



Severe Weather Emergency Recovery (Local Government Act 2002—Long-term Plan) Order 2023

Cindy Kiro, Governor-General

Order in Council

At Wellington this 4th 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 of Local Government 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
5	Application	2
	<i>Modifications of Local Government Act 2002</i>	
6	Modification of purpose of long-term plan	3
7	Modification of period that long-term plan must cover	3
8	Modification of information to be included in long-term plan	4
9	Modification of content of consultation document for adoption of long-term plan	5

10	Modification of content of consultation document for amendment of long-term plan	5
11	Modification of information to be adopted in relation to long-term plan and consultation document	5
12	Long-term plan not required to contain report from Auditor-General	5
13	Modification of requirement for certain decisions to be taken only if provided for in long-term plan	6
14	Modification of content of pre-election report	6
15	Modification of content of financial strategy	6
16	Modification of infrastructure strategy	6

Order

1 Title

This order is the Severe Weather Emergency Recovery (Local Government Act 2002—Long-term Plan) Order 2023.

2 Commencement

This order comes into force on 5 October 2023.

3 Revocation

This order is revoked on the close of 30 June 2027.

4 Interpretation

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

Act means the Local Government Act 2002

affected local authority has the meaning given in clause 5(2)

pre-election report means the pre-election report described in section 99A of the Act

severe weather event has the meaning given in section 4(1) of the Severe Weather Emergency Recovery Legislation Act 2023.

- (2) A term used in this order that is defined in the Act, but not in this order, has the meaning given in the Act.
- (3) The modification of legislation by this order does not affect the text of the legislation, but requires it (and any reference to it) to be read as if amended in the manner indicated in clauses 6 to 16, to the extent required by clause 5.

5 Application

- (1) This order applies in respect of the following for each affected local authority:

- (a) the long-term plan of the affected local authority that is due to commence on 1 July 2024 and continue in force until the close of 30 June 2027; and
 - (b) the pre-election report that is due to be completed and published before the nomination day for the 2025 triennial general election of the affected local authority's members.
- (2) The **affected local authorities** are—
- (a) Central Hawke's Bay District Council:
 - (b) Far North District Council:
 - (c) Gisborne District Council:
 - (d) Hastings District Council:
 - (e) Hawke's Bay Regional Council:
 - (f) Kaipara District Council:
 - (g) Napier City Council:
 - (h) Wairoa District Council.

Modifications of Local Government Act 2002

6 Modification of purpose of long-term plan

- (1) Section 93(6) of the Act (which specifies the purpose of a long-term plan) does not apply.
- (2) Instead, the purpose of an affected local authority's long-term plan is to—
 - (a) describe the activities of the affected local authority; and
 - (b) describe the community outcomes of the affected local authority's district or region; and
 - (c) provide integrated decision making and co-ordination of the resources of the affected local authority; and
 - (d) provide a basis for accountability of the affected local authority to the community; and
 - (e) set out the affected local authority's plans and progress in relation to recovery from the severe weather events.

7 Modification of period that long-term plan must cover

- (1) The requirement under section 93(7)(a) of the Act for a long-term plan to cover a period of not less than 10 consecutive financial years does not apply.
- (2) Instead, a long-term plan must cover a period of not less than 3 consecutive financial years.

8 Modification of information to be included in long-term plan

- (1) The requirement under section 93(7)(b) of the Act for a long-term plan to include the information required by Part 1 of Schedule 10 of the Act does not apply.
- (2) Instead, a long-term plan must include—
 - (a) the information required by the following clauses of Schedule 10 of the Act:
 - (i) clause 1 (community outcomes):
 - (ii) clause 2 (groups of activities), but with the following modifications:
 - (A) the requirement under clause 2(1)(d)(i) for a long-term plan to, in relation to each group of activities, include the information specified in clause 4 of that schedule in detail in relation to each of the first 3 financial years covered by the plan does not apply:
 - (B) clause 2(1)(d)(ii) (which requires a long-term plan to include, in relation to each group of activities, the information specified in clauses 4 and 5 of that schedule in outline in relation to each of the financial years covered by the plan that come after the first 3 financial years covered by the plan) does not apply:
 - (iii) clause 3 (capital expenditure for groups of activities):
 - (iv) clause 4 (statement of service provision), except that the statement of the intended levels of service provision need not include the information specified in paragraphs (a) to (e):
 - (v) clause 5 (funding impact statement for groups of activities):
 - (vi) clause 7 (council-controlled organisations):
 - (vii) clause 8 (development of Māori capacity to contribute to decision-making processes):
 - (viii) clause 9 (financial strategy and infrastructure strategy):
 - (ix) clause 10 (revenue and financing policy):
 - (x) clause 11 (significance and engagement policy):
 - (xi) clause 12 (forecast financial statements):
 - (xii) clause 13 (financial statements for previous year):
 - (xiii) clause 14 (statement concerning balancing of budget):
 - (xiv) clause 15 (funding impact statement):
 - (xv) clause 15A (rating base information):
 - (xvi) clause 16 (reserve funds); and

- (b) a statement setting out—
 - (i) the significant forecasting assumptions on which the long-term plan is based; and
 - (ii) the implications if those assumptions are not borne out in fact; and
- (c) a statement describing, or material that the affected local authority considers demonstrates, the implications of the proposed decisions relating to recovery from the severe weather events for the local authority's finances and levels of service after 30 June 2027.

9 Modification of content of consultation document for adoption of long-term plan

- (1) In section 93C of the Act, the following provisions do not apply:
 - (a) subsection (2)(f) (which requires a consultation document to describe, using graphs or charts where practicable, the direction and nature of changes to the local authority's levels of service associated with the proposed content of the long-term plan);
 - (b) subsection (4) (which requires the consultation document to contain a report from the Auditor-General) and subsection (5) (which is associated with subsection (4)).
- (2) Instead, the consultation document must describe—
 - (a) the effects of the severe weather events on the affected local authority's district or region; and
 - (b) the issues faced by the affected local authority as a result of those effects.

10 Modification of content of consultation document for amendment of long-term plan

Section 93D(4) of the Act (which requires the consultation document to contain a report from the Auditor-General) and section 93D(5) of the Act (which is associated with section 93D(4)) do not apply.

11 Modification of information to be adopted in relation to long-term plan and consultation document

Section 93G(b) of the Act (which requires a local authority to prepare and adopt information that is necessary to enable the Auditor-General to give the reports required by sections 93C(4) and 93D(4) of the Act) does not apply.

12 Long-term plan not required to contain report from Auditor-General

Section 94 of the Act (which requires the long-term plan to contain a report from the Auditor-General) does not apply.

13 Modification of requirement for certain decisions to be taken only if provided for in long-term plan

- (1) Section 97 of the Act (which requires a local authority to not make certain decisions unless the decisions are explicitly provided for in its long-term plan) does not apply.
- (2) Instead, an affected local authority must not make a decision to which section 97(1) of the Act relates unless it has first used the special consultative procedure in considering whether to make the decision.

14 Modification of content of pre-election report

- (1) The requirement under section 99A(1) of the Act for a pre-election report to contain the information required by clause 36 of Schedule 10 of the Act does not apply.
- (2) Instead, a pre-election report—
 - (a) must contain—
 - (i) the information specified in clause 36(1)(a) of Schedule 10 of the Act;
 - (ii) the information specified in clause 36(1)(b) of Schedule 10 of the Act for the financial year immediately following the date of the election;
 - (iii) the major projects planned for the financial year immediately following the date of the election; and
 - (b) may include a description of the major projects planned for any period after the financial year immediately following the date of the election.

15 Modification of content of financial strategy

- (1) The requirement under section 101A(3)(a) of the Act for a financial strategy to include, in the statement of the factors that are expected to have a significant impact on the local authority during the consecutive financial years covered by the strategy, the factors specified in subparagraphs (i) to (iii) of that provision does not apply.
- (2) Instead, the financial strategy must include a statement of the levels of service that the affected local authority intends to provide during the consecutive financial years covered by the strategy.

16 Modification of infrastructure strategy

- (1) In section 101B of the Act, the following do not apply:
 - (a) the requirement under subsection (1) for an infrastructure strategy to cover a period of at least 30 consecutive financial years;
 - (b) subsection (2) (which specifies the purpose of the infrastructure strategy):

- (c) subsection (3) (which requires the infrastructure strategy to outline how the local authority intends to manage its infrastructure assets):
 - (d) subsection (4) (which requires the infrastructure strategy to outline the most likely scenario for the management of the local authority's infrastructure assets over the period of the strategy):
 - (e) subsection (5) (which enables the local authority to meet the requirements of sections 101A and 101B of the Act by adopting a single financial and infrastructure strategy document as part of its long-term plan).
- (2) Instead, the infrastructure strategy must—
- (a) cover the period of the long-term plan; and
 - (b) outline—
 - (i) any significant infrastructure issues for the affected local authority:
 - (ii) the principal options for managing those infrastructure issues and the implications of those options:
 - (iii) a description of the major capital projects that the affected local authority is proposing or implementing, including any to facilitate recovery from the severe weather events:
 - (iv) the likely funding options for those major capital projects and the implications of those options for rates and debt.

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. This order comes into force on 5 October 2023 and is revoked on the close of 30 June 2027.

This order modifies the Local Government Act 2002 (the **Act**) in relation to long-term plans, consultation documents for the adoption or amendment of a long-term plan, Auditor-General reports, and pre-election reports. It applies to the following local authorities (**affected local authorities**):

- Central Hawke's Bay District Council:
- Far North District Council:
- Gisborne District Council:
- Hastings District Council:

- Hawke’s Bay Regional Council:
- Kaipara District Council:
- Napier City Council:
- Wairoa District Council.

Specifically, this order modifies the following:

- the purpose of a long-term plan (rather than the purpose set out in section 93(6) of the Act, the purpose of a long-term plan is as specified in *clause 6(2)*):
- the period that a long-term plan must cover (rather than covering a period of 10 or more consecutive financial years, a long-term plan need only cover 3 or more consecutive financial years (*see clause 7(2)*):
- the content of a long-term plan (rather than including the information required by Part 1 of Schedule 10 of the Act, a long-term plan must include the information set out in *clause 8(2)*):
- the content of a consultation document for the adoption of a long-term plan (rather than describing the information set out in section 93C(2)(f) of the Act and containing a report from the Auditor-General, a consultation document must describe the information set out in *clause 9(2)*):
- the content of a consultation document for the amendment of a long-term plan (a consultation document does not need to contain a report from the Auditor-General (*see clause 10*):
- the information that needs to be prepared and adopted before a consultation document is adopted using the special consultative procedure (an affected local authority does not need to prepare and adopt information that is necessary to enable the Auditor-General to give the reports required by sections 93C(4) and 93D(4) of the Act (*see clause 11*):
- the requirement that a long-term plan contain a report from the Auditor-General (this requirement does not apply (*see clause 12*):
- the requirement that a local authority must not make certain decisions unless the decisions are explicitly provided for in its long-term plan (rather, an affected local authority must not make a decision to which section 97(1) of the Act relates unless it first uses the special consultative procedure in considering whether to make the decision (*see clause 13*):
- the content of a pre-election report (rather than containing the information set out in clause 36 of Schedule 10 of the Act, a pre-election report must contain the information specified in clause 36(1)(a) of that schedule and the information specified in clause 36(1)(b) and (c) of that schedule for the financial year immediately following the date of the election and may include a description of the major projects planned for any period after that financial year (*see clause 14*):

- the content of a financial strategy (rather than including, in the statement of the factors that are expected to have a significant impact on the affected local authority during the consecutive financial years covered by the strategy, the factors specified in section 101A(3)(a)(i) and (iii) of the Act, a financial strategy must include the information specified in *clause 15(2)*);
- the period that an infrastructure strategy must cover and the purpose and content of a strategy (rather than covering the period, existing for the purpose, and including the information set out in section 101B(1) to (5) of the Act, an infrastructure strategy must cover the period of the long-term plan and include the information set out in *clause 16(2)(b)*).

The modifications apply only in respect of an affected local authority's next long-term plan and pre-election report (being the long-term plan that is due to commence on 1 July 2024 and continue in force until the close of 30 June 2027 and the pre-election report that is due to be completed and published before the nomination day for the 2025 triennial general election of the affected local authority's members). They do not affect the current long-term plan or any long-term plan that commences on or after 1 July 2027 or any pre-election report relating to a general election that is held after 2025.

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 **SWERLA**).*

The Minister of Local Government (the **relevant Minister**) is satisfied that this order is necessary or desirable for 1 or more purposes of the SWERLA and is no broader than is reasonably necessary to address the matters that gave rise to this order.

This order primarily relates to the requirement in the Local Government Act 2002 (the **Act**) that local authorities must always have a long-term plan covering 10 consecutive years. Local authorities are required to adopt their long-term plan for 2024 to 2034 by 30 June 2024, to come into effect on 1 July 2024. This order recognises that between 2024 and 2027, certain local authorities will not be able to fully meet their long-term planning obligations under section 93 of the Act because of the impact of the severe weather events defined in the SWERLA (the **severe weather events**).

The modifications to the Act specified by this order allow 8 significantly affected councils to each produce an unaudited long-term plan that covers a minimum period of 3 years, with a specific purpose of cyclone recovery. Those councils are Central Hawke's Bay District Council, Far North District Council, Gisborne District Council, Hastings District Council, Hawke's Bay Regional Council, Kaipara District Council, Napier City Council, and Wairoa District Council (the **affected councils**).

Without the modifications, the affected councils would have difficulty completing their next long-term plans because they do not have the quality of information required to make accurate planning forecasts. The affected councils do not have cer-

tainty about costs, funding, and the timing and extent of the recovery work that needs to be completed. Without modification, the Act would require each of the affected councils to use their limited resources to draft a long-term plan that would be supported by incomplete information. This would create a substantial risk that the long-term plans would fall short of statutory expectations because of circumstances outside the affected councils' control. The affected councils would also not be able to use their limited resources to focus on recovery.

This order is not broader than is reasonably necessary. This order has been confined to 8 of the most severely affected councils. Other councils that are affected by the severe weather events but are still able to complete their next long-term plan as required by the Act must do so. The affected councils are not prevented from planning for a period that is longer than 3 years, allowing for longer forecasting where possible. This order is based on the model successfully used after the Canterbury and Kaikōura earthquakes.

Requiring that the next long-term plan cover a period of at least 3 years will enable affected councils to focus on recovery and show, as far as practicable, the financial and service implications of their decisions beyond the 3-year period. A long-term plan with a 3-year horizon is less resource-intensive but still provides a strategic direction and basis for decision making in the medium term, despite uncertainty relating to funding and insurance payments. It also retains community consultation on the affected councils' intended direction for at least the next 3 years.

Under the status quo, long-term plans must be audited. The audit assesses whether the information on which a long-term plan is based is reasonable and reliable. This process is unique; nowhere else in the public sector are plans and budgets audited. The audit process offers little value in the circumstances of the affected councils because there is significant uncertainty about the reliability of the underlying information the councils must use to prepare their next long-term plan. By removing the audit process, the affected councils will have more resources available to devote to recovery.

The relevant Minister is further satisfied that this order does not breach section 11 of the SWERLA, and it does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990.

The engagement process described in section 9 of the SWERLA has been complied with.

A draft of this order was reviewed by the Severe Weather Events Recovery Review Panel. A copy was also provided to the Regulations Review Committee. The relevant Minister had regard to the recommendations and comments provided by them.

2023/237

**Severe Weather Emergency Recovery (Local
Government Act 2002—Long-term Plan) Order 2023**

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 7 September 2023.

This order is administered by the Department of Internal Affairs.

Wellington, New Zealand:

Published under the authority of the New Zealand Government—2023