

The Māori Trustee submission on Proposed Order in Council: Hawke's Bay flood works

March 2024

15 March 2024

Ministry for the Environment
Manatū Mō Te Taiao
Email: severeweather@mfe.govt.nz

Tēnā koe,

Proposed Order in Council: Hawke's Bay flood works

1. Thank you for the invitation to share Te Tumu Paeroa's views on the proposed Order in Council (OIC) for the Hawkes Bay flood works.
2. Please note that as the Māori Trustee, Charlotte Severne, is a member of the Severe Weather Recovery Review Panel, she has not had any involvement in the development this feedback. The feedback is submitted by the Deputy Māori Trustee, Greg Shaw, on behalf of Te Tumu Paeroa.

Background on the Māori Trustee and the Office of the Māori Trustee

3. The Māori Trustee administers, as trustee or agent, approximately 82,000 hectares of Māori freehold land on behalf of about 100,000 individual Māori landowners. Te Tumu Paeroa - the Office of the Māori Trustee, is the organisation that supports the Māori Trustee to carry out her statutory and other legal functions, roles and responsibilities. Additional information regarding the Māori Trustee and Te Tumu Paeroa can be found on Te Tumu Paeroa's website www.tetumupaeroa.co.nz.
4. Given the sheer scale and varied nature of the land assets within this portfolio, the views of Te Tumu Paeroa may not always be shared by all owners of whenua she administers.

Our concerns on the proposed OIC

5. The Māori Trustee administers, as Responsible Trustee, 9,588 hectares of Māori freehold land in the Hawkes Bay region. In this capacity, the Māori Trustee is the legal landowner of this land.
6. Te Tumu Paeroa broadly supports the intent of the proposed OIC to streamline resource consenting processes in the Hawkes Bay for flood mitigation works. However, we have two main concerns currently.
7. First, our ability to provide feedback and undertake an analysis of the OIC's potential impacts on Māori freehold land is limited as we have not seen the content of the proposed OIC.
8. Second, we have reviewed the proposed mitigation works, that are publicly available¹, in areas that the Māori Trustee administers land in the Hawke's Bay. It is apparent that the proposed works will likely have an impact on our portfolio. However, based on the information we have received to date, we are concerned that the terms of the proposed OIC will be inadequate in ensuring the Māori Trustee is notified and has an opportunity to provide written comments in response to applications for resource consent to carry out recovery works in a streamlined process.

¹ [Restoring Flood Resilience | Hawke's Bay Regional Council \(hbrc.govt.nz\)](https://www.hbrc.govt.nz/restoring-flood-resilience)



-
9. Specially, Te Tumu Paeroa understands, after attending the Ministry for the Environment’s public engagement hui on 13 March 2024, that the proposed OIC for Hawkes Bay Flood Work will have similar drafting to the Severe Weather Emergency Recovery (Waka Kotahi New Zealand Transport Agency) Order 2023² (OIC for Waka Kotahi).
 10. Adopting drafting used in section 9 of the OIC for Waka Kotahi is problematic in this regard on at least two counts.
 11. First, under the Waka Kotahi drafting, the consent authority is only required to notify “a relevant Māori entity” (as defined in section 9 of the Urban Development Act 2020) that an application for resource consent for recovery work has been lodged and invite that entity to make written comments on the application (s9(1)(a)(i)). While the Māori Trustee is a listed Māori entity, there is no obligation to notify the Māori Trustee or all potentially impacted Māori entities, only “a relevant Māori entity”.
 12. This drafting is wholly unsatisfactory in the context of the proposed OIC. The scope of works undertaken utilising the Waka Kotahi OIC is significantly different to the flood works under the proposed OIC. A different process for identifying and consulting specified persons is required to ensure all Māori entities who are affected or potentially impacted by the flood mitigation works can make written comments on an application for a resource consent for recovery work in a streamlined process.
 13. Second, under the Waka Kotahi drafting, only landowners whose boundaries are contiguous with land where the work is to be undertaken are entitled to notification (s9(1)(a)(viii)). This is again highly unsatisfactory. Flood mitigation works are likely to have both upstream and downstream effects, impacting more than only contiguous landowners.
 14. Further, while we note that the requirement in s9(1)(a)(viii) is to notify the owners and occupiers, our experience in many cases Councils only notify the ratepayer in their records, which is often the lessee of our land, and fail to notify the Māori Trustee as legal landowner. To help avoid this and to meet its legal obligations to notify the landowner, the consent authority will need to put in place a process to appropriately identify landowners, through checking publicly available records of title.
 15. Te Tumu Paeroa would welcome the opportunity to discuss the matters raised in this letter with Ministry for the Environment officials. We hope you find this information helpful and would be happy to clarify any questions or queries you may have. Please feel free to contact us by email at [REDACTED]

Ngā manaakitanga,

Greg Shaw
Deputy Māori Trustee

² [Severe Weather Emergency Recovery \(Waka Kotahi New Zealand Transport Agency\) Order 2023](#)
