

Resource consents for cyclone related works.

HortNZ advice for growers

A high-level checklist
for Hawke's Bay growers
affected by Cyclone Gabrielle

May 2023



Welcome to this checklist designed to help you make decisions about whether you need to apply for resource consent to authorise activities you have undertaken to recover from the cyclone.

Many properties have been affected by Cyclone Gabrielle and owners/managers are working to repair. This may include removing silt or repairing damaged infrastructure such as culverts and bridges.



Decision Tree

“What activities did you undertake and do they need consent?”

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About the SWELA Act

The Severe Weather Emergency Legislation Act 2023 (SWELA) was passed in March and amended the RMA (s331B) to enable landowners / occupiers to carry out some works on rural land that would have usually required resource consent. These provisions apply to rural land (i.e. land that is rurally zoned or similar in the relevant district plan (i.e. Plains Production)); and land primarily used for horticultural or livestock farming, as well as land where marae, papakāinga or urupā are located. Please note that industrial (and urban) zoned land is not covered by these provisions.

About this guide

This information has been put together to try and help you figure out if the work requires a resource consent. Work through the decision tree first - **if your activity is permitted**, you don't need to do anything further. **If your activity is a 'deemed permitted activity (DPA)'**, you don't need to apply for resource consent, but you do need to give notice to the relevant council about what you have done, within 60 working days of the activity beginning (or asap if you did the works more than 60 working days ago). Instructions on how to do this are included in this document. Even if your activity is permitted, we would advise that you record the location, size and extent of the works undertaken, and keep documentation (eg photos, test results) if possible.



We're here to help

See page 11 for a full list of contacts

Decision Tree



This diagram will guide you through the consent requirements:

Did you have to undertake an activity during/ after the cyclone to save people and/ or animals, or avoid serious damage to land or property?

YES

What was the activity?

NO

No further action needed

Silt removal	Is your property zoned Plains Production (HDC) or Main Rural (NCC)?	<p>YES: Did you take off more than 5 double axle truckloads* of silt? YES: See DPA Checklist NO: Permitted Activity</p> <p>NO: Did you take off more than 17 double axle truckloads* of silt? YES: See DPA Checklist NO: Permitted Activity</p>
Depositing silt (on your property where it will stay permanently, not in a stockpile waiting for collection)	Is there silt within 20m of a surface water body?	<p>YES: See DPA Checklist</p> <p>NO: Was the silt deposited over the Heretaunga Plains unconfined aquifer? (See Note 1 for details of unconfined aquifer location)</p> <p>YES: See DPA Checklist NO: Was/has over 100m³ of silt been deposited? YES: You must notify HBRC that volume has been exceeded NO: Permitted Activity</p>
Bridge/culvert replacement (or new bridge or culvert)**	Is the bridge/culvert located in a catchment of 150ha+?	<p>YES: See DPA Checklist</p> <p>NO: Does the bridge/culvert increase the risk of flood damage to any other property? YES: See DPA Checklist NO: Permitted Activity</p>
Bridge/culvert repair	Did you just restore it to working order? (See Note 2 for definitions)	<p>YES: Permitted Activity.</p> <p>NO: Refer to bridge/culvert replacement/new checklist above</p>
Removal/demolition of bridge/culvert	Bank reinstated and/or revegetated?	<p>YES: Any damage to flood control or river protection structures as result of removal? (See Note 3). YES: See DPA Checklist NO: Permitted Activity</p> <p>NO: See DPA Checklist</p>
Any activity within 6m of a river that is part of a flood control scheme? (See Note 3).	See DPA Checklist	
Other activity?	Contact Charlotte Drury: 027 322 5595 or charlotte.drury@hortnz.co.nz	

Explanatory notes are on the next page. The DPA Checklist is shown on page 6. Where 'Permitted Activity' is shown, no further action is needed.



Key Points

- * A truckload has been assumed to weigh around 9 tonnes, therefore 5 truckloads has been assumed to be around 45 tonnes of silt, and 17 truckloads around 150 tonnes of silt.
- ** The regional council is encouraging fish passage requirements to be taken into account when new/replacement river crossings are being put in place. To achieve this, culverts should be at least as wide as the stream channel, laid parallel to the stream bed and set into the stream bed (so at least 25% of the culvert is below the level of the stream bed). Further advice on providing for fish passage is available from HBRC.

Note 1: Heretaunga Plains

The general location of the Heretaunga Plains unconfined aquifer is shown in the dark blue opposite.

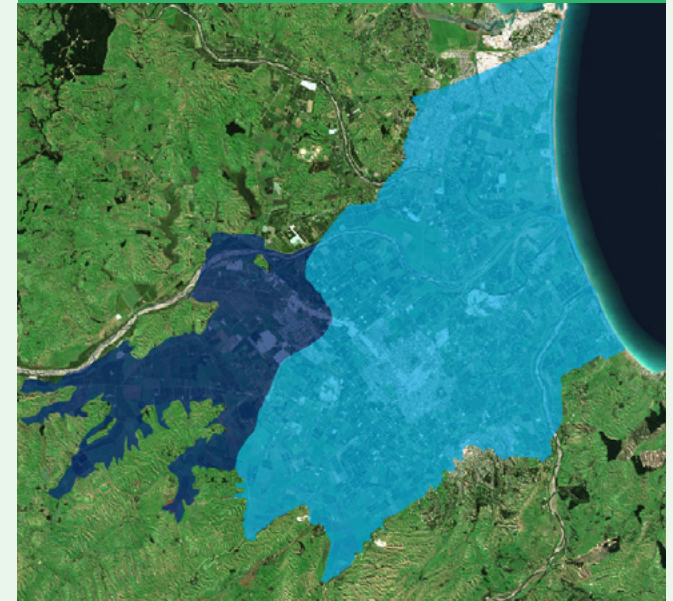
If you are located near this area, please use the HBRC map available here to check the location more accurately: [Hawke's Bay Regional Plan \(hbrc.govt.nz\)](http://hbrc.govt.nz)

Ensure you have the 'Regional Resource Management Plan' (RRMP) layer on, and the Schedule IV Productive Aquifer System layer showing (you can turn layers off by clicking on the blue ticks). Having the 'NZ Imagery' base map switched on also helps situate yourself (click on Basemap on top ribbon, and click on NZ Imagery).

Note 2: Maintenance

'Maintenance' of structures is permitted, and is defined as keeping in existing order, preventing loss or deterioration, or restoring to working order. It does not include extending, replacing, removing or demolishing a structure, or any substantive change to the form, orientation, or outline of the structure.

Heretaunga Plains



 Heretaunga Plains unconfined aquifer

Note 3: Location of flood control schemes

The location of flood control schemes within the Hawke's Bay region can be found here: [Regional Assets Information \(hbrc.govt.nz\)](http://hbrc.govt.nz)



Deemed Permitted Activity (DPA) Checklist

Activity Permitted under Severe Weather Emergency Legislation Act 2023.

This checklist will help you work out if your activity meets the criteria to be deemed permitted (if it doesn't then you will need to apply for resource consent).

1. Do you believe that the measures you took were required to avoid, remedy or mitigate the loss, injury or damage caused by the cyclone?

- Yes
- No: resource consent required

2. Do you believe that the measures you took were proportionate to the loss, injury or damage that occurred on your property as a result of the cyclone?

- Yes
- No: resource consent required

3. Did you undertake the activities in a way that, as far as practicable avoided, remedied or mitigated adverse environmental effects?

- Yes
- No: resource consent required

4. Did you undertake the activity/ies in a way that will not cause significant adverse effects beyond the boundary of your land?

- Yes
- No: resource consent required

5. Will/was the activity undertaken on, or will it impact culturally significant land? Refer to definition on pages 7/8

- Yes: Written approval required
- No: This means that your activity is deemed permitted, as long as you give notice to the relevant consent authority - see page 9 for instructions about how to do that



Culturally significant land

There are three places you need to check to see if your land meets the definition of culturally significant land, or if there is culturally significant land nearby that your activity may/could have impacted.

Culturally significant land is defined as land that is on or adjoins a wāhi tapu site; land subject to a statutory acknowledgement; or a site of cultural significance.

1 Check your council online

This check will tell you if there are wāhi tapu or sites of cultural significance on/near your land

Hastings District Council

1. Find your map: (hdc.govt.nz)
2. Enter your address
3. Ensure 'District Plan' layer is ticked
4. Click on legend
5. Check whether you have any of the following on/ adjoining your property:
 - Archaeological sites (stars)
 - Wāhi Taonga
6. If you have an archaeological site, click on the star
7. An information panel will pop up on the left. Under the heading Archaeological site, the ethnicity will be listed - if it is Māori, it is a culturally significant site.

Napier City Council

1. Find your map: (napier.govt.nz)
2. Enter your property address (bar at bottom of page)
3. Ensure 'District Plan' layer is highlighted blue
4. Check whether you have any of the following on/ adjoining your property:
 - Archaeological sites (stars)
 - Sites of significance to Māori (black cross hatching)
5. If you have an archaeological site, click on the star
6. An information panel will pop up on the right. One of the rows in the table is 'Māori Site' - if there is a number here it is a culturally significant site.

Central Hawke's Bay District Council

1. Find your map: (chbdc.govt.nz)
2. Check whether you have any of the following on/ adjoining your property:
 - Sites of cultural significance to Tangata Whenua
 - Archaeological Site
 - Heritage Items
3. If you have a site, scroll down to the next page where it will tell you what it is. Please note that notable trees aren't relevant considerations for this process, nor are heritage items that are not culturally significant



Culturally significant land

2 Check Māori Land Online

Māori Land Online – Ministry of Justice, New Zealand (maorilandonline.govt.nz)

1. Click on Map Search
2. Locate your property
3. Check whether it adjoins any Māori owned land.
4. If it does, click on the property, and a text box will pop up, then click on 'view title details'.
5. A new window will pop up. Scroll down and there is a table titled 'Land Administrator(s)'. The second column is titled 'management structure type'. If this says 'Māori Reservation' then the site is a culturally significant site

3 Check statutory acknowledgement land

Pataka (hbrc.govt.nz)

1. Enter your address (in box at top left)
2. Ensure 'Statutory Acknowledgements' layer is ticked blue (turn other layers off except Street Names and Numbers)
3. If there is anything that covers your property click on the legend, and identify what it is
4. These maps are slightly confusing - Statutory acknowledgments can only apply to Crown owned land, so essentially the bed of the river, lake or wetland. Unless a river, lake or wetland is on, or adjoins your property, then it is not subject to a statutory acknowledgment (its just that the mapping is not very accurate!).



Seeking permission of the relevant iwi or hapū

If your checks have found any sites that are (or may be) culturally significant, then you will need to seek the written permission of the relevant iwi or hapū, to meet the criteria to be a deemed permitted activity.

Please contact Charlotte Drury on charlotte.drury@hortnz.co.nz or 027 3225595 for further advice on how to do this.



Giving notice to the relevant authority of deemed permitted activity/ies

Here's an overview. A form is on the following page that you can use to give notice to the relevant council of your activity.

Giving notice

If your activity is a 'deemed permitted activity' you need to give notice to the relevant consent authority, within 60 working days of the activity beginning (or asap if you did the works more than 60 working days ago).

If you don't give notice of your activity, then it is not deemed permitted, so make sure you do this to avoid any possible issues.

Who your form should go to

For silt removal activities you need to email the relevant district council:

- Hastings District Council:
plannerduty@hdc.govt.nz
- Napier City Council:
planning@napier.govt.nz

For all other activities, email the Hawke's Bay Regional Council:
compliancereturns@hbrc.govt.nz.



Written Notice Form

Written Notice under section 331C of Resource Management Act
(Emergency Works undertaken in connection with Cyclone Gabrielle)

To:

I,

supply the information required for a deemed permitted activity under section 331B of the Resource Management Act 1991 (the Act) that has been undertaken at:

The description of the emergency preventive/remedial measures is:

I am the owner/occupier of the rural land on which the activity/ies outlined above were/will be undertaken. *For large rural properties, or where multiple activities have been undertaken on a property:* I attach a plan showing the location on the site of the proposed activity/ies.

Signature (not required if submitted electronically)

Your contact details

Contact person:

Electronic address for service:

Telephone:

Postal address:



Sending details

Silt removal:
plannerduty@hdc.govt.nz
planning@napier.govt.nz

Other activities:
compliancereturns@hbc.govt.nz



Contact details

If you have any questions, or require specific advice on particular fact scenarios, we're here to help.

Horticulture New Zealand

As noted above, this is a high level check list to assist you in your decision making. For specific advice on particular fact scenarios please contact your own advisors or Charlotte Drury direct on 027 3225595 or charlotte.drury@hortnz.co.nz, who can provide more information about the process.

Hawke's Bay Regional Council

The Hawke's Bay Regional Council also has some information available on its website about consents related to the cyclone which can be accessed here: [Cyclone and Consents Advice | Hawke's Bay Regional Council \(hbrc.govt.nz\)](https://www.hbrc.govt.nz/cyclone-and-consents-advice)