

Hawke's Bay flood works and associated infrastructure

Proposed Order in Council

12-14 March 2024

Online hui



Agenda

- Welcome / Introductions
- The Government's 100-day plan
- The Severe Weather Emergency Recovery Legislation Act 2023 (SWERLA)
- Orders in Council under SWERLA
- Key features of the Order
- Overview of proposed flood works
- Timeline
- Questions / pātai

Relevant 100-day plan commitments

- Meet with Councils and communities to **establish regional requirements** for recovery from Cyclone Gabrielle and other recent major flooding events
- **Make any additional Orders in Council** needed to remove red tape to speed up cyclone and flood recovery efforts

Orders in Council

An overview

- Developed under the mechanism in the Severe Weather Emergency Recovery Legislation Act 2023
- Adds flexibility to the response, allowing quick regulatory changes to respond to issues as they arise
- Enables the Ministry for the Environment to amend legislation we are responsible for

Orders in Council under SWERLA

Requirements

Orders have clear legal parameters including:

- Must be necessary or desirable for the purposes of SWERLA
- No broader than necessary in extent

For RMA changes:
Minister has considered the effects on the environment and whether adverse effects could be avoided, remedied or mitigated.

Benefits

Can help speed things up by streamlining the resource consents process.

Ensures input from directly affected parties into the consenting process.

Gives certainty and provides regulatory relief to allow local-led recovery work done.

Engagement

Seeking your feedback on all aspects of the proposed Order in Council.

Feedback will be provided to the Severe Weather Events Recovery Review Panel considering this Order in Council under the Severe Weather Emergency Recovery Legislation Act 2023.

Orders in Council - helping communities continue their recovery

Why is this Order needed?

- The Hawke's Bay Regional Council (HBRC) has identified the need for flood works in 8 locations across Hawke's Bay.
- This Order would enable these works to take place sooner with a streamlined resource consent process.
- Without this Order, it's unlikely consents would be granted in time under standard RMA consenting processes.
- Enables Hawke's Bay councils to reclassify ~925 properties in Hawke's Bay from Category 2A or 2C to Category 1.

Key features of this proposed Order

- Limited to the flood works undertaken in 8 locations in Hawke's Bay
- Proposes adapting the consenting framework from the Waka Kotahi Order
- Proposes a streamlined consenting regime that:
 - classifies flood works activities that are not already classified as permitted, as **controlled activities**
 - provides a streamlined process for controlled activity resource consents
 - includes a list of conditions which will avoid, remedy or mitigate adverse environmental effects

Key features of this proposed Order

- **Input** into the consenting process:
 - HBRC must seek written comments on the consent applications from specified persons.
 - Consents would include conditions setting out **engagement with landowners, stakeholders, iwi, hapū and Māori** through to completion of works.
- Consent applications would be lodged by the Hawke's Bay councils, principally HBRC. The Order would not predetermine any engineering or design solutions – that work would be led by HBRC and other councils.
- We are proposing the councils appoint one set of **independent planning commissioners** to determine all the applications.

Key differences between RMA and proposed order

Aspect of proposal + Relevant RMA section	Under normal RMA regime	Under proposed Order in Council
Activity status of flood works S9, 12, 13, 14 and 15 S87A Classes of activities	<ul style="list-style-type: none"> Flood works are classified as discretionary activities 	<ul style="list-style-type: none"> Flood works are classified as controlled activities
How people have a say S95 to 95G Public notification and limited notification of applications S96-98 Submissions on applications S100-103B Hearings	<ul style="list-style-type: none"> S95 sets out the test to determine whether a discretionary activity consent applications progresses on a notified or notified basis If notified, the RMA then sets out the submissions and hearing processes 	<ul style="list-style-type: none"> Consent authority invites comments from specified people and can invite others to comment if consent authority considers they have a greater interest than the public generally
Decision making process S104 Consideration of applications S104A Determination of activities for controlled activities	<ul style="list-style-type: none"> S104 sets out the matters the consent authority must consider including actual or potential effects on the environment, relevant provisions of any RMA plan documents Discretionary activity consents may be granted consent, controlled activity consents must be granted consent 	<ul style="list-style-type: none"> Hawke's Bay councils continue to be the decision-maker, granting the consents Proposed order will set out the matters the consent authority must consider

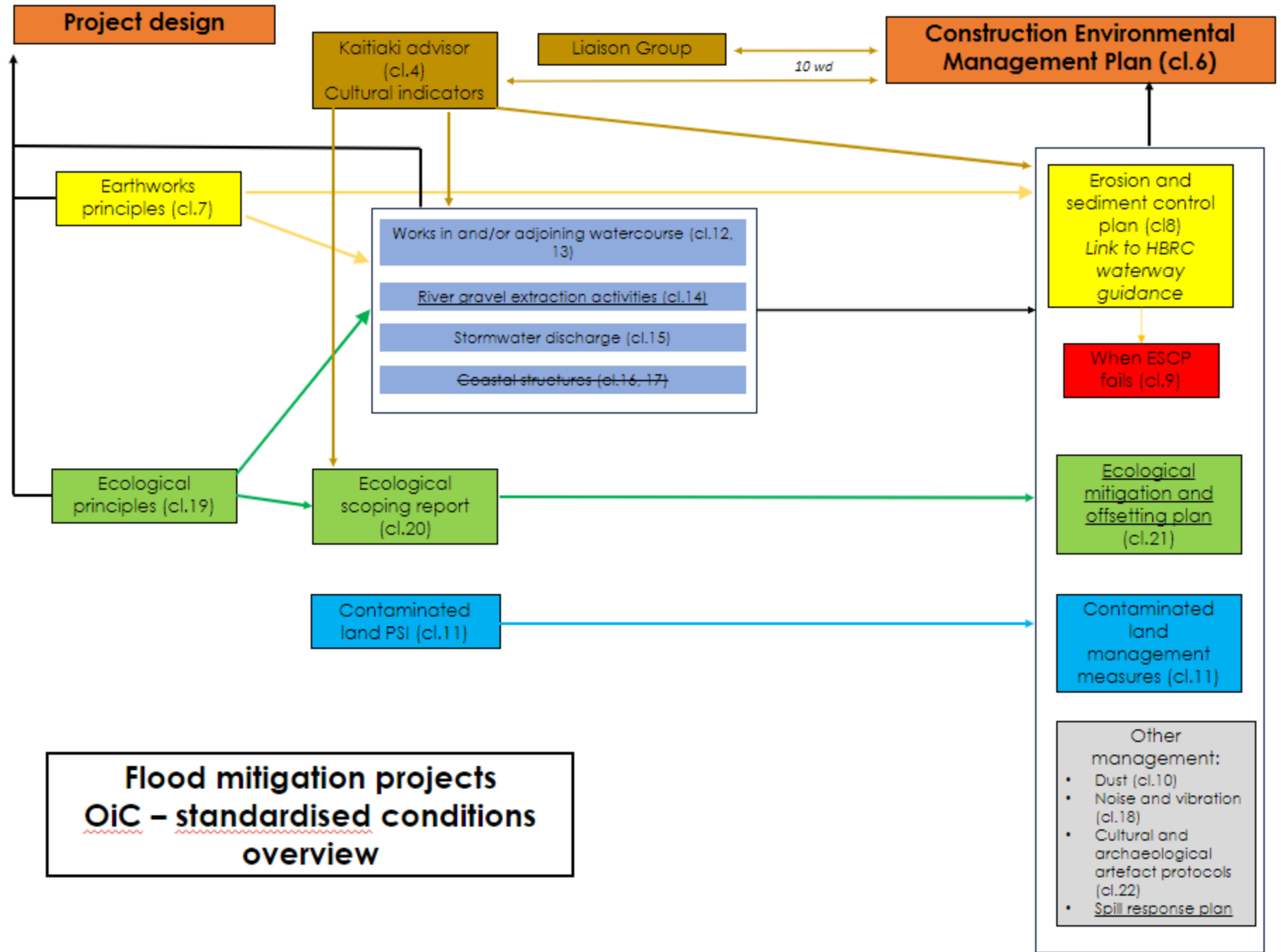
Key differences between RMA and proposed order

Aspect of proposal + Relevant RMA section	Under normal RMA regime	Under proposed Order in Council
Decision making process [contd] S115 Time limits for notification of decision	<ul style="list-style-type: none"> • Decisions on non-notified consents must be given with 20 working days of lodgement, or • if notified and a hearing is held, within 15 working days after the end of the hearing 	<ul style="list-style-type: none"> • Consent decision must be released within 30 working days of lodgement
Conditions on flood works S108 – Conditions of resource consents	<ul style="list-style-type: none"> • Consents may be granted on any condition that the consent authority considers appropriate 	<ul style="list-style-type: none"> • List of conditions included in the Order. Includes engagement and environmental management conditions • Ability for consent authority to add further conditions (these must relate to the matters of control included in the Order)
Avenues for legal challenge S120 – right to appeal S290 – powers of court in regard to appeals	<ul style="list-style-type: none"> • Appeals to the Environment Court • Submitters and applicant have this right of appeal • The Environment Court has the same powers as the original consent authority and may confirm, amend, or cancel a decision to which an appeal relates 	<ul style="list-style-type: none"> • Limits on avenues for legal challenge – appeals to the Environment Court are removed, but judicial review remains available

Proposed Consent Conditions

(based on Waka Kotahi Order)

nb. clause numbers are from this Order)



Flood mitigation projects
OIC - standardised conditions
overview

Other project locations

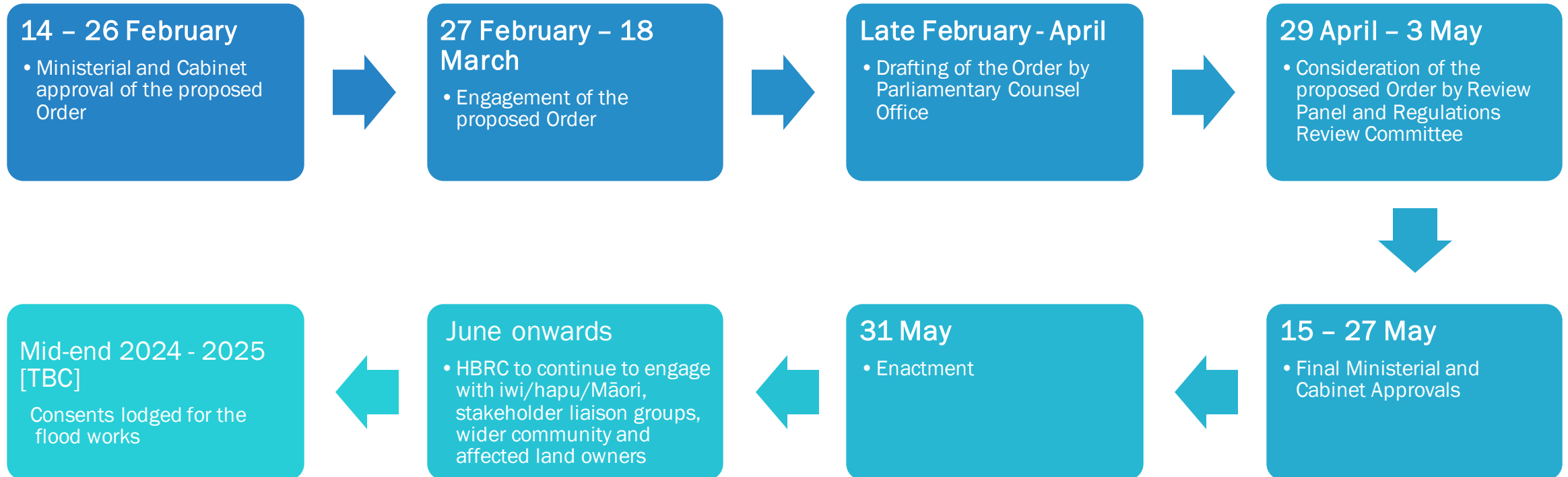


Site Locations:

1. Wairoa
2. Whirinaki
3. Awatoto
4. Waiohiki
5. Ohiti Road
(Omahu)
6. Pakowhai
7. Havelock North
8. Porongahau

Hawke's Bay flood works: Proposed Order in Council

Indicative key milestones and process steps for the proposed Order





Pātai | Questions?

Have your say – Your voice matters

We are accepting feedback until **5pm 18th March 2024**.

- You can find more information online here:
<https://environment.govt.nz/acts-and-regulations/orders-in-council/hawkes-bay-flood-works/>
- Or contact us via SevereWeatherResponse@mfe.govt.nz

Karakia

Kia whakairia te tapu

Kia wātea ai te ara

Kia turuki whakataha ai

Haumi ē, hui ē, tāiki ē



Ministry for the
Environment
Manatū Mō Te Taiao