



Severe Weather Emergency Recovery (Resource Management—Time Extensions) Order 2023

Cindy Kiro, Governor-General

Order in Council

At Wellington this 18th day of September 2023

Present:

Her Excellency the Governor-General in Council

This order is made under section 7 of the Severe Weather Emergency Recovery Legislation Act 2023—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for the Environment made in accordance with section 8(1) and (2) of that Act.

Contents

		Page
1	Title	2
2	Commencement	2
3	Revocation	2
4	Interpretation	2
	<i>Modifications to Resource Management Act 1991</i>	
5	Modification of limitation period that applies to certain councils in respect of certain offences	2
6	Modification of deadline for certain councils to publicly notify certain freshwater planning instruments	3

*Modification to Resource Management (Stock Exclusion)
Regulations 2020*

- | | | |
|---|--|---|
| 7 | Modification of application date of certain regulations in certain areas | 3 |
|---|--|---|

Modification to National Planning Standards 2019

- | | | |
|---|--|---|
| 8 | Modification of deadline for Hastings District Council to comply with certain planning standards | 3 |
|---|--|---|

Order

1 Title

This order is the Severe Weather Emergency Recovery (Resource Management—Time Extensions) Order 2023.

2 Commencement

- (1) Clause 7 is treated as having come into force on 30 June 2023.
- (2) The rest of this order comes into force on 20 September 2023.

3 Revocation

- (1) Clause 5 is revoked on the close of 21 September 2025.
- (2) The rest of this order is revoked on the close of 31 December 2027.

4 Interpretation

- (1) In this order, unless the context otherwise requires,—

Act means the Resource Management Act 1991

National Planning Standards 2019 means the National Planning Standards whose approval under section 58E of the Act was notified in the *Gazette* on 5 April 2019 (as amended or replaced from time to time).
- (2) The modification of legislation by clauses 5 to 8 of this order does not affect the text of the legislation, but requires it to be read as if amended in the manner indicated in those clauses.

Modifications to Resource Management Act 1991

5 Modification of limitation period that applies to certain councils in respect of certain offences

- (1) The 12-month limitation period in section 338(4) of the Act does not apply to Gisborne District Council or Hawke’s Bay Regional Council in respect of an offence if—
 - (a) the offence is against section 338(1)(a) of the Act; and

- (b) the contravention giving rise to the charge for the offence first became known, or should have become known, to the council during the period—
 - (i) beginning on 8 January 2023; and
 - (ii) ending on 20 September 2023.
- (2) Instead, despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period that applies to the council in respect of the offence ends on the date that is 24 months after the date on which the contravention giving rise to the charge for the offence first became known, or should have become known, to the council.

6 Modification of deadline for certain councils to publicly notify certain freshwater planning instruments

Section 80A(4)(b) of the Act (which provides that certain freshwater planning instruments must be publicly notified by 31 December 2024) applies to—

- (a) Gisborne District Council as if “31 December 2024” were replaced with “31 December 2026”; and
- (b) Hawke’s Bay Regional Council as if “31 December 2024” were replaced with “31 December 2027”.

Modification to Resource Management (Stock Exclusion) Regulations 2020

7 Modification of application date of certain regulations in certain areas

Regulation 3 of the Resource Management (Stock Exclusion) Regulations 2020 applies to the district of Gisborne District Council and the region of Hawke’s Bay Regional Council as if subclauses (1)(b), (3)(b), and (5)(b) (which relate to the application dates for certain regulations about stock exclusion) were replaced with:

- (b) 1 July 2025 in any other case.

Modification to National Planning Standards 2019

8 Modification of deadline for Hastings District Council to comply with certain planning standards

- (1) Direction 4 of standard 17 of the National Planning Standards 2019 (which relates to the deadline for complying with certain planning standards) applies to Hastings District Council as if the words from “through either a) or b) whichever is sooner” to the end of paragraph b. were replaced with “through amendments to the district plan made by 31 August 2026”.
- (2) To avoid doubt,—
 - (a) the modification made by subclause (1) is not a change to, a replacement of, or a revocation of the whole or part of, a national planning standard

for the purposes of section 58H of the Act (and the Minister for the Environment is therefore not required to follow any of the processes set out in that section for the purposes of the modification); and

- (b) subclause (1) overrides the requirement under section 58J(1) of the Act for local authorities to make certain amendments not later than the fifth anniversary of the date on which the first set of national planning standards is notified in the *Gazette*.

Rachel Hayward,
Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order is made under section 7 of the Severe Weather Emergency Recovery Legislation Act 2023 (the **SWERLA**) and its effect is temporary. *Clause 7* is treated as having come into force on 30 June 2023 and the rest of the order comes into force on 20 September 2023. *Clause 5* is revoked on the close of 21 September 2025 and the rest of this order is revoked on the close of 31 December 2027.

This order extends various time frames under the Resource Management Act 1991 (the **RMA**) and certain related secondary legislation for Gisborne District Council, Hawke's Bay Regional Council, and Hastings District Council.

Modifications to Resource Management Act 1991

Clause 5 relates to the requirement under section 338(4) of the Act to bring enforcement action for specified offences within 12 months of the date on which the non-compliance first became known or should have become known. The effect of this clause is to provide Gisborne District Council and Hawke's Bay Regional Council with an additional 12 months to commence proceedings for an offence against section 338(1)(a) of the Act if the contravention first became known, or should have become known, during the period beginning on 8 January 2023 and ending on 20 September 2023.

Clause 6 relates to the requirement under section 80A(4)(b) of the RMA for regional councils to publicly notify freshwater planning instruments by 31 December 2024 if the purpose of those instruments is to give effect to the National Policy Statement for Freshwater Management 2020. The effect of this clause is to extend the public notification deadline for Gisborne District Council to 31 December 2026 and for Hawke's Bay Regional Council to 31 December 2027.

Modification to Resource Management (Stock Exclusion) Regulations 2020

Clause 7 relates to the date by which certain stock must be excluded from certain water bodies under the Resource Management (Stock Exclusion) Regulations 2020. This clause extends that date as it applies to the district of Gisborne District Council and the region of Hawke's Bay Regional Council from 1 July 2023 to 1 July 2025.

Modification to National Planning Standards 2019

Clause 8 relates to the requirement under direction 4 of standard 17 of the National Planning Standards 2019 for territorial and unitary authorities to comply with certain planning standards by amending their district plan within 5 years of those standards coming into effect or by notifying a proposed regional plan after the standards come into effect, whichever is sooner. The effect of this clause is to instead give Hastings District Council until 31 August 2026 to comply with those planning standards by amending its district plan.

Statement of reasons

This statement of the Minister's reasons for recommending the making of this order is published in accordance with section 10 of the Severe Weather Emergency Recovery Legislation Act 2023.

The Minister for the Environment (the **Minister**) is satisfied that the order—

- is necessary or desirable for 1 or more purposes of the Severe Weather Emergency Recovery Legislation Act 2023 (the **SWERLA**):
- is no broader than is reasonably necessary to address the matters that gave rise to the order:
- does not breach section 11 of the SWERLA:
- does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990.

Order is necessary or desirable for 1 or more purposes of SWERLA and is appropriate

The Minister is satisfied, for the following reasons, that the order is—

- necessary or desirable for 1 or more purposes of the SWERLA; and
- appropriate.

Providing additional time to comply with statutory time frames will assist with the planning, rebuilding, and recovery of affected communities and persons, including—

- the rebuilding of land, infrastructure, and other property of affected communities or of any affected persons; and
- facilitating co-ordinated efforts and processes for short-term, medium-term, and long-term recovery; and

- facilitating the restoration and improvement of the economic, social, and cultural well-being, and enhancing the resilience, of affected communities or of any affected persons; and
- facilitating the restoration and resilience of the environment.

For prosecutions, additional time to initiate proceedings will assist communities by ensuring that serious non-compliances with the Resource Management Act 1991 (the **RMA**) are investigated and appropriate action can be taken.

Additional time for Hawke's Bay Regional Council and Gisborne District Council to notify freshwater planning instruments will assist communities to recover from the severe weather events as it allows time for meaningful participation in the plan-making process. It also provides time to ensure that hydrological modelling after severe weather events is accurate.

Additional time to implement the Resource Management (Stock Exclusion) Regulations 2020 in Tairāwhiti / Gisborne and Hawke's Bay regions will assist the farming community to rebuild farm infrastructure. Providing a realistic time frame for farmers to implement the regulations recognises the practical realities of constructing replacement fencing in the right location, while balancing environmental benefits of fencing water bodies.

Additional time for Hastings District Council to implement the National Planning Standards will enable it to operate more flexibly and allocate resources to focus on recovery.

Order not broader than reasonably necessary

The Minister is satisfied that the order is not broader than is reasonably necessary for the following reasons.

The order is geographically limited to the Tairāwhiti / Gisborne and Hawke's Bay regions. Time frames within the order have the following limitations:

- prosecutions—the extension applies only to offences that became known, or should have become known, to Gisborne District Council or Hawke's Bay Regional Council between 8 January and 20 September 2023. There is 24 months for the relevant council to bring a prosecution.
- freshwater planning instruments—Gisborne District Council has a 2-year extension, until 31 December 2026; Hawke's Bay Regional Council has a 3-year extension, until 31 December 2027.
- Resource Management (Stock Exclusion) Regulations 2020—the extension applies only to the Tairāwhiti / Gisborne and Hawke's Bay regions and is limited to 2 years.
- National Planning Standards—the extension applies only to Hastings District Council and only until 31 August 2026.

The modifications chosen depart least from the status quo but ensure that there is sufficient time, given the various issues that have arisen as a result of the severe weather events, for the councils and their communities to undertake the required processes.

Allowing additional time to comply with RMA business-as-usual requirements enables people and communities to prioritise recovery and recognises the practical challenges arising from the severe weather events. The order intends to strike a balance between compliance, recovery, and providing for the needs of future generations.

The order is temporary in nature, with time frames taking into account the needs of councils and their communities, as well as the potential effects on the environment.

Other preconditions satisfied

The following preconditions for recommending the making of an order have also been satisfied:

- the draft order has been reviewed by the Severe Weather Events Recovery Review Panel:
- the draft order has been provided to the Regulations Review Committee:
- the Minister has had regard to the recommendations and comments provided by those bodies:
- the engagement process under section 9 of the SWERLA has been complied with:
- the Minister has considered—
 - the effects on the environment that could occur as a result of the order; and
 - whether any adverse effects can be avoided, remedied, or mitigated.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 19 September 2023.

This order is administered by the Ministry for the Environment.