discretionary under reg 71.</i></p> | <p>Diversion of water (RP chapter 6) (NESF) <i>Diversion within the bed of waterbody, or divert no more than 10% of flow (among other controls)(rule 56), elevates to Discretionary (rule 59).</i></p> <p><i>Reg 38(3) taking use damming diversion or discharge of water within or within 100m from a wetland PER for restoration/maintenance, scientific purposes (not farming). All other damming/diversions of water within 100m of wetland are Non-Complying activities under Reg 54.</i></p> | <p>Realigning streams (RP) <i>Diversion within the bed of waterbody, or divert no more than 10% of flow (among other controls)(rule 56), elevates to Discretionary (rule 59).</i></p> | <p>Consents are likely required.</p> <p>Due to the scale of the earthworks anticipated across the region, recovery works for track damage will require discretionary resource consents in almost all the Districts in the Hawke's Bay.</p> <p>HDC - While landowners and occupiers in the Rural Zone may be able to carry out the necessary remedial earthworks for their recovery, if they want to remove that excess soil/silt off site they will require a discretionary activity Resource Consent. It is also understood that the 100m3 of permitted earthworks extent in the other rural zones will not be sufficient to carry out the necessary remedial works and Discretionary Activity consents will be required in these zones.</p> <p>WDC – while the works further than 20m from waterways are permitted, it is understood that there will be many earthworks activities, in</p> |

| Work requirement identified by rural community in RRA survey | National rules District Plan Rules and standards Nb. Rules are summarised once, then cross-referenced. | | | MfE comments / analysis |
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| | <p><i>tracks, tracks or roads, irrigation or land drainage or dam building are permitted activities, where they are further than 20m from the bank of a waterway. The remaining earthworks activities (clearing silt and erosion closer than 20m from a waterway) would require a Discretionary activity resource consent where in excess of 250m³ or 400m² (rural) (16.8.18, elevation under 16.7.2) and 300m³ and 150m² (settlement zone) (17.8.17, elevation 17.7.2) in area per site per 12 month period. Any land disturbance in any area identified as of significance to Māori is DIS (22.1.7).</i></p> <p><i>In Napier City Council (NCC) earthworks under 100m³ per hectare of site within a 12 month period is a permitted activity in most rural zones (52A.6, elevates to RDIS 52A.9). However, the removal of more than 25m³ offsite per 12 months period in Main Rural Zone is a Discretionary activity (52A.10.1) with 100m³ offsite for other rural zones (52A.10.2).</i></p> <p>Earthworks that may affect rivers and wetlands (RP Chapter 6) (NESF)</p> <p><i>Under the RP, excavation within the bed of a waterway may not occur for more than 5 days and only 5m² per day, where it elevates to DIS. Discharges to land within 20m of a waterbody is a Discretionary activity under Chapter 6 Rule 52. Excavations in river beds is a discretionary activity under Rule 69 Chapter 6.</i></p> <p><i>Under the NESF, activities Reg 50(2) allows for earthworks within 10m of wetland where complies with standards AND is for arable or horticultural land use. All other earthworks within 10m of wetland are Non-Complying activities under Reg 54.</i></p> | | | <p>particular removal of silt washed over sites from waterways, that will be within 20m of waterways.</p> <p>In CHBDC's district the Ancillary Rural Earthworks definition⁸ and associated permitted activity status (where compliant with standard environmental controls such as silt and sediment management, reinstatement of site etc.) means that for the Rural Zones in the Central Hawke's Bay District Plan (proposed, note still subject to appeals where activities are within landscape areas), the majority of the earthworks required to be undertaken for track damage and irrigation and stock water damage can be done so through a Permitted Activity status (EW-R2).</p> <p>For within NCC, as much of the earthworks would be removal of silt offsite, and as much of the area is Main Rural Zone, this means that most of the remedial works in rural Napier require a Discretionary Activity Resource Consent.</p> <p>Culvert replacements will require consents under the RP for excavation in beds of waterways, removal of structures in beds of waterways and / or maintenance of structures in beds of waterways, as well as a consent under the NESF reg 71.</p> <p>For realigning streams to their original channel/course where they have moved across a site and potentially across a farm track, this would require diversion of water consents under the RP as DIS activities, as well as DIS consent for works within beds of waterways under the RP.</p> <p>There are permitted regulations under the NESF for removing material (trees, debris, sediment) from wetlands and proximity to wetland, earthworks, and damming or diversions of water in proximity to wetlands (Reg 51), but only if the material was deposited as a result of a natural hazard AND it is causing or likely to cause an immediate hazard to people or property. As discussed throughout the vires and need v want templates, the immediate hazard to life and property after NIWE has passed and the region is transitioning into the medium to long term stage of recovery, after immediate danger has passed.</p> |

⁸ Ancillary Rural Earthworks means earthworks associated with normal agricultural and horticultural practices, such as:

- a. maintenance of drains, troughs and installation of their associated pipe networks, drilling bores and offal pits, and burying of dead stock and plant waste (including material infected by unwanted organisms as declared by the Ministry of Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993); and
- b. Maintenance of existing walking tracks, farm and forestry tracks, driveways, roads and accessways.

| Work requirement identified by rural community in RRA survey | National rules District Plan Rules and standards Nb. Rules are summarised once, then cross-referenced. | | | | MfE comments / analysis |
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| | | | | | This regulation could not therefore be utilised to address this policy issue. |
| Erosion (88% respondents affected) | Earthworks DP (as per track damage). <i>CHBDC allows 20000m3 per ha of site per 12 months in General Rural Zone (GRUZ) (EW-S2), elevates to RDIS (EW-R2.2) and 1000m3 per ha of site per 12 months in the Rural Production Zone (RPROZ) and 500m3 per site per 12 months in the Rural Lifestyle Zone (RLZ). Other usual standards apply.</i> Earthworks that may affect rivers and wetlands (RP) (NESF) | Realigning streams (RP) <i>Diversion within the bed of waterbody, or divert no more than 10% of flow (among other controls)(rule 56), elevates to Discretionary (rule 59).</i> | Culvert replacement (excavations in beds of waterways, removal of structures in beds of waterways, maintenance of structures in beds of waterways) (RP) | | Consents are likely required. As per track damage above, noting that activities away from tracks or irrigation / stock water damages will require consent for earthworks under CHBDC as it will not fall under the Ancillary Earthworks exemption. However, 2000m3 per ha per site could be sufficient to allow for erosion and sediment recovery earthworks. |
| Sediment (64% of respondents affected) | Earthworks DP (as per track damage and for CHBDC per erosion) Excavations in beds of waterways (RP) Disturbance in proximity to wetlands (NESF) | Diversion of water (RP) <i>Diversion within the bed of waterbody, or divert no more than 10% of flow (among other controls)(rule 56), elevates to Discretionary (rule 59).</i> | Culvert replacement (excavations in beds of waterways, removal of structures in beds of waterways, maintenance of structures in beds of waterways) (RP) | Realigning streams (RP) | Consents are likely required. As per track damage and erosion above. |
| Water supply/irrigation system damage (66% respondents affected) | Earthworks DP (as per track damage) Excavations in beds of waterways (RP) | Diversion of water (RP) | Realigning streams | | Consents may be required. Earthworks for water supply or irrigation system repairs are likely to be small scale and not require resource consent under District Plans. These may require discretionary activity consents under the regional plan for diversions of water or excavations in beds of waterways as well as removal or maintenance of structures in beds of waterways depending on the set up. |
| Stock water or access damage (65% respondents affected) | Earthworks DP (as per track damage) Excavations in beds of waterways (RP) | Diversion of water (RP) | Culvert replacement (excavations in beds of waterways, removal of structures in beds of waterways, maintenance of structures in beds of waterways) (RP) | Realigning streams (RP) | Consents may be required. Similar to water supply and irrigation system damage. These may require discretionary activity consent under the regional plan for diversions of water or excavations in beds of waterways as well as removal or maintenance of structures in beds of waterways depending on the set up. |
| Dam damage/loss | Earthworks DP (rules as summarised in track damage). <i>Note that the WDC plan excludes dam building for farm and forestry activities from earthworks.</i> Excavations in beds of waterways (RP) | Diversion of water (RP) | | Consents are likely to be required. Depending on the scale of the damage to dams, there could be significant earthworks required which will require earthworks consents in the local territorial authority. Summaries on this as per track damage. This will require discretionary activity consents under the regional plan and district plans, for rural landowners across the region. | |

| Work requirement identified by rural community in RRA survey | National rules District Plan Rules and standards Nb. Rules are summarised once, then cross-referenced. | | | | MfE comments / analysis |
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| Issues with access around property (60% of respondents affected) | Earthworks DP Excavations in beds of waterways (RP) | Diversion of water (RP) | Culvert replacement (excavations in beds of waterways, removal of structures in beds of waterways, maintenance of structures in beds of waterways) (RP) | Realigning streams (RP) | <p>Consents are likely to be required.</p> <p>It is understood that many landowners /occupiers are still dealing with issues with access within their properties, which is directly impeding the ability to productively farm.</p> <p>This recovery activity will likely require earthworks consents (district plan and where in proximity to waterways, regional plan), potential for realigning streams which moved in the severe weather event back to their original course, which will require diversion and realigning stream, works in beds of waterways consents.</p> <p>This activity will also likely involve some culvert replacements, which will require consents for earthworks in proximity to streams, diversion of water, as well as excavation in beds of waterways, removal and maintenance of structures in beds of waterways consent.</p> <p>These will result in discretionary activity consents under the regional and district plans, for rural landowners across the region.</p> |
| Sheds/barns/yards damage (33% of respondents affected) | Earthworks DP Excavations in beds of waterways (RP) | Realigning streams (RP) | Diversion of water (RP) | | <p>Consents are likely to be required.</p> <p>It is understood that some streams moved their courses during the severe weather events, and landowners are seeking in these situations to move the stream back to its original course. This could be a situation for yard damage repairs. This would require discretionary activity resource consents for excavation in beds of waterways and diversion of water from HBRC.</p> <p>Nb. Sheds as accessory buildings may not require consent under many district plans, but building consent will be required for some of these structures.</p> |
| Wood waste/debris damage (29% of respondents affected) | Discharge to air/discharge to land (RP) Excavations in beds of waterways (RP) | | | <p>Consents are likely to be required (unless works are undertaken subject to the Waste Management and Waste Minimisation OICs).</p> <p>Depending on location, these types of activities will not require resource consent to remove from site and dispose at an approved facility due to the Waste Management and Waste Minimisation OICs. There may be cost barrier and capacity barrier to transport the material to one of these facilities.</p> <p>The burning of this material would require a consent under the Regional Plan for discharges to air as the Open Burning Order has been revoked, with potential for a permit to discharge to land if any of the waste has heavy metals etc in it</p> | |

| Work requirement identified by rural community in RRA survey | National rules District Plan Rules and standards Nb. Rules are summarised once, then cross-referenced. | | | MfE comments / analysis |
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| | | | | <p>(potential to cause site contamination and a risk to health).</p> <p>Where located in proximity to or within the bed of a stream or river this will likely require consent as a disturbance to bed of waterway to remove.</p> <p>The consents required will be discretionary activity resource consents from the HBRC.</p> |
| Issues with access to/from property (25% of respondents affected) | Earthworks that may affect rivers and wetlands (RP)(NES) | Diversion of water (RP) | Culvert replacement (excavations in beds of waterways, removal of structures in beds of waterways, maintenance of structures in beds of waterways)(RP) | <p>Consents are likely to be required.</p> <p>Most of the issues with access to the property will be managed via council roads at council cost. There may be some culvert repairs on private land required, at the boundary of the public road.</p> <p>These will require discretionary activity regional consents from HBRC.</p> |
| Fencing damage (98% respondents affected) | <p>n/a</p> <p>Stock Exclusion OIC and Tukituki rules: Tukituki River Catchment Plan Change 6 to HB regional plan. Rule TTle, f and g.</p> | | | <p>Most fencing activities will be permitted activities. Nb. Note there is a potential issue with the stock exclusion rules in the Tukituki catchment that may trigger the need for consents.</p> <p>The scale of the loss of fencing is putting strain on the ability to farm productively as some paddocks have become impractical to farm (too large due to loss of fencing) or impossible to use due to access damage.</p> <p>This puts priority on farmers time to address the fencing damage in order to work more efficiently on the land, thus differing larger scale recovery projects due to lack of capacity to address BAU and fencing repairs and other recovery activities.</p> <p>Within the Tukituki catchment there are stock exclusion rules which have been in place since 2020. The Time extensions OIC applies to the stock exclusion OIC regulations (extension for compliance to 1 July 2025) and does not modify regional rules. The regional rules for stock exclusion in the Tukituki catchment were amended by a plan change. Thus landowner/occupiers in the Tukituki catchment (with properties over 4 hectares in area and for stock other than sheep) who have lost fencing are now faced with the need to get resource consent to allow the stock to go into the waterways until such time as they have the capacity to repair the fencing damage.</p> |
| Planting losses (64% respondents affected) | n/a | | | <p>Most replanting activities will be permitted activities if non-forestry.</p> <p>The lost planting will put these communities at increased risk in future events until replacement riparian planting can be put in place and matures. As with many recovery activities, it is the capacity to undertake the work that landowners / occupiers</p> |

| Work requirement identified by rural community in RRA survey | National rules District Plan Rules and standards Nb. Rules are summarised once, then cross-referenced. | MfE comments / analysis |
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| | | are struggling with, and this is adding to the speed of recovery overall. |