

**In Confidence**

Office of the Minister for Land Information

Chair, Cabinet

**Severe Weather Emergency Recovery (Rating Valuations-Hastings District Council) Order 2023**

**Proposal**

- 1 I seek Cabinet agreement to submit the Severe Weather Emergency (Rating Valuations-Hastings District Council) Order 2023 (the Order) to the Executive Council and Governor-General for enactment.

**Executive Summary**

- 2 Cabinet agreed on 1 May 2023 that an Order in Council be prepared to modify the application of the Rating Valuations Act 1998 (the RVA) under the Severe Weather Emergency Recovery Legislation Act 2023 (the SWERL Act) for the Hastings District Council's general revaluation and related provisions [CAB-23-MIN-0153].
- 3 The Order will modify the revaluation and District Valuation Roll (DVR) maintenance methods, including objections, in the RVA so that cyclone-related damage is not assessed in the general revaluation for the Hastings District Council (the Council). The changes are required to enable the Council to complete their general revaluation by 30 June 2023 and provide certainty in their rating base from 1 July 2023.
- 4 As required by the SWERL Act, Toitū Te Whenua Land Information New Zealand (LINZ) carried out public consultation from 3 to 9 May on my behalf, with property owners, including owners of damaged properties, Iwi, and other stakeholders.
- 5 The paper has been considered by the Regulations Review Committee and the Severe Weather Events Recovery Review Panel. I have considered their feedback in the development of the final Order being presented to you.
- 6 I am now seeking agreement from you sitting as the Cabinet Legislation Committee to submit the attached Order to the Executive Council and Governor-General to enact the policy decisions agreed by Cabinet.

**Order in Council gives effect to Cabinet decisions**

- 7 The attached Order (see **Appendix A**) gives effect to the decisions made by Cabinet on 1 May 2023 that an Order be prepared under section 7 of the SWERL Act [CAB-23-MIN-0153 refers]. The Order modifies the application of

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the RVA, the Rating Valuations Regulations 1998 and the Rating Valuations Rules 2008, for the Council so that:

### *In relation to the modified revaluation*

- 7.1 the values are to be assessed without recognising the individual property effects of physical severe weather damage; and
- 7.2 the rights and timeframes for objections by ratepayers be those provided for in the RVA except that no objection may be made on the basis values have been assessed without recognising the individual property effects of physical severe weather damage; and
- 7.3 notices to ratepayers under s13 RVA are to include an explanation of the basis for the modified revaluation and the modification of objection rights.

### *In relation to maintaining the district valuation roll after the modified revaluation*

- 7.4 after implementation of the modified revaluation the Council may alter the DVR in the circumstances currently provided for in s14 of the RVA and applying (with any necessary modifications) the principle that values do not recognise the individual property effects of physical severe weather damage; and
- 7.5 new valuations may be requested under s16 RVA but applying (with any necessary modifications) the principle that values do not recognise the individual property effects of physical severe weather damage.

### *In relation to other related provisions*

- 7.6 the definitions of land, land value, capital value, improvements and value of improvements are modified to allow the modified revaluation and arrangements in relation to maintaining the DVR;
  - 7.7 the requirements in the Rating Valuations Rules 2008 for inspections, investigations, collection, analysis and provision of information, and other matters are modified so they are appropriate to the modified revaluation and the modified obligations maintaining the district valuation roll after the modified revaluation; and
  - 7.8 require implementation of the subsequent standard general revaluation no later than 30 June 2026.
- 8 Cabinet also agreed that the Order expire on 30 June 2026 or the implementation of the next general revaluation, whichever is the earliest.

### **Consultation on the Order**

- 9 Sections 8 and 9 of the SWERL Act require that I must undertake engagement on the proposed Order before I can recommend that it is made.

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- 10 LINZ consulted on the proposed policy changes in this Order on my behalf from 3 to 9 May for 7 days (the minimum period required under the SWERL Act being 3 working days).
- 11 LINZ and the Council issued a joint media release to open the consultation. A consultation document and supporting information was published on both LINZ and the Council's websites. The document explained the need, intention, duration and the effect of the proposed policy changes.
- 12 To ensure those most affected by the severe weather events were engaged, the Council further publicised the consultation by emailing owners of yellow and red-stickered properties and their cyclone updates database, through Facebook groups and other social media.
- 13 Iwi groups including Ngāti Kahungunu and Te Taiwhenua o Heretaunga were provided information through the Council's cultural advisors, the Heretaunga Takoto Noa Māori Standing Committee and other marae contacts.
- 14 LINZ received 61 submissions, with 61 percent of the submitters agreeing either fully or partially on the need for the Order and the proposed changes. I do not consider that any changes are required to the Order as a result of these submissions. A summary of the feedback received is provided for your information in **Appendix B**.

### Timing and 28-day rule

- 15 This Order is being progressed as part of the tranche one Orders in Council under the SWERL Act. Tranche one is following a truncated process to ensure that the most urgent Orders can be in force as soon as possible to assist the people and communities affected.
- 16 I propose that the 28-day rule be waived and the Order take effect on 9 June 2023. This is intended to bring these emergency provisions into effect as quickly as possible and to provide relief and certainty to the affected people and the Council.
- 17 Without a waiver of the 28-day rule, the Council will not be able to meet its statutory deadline of 30 June 2023 to complete its 2022 general revaluation, and strike rates for the next financial year, and the purpose of using the expedited Orders in Council process will be undermined.

### Compliance

- 18 The Order complies with each of the following:
- 18.1 the principles of the Treaty of Waitangi;
  - 18.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
  - 18.3 the principles and guidelines set out in the Privacy Act 2020;

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- 18.4 relevant international standards and obligations; and
- 18.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

### *Compliance with the SWERL Act*

- 19 Under section 8 of the SWERL Act, I am required to be satisfied of certain matters before recommending the making of an Order:
  - 19.1 This Order allows the RVA to operate more flexibly in Hastings to take account of the severe weather events. Hence I am satisfied that this Order is necessary and desirable for meeting the purpose of the SWERL Act set out in section 3(2)(b)(i).
  - 19.2 The extent of the Order (including geographical extent) is not broader than is reasonably necessary to address the matters that gave rise to the Order.
  - 19.3 The Order does not breach the restrictions set out in section 11 of the SWERL Act.
  - 19.4 The Order does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990.
  - 19.5 The consultation process described in section 9 of the SWERL Act has been complied with. The details of the consultation are provided in paragraphs 10 to 14.
  - 19.6 The draft Order has been reviewed by the Severe Weather Events Recovery Review Panel (see paragraphs 20 to 22) and has been presented to the Regulations Review Committee (see paragraphs 23 to 30).

### **Severe Weather Events Recovery Review Panel (the Review Panel)**

- 20 The Review Panel considered the draft Order on 22 May 2023. It considered that consultation with local Iwi was insufficient on the development of the Order. The Review Panel considers that it would be helpful that the Council, following the making of the Order, should have particular regard to whether the land is multiply-owned Māori land when considering its rates remission policy.
- 21 The Review Panel considers that it is not aware of any reason why the Order is not necessary or desirable.
- 22 I have had regard to the Review Panel's recommendations and do not consider that any changes are necessary in the Order. I will write to the Council following the making of the Order recommending the Council have regard to multiply-owned Māori land when considering its rates remission policy.

**Regulations Review Committee (the Committee)**

- 23 The Committee considered the draft Order on 19 May 2023.
- 24 The Committee considered that the definition of “modified method” in clause 4(1) of the Order was unclear and proposed alternative wording. I acknowledge that this definition is complex and could be considered confusing. My officials considered this change but consider the current wording is accurate, and this was supported by PCO. I do not consider that this change is necessary to the Order.
- 25 The Committee recommended that consideration be given to amending the statement of reasons in the draft Order, to state that one of the Order’s purposes is to provide an extension to the Council to complete the general revaluation that is required every three years under the RVA. I do not consider that this change is necessary to the Order, because it is a mechanism to allow the Council to comply with the statutory requirement to complete their 2022 revaluation by 30 June 2023.
- 26 The Committee also recommended that the statement of reasons state that the delay is not solely due to the severe weather events. I do not consider that this change is necessary to the Order because the Council’s inability to meet the deadline of 30 June 2023 is solely due to the severe weather events.
- 27 The Committee recommended that consideration is given to whether the approach to modifying the Council’s revaluation and related provisions is broader than reasonably necessary, and questioned whether consideration was given to using values from the 2019 revaluation.
- 28 LINZ, the Valuer General and the Council investigated options for dealing with the Council’s revaluation deadline, including using 2019 values. Officials did not recommend proceeding with this alternative option due to feasibility and cost issues, and because the relative value movement suggests the rates burden is likely to shift away from rural properties toward residential and commercial properties which have been less impacted by cyclone damage. Such a change would also require an Order in Council to amend the RVA.
- 29 I therefore consider that the approach in the Order is not broader than reasonably necessary, and do not consider that a change is necessary to the Order.
- 30 I have had regard to the comments provided by the Committee and do not consider any changes are necessary to the Order.

**Certification by Parliamentary Counsel**

- 32 Parliamentary Counsel has certified that the Order in Council is in order for submission to Cabinet subject to waiver of the 28-day rule and to the Order being made and then notified in the Gazette on Thursday 8 June.

### Impact Analysis

- 33 The Treasury's Regulatory Impact Analysis team has determined that this proposal to provide the Council an alternative method of revaluation is exempt from the requirement to provide a Regulatory Impact Statement.
- 34 This exemption is granted on the grounds that it provides limited temporary exemptions or modifications to existing legislative requirements in a situation where a declared emergency has made compliance with existing legislative requirements impossible, impractical, or unreasonably burdensome.

### Publicity

- 35 I will issue a press release at the appropriate time, in consultation with the Minister for Cyclone Recovery and the Council, if necessary.

### Proactive release

- 36 I intend to release this paper within 30 working days subject to appropriate redactions under the Official Information Act 1982.

### Consultation

- 37 The Department of Internal Affairs, Treasury and the Department of Prime Minister and Cabinet have been consulted on this paper. Hastings District Council has been consulted on the draft Order.

### Recommendations

I recommend that Cabinet:

- 1 **note** that on 1 May 2023, Cabinet agreed that an Order in Council be prepared under section 7 of the Severe Weather Emergency Recovery Legislation Act 2023 (the SWERL Act) modifying the application of the Rating Valuations Act 1998, the Rating Valuations Regulations 1998 and the Rating Valuation Rules 2008 for the Hastings District Council [CAB-23-MIN-0153 refers];
- 2 **note** the Minister for Land Information is satisfied that:
- 2.1 the Order is necessary or desirable for 1 or more purposes of the SWERL Act, namely s3(2)(b)(i);
  - 2.2 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;
  - 2.3 the Order does not breach the restrictions set out in section 11 of the SWERL Act 2023;
  - 2.4 the Order does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990; and

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- 2.5 the consultation process described in section 9 of the SWERL Act has been complied with;
- 3 **note** the draft Order was reviewed by the Severe Weather Events Recovery Review Panel and a copy was provided to the Regulations Review Committee and I have had regard to the recommendations and comments provided by the Panel and the Committee;
- 4 **agree** to waive the 28-day rule in order to bring these emergency provisions into effect as quickly as possible to allow the Council to meet its statutory deadline of 30 June 2023 to complete its 2022 general revaluation, and to set rates for the next financial year ending 30 June 2024; and
- 5 **agree** that the Minister for Land Information may recommend the Order in Council Severe Weather Emergency Recovery (Rating Valuations-Hastings District Council) Order 2023 to the Executive Council and Governor-General for approval.

Authorised for lodgement

Hon Damien O'Connor

Minister for Land Information

**Appendix A** – The Order in Council Severe Weather Emergency Recovery (Rating Valuations–Hastings District Council) Order 2023

**Appendix B** – Summary of public consultation submissions