

Severe Weather Events Recovery Review Panel

23 May 2023

Hon Barbara Edmonds
Minister for Cyclone Recovery
Executive Wing
Parliament Buildings
WELLINGTON 6011

Hon James Shaw
Minister of Climate Change
Executive Wing
Parliament Buildings
WELLINGTON 6011

Hon Peeni Henare
Minister of Forestry
Executive Wing
Parliament Buildings
WELLINGTON 6011

via email

Dear Ministers

SEVERE WEATHER EMERGENCY (CLIMATE CHANGE—FORESTRY) ORDER 2023

On 19 May the Severe Weather Events Recovery Review Panel (the Review Panel) considered the above draft Order.

As required under section 16 of the Severe Weather Emergency Recovery Legislation Act 2023, please find attached the Review Panel's report on this draft Order, including our recommendations and brief comments.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Denis Clifford", with a horizontal line underneath it.

The Honourable Denis Clifford

Convenor, Severe Weather Events Recovery Review Panel

Severe Weather Events Recovery Review Panel

THE REVIEW PANEL

The Honourable Denis Clifford (Convenor)

Liana Poutu

Rachael Schmidt-McCleave

Anne Carter

REPORT AND RECOMMENDATION OF THE REVIEW PANEL
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SEVERE WEATHER EMERGENCY (CLIMATE CHANGE—FORESTRY) ORDER 2023

1. We have been provided with a draft of the Severe Weather Emergency (Climate Change—Forestry) Order 2023 (the draft Order) for review under section 16 of the Severe Weather Emergency Recovery Legislation Act 2023 (the Act). We provide our recommendations on the draft Order as required by section 16(2) of the Act, based on the following understanding of our remit.
2. The task of the Severe Weather Events Recovery Review Panel (the Panel) is reviewing and making recommendations on the draft Order to assist the relevant Minister to meet the section 8(1) criteria of being satisfied an order is:
 - a. necessary and desirable for one or more purposes of the Act;
 - b. no broader than reasonably necessary;
 - c. consistent with section 11 (no effect on custody/ detention; no exemption/modification on constitutional legislative entitlements, including the New Zealand Bill of Rights Act 1990); and
 - d. not an unjustified limit on NZBORA rights and freedoms;
 by supplementing the range of information and advice available to the Minister.
3. Paragraphs seven and 14 of the Terms of Reference for the Panel expand on this to provide that:
 - a. the Panel has been appointed to provide expert, technical advice and scrutiny of the draft Orders in Council; and
 - b. the Panel's recommendations may also address:
 - i. whether the draft Order in Council is sufficiently certain and clear, and if they are not, options to improve;
 - ii. the identification of any unintended or unforeseen but likely outcomes of the draft Order in Council, and ways to address these; and
 - iii. any other matters the Panel considers relevant to the scope of its review of the draft Order in Council.

4. The criteria for the appointment of Panel members found in section 13(3) of the Act reflect the matters on which we consider we are to focus.
5. Within that context the Panel's focus is the necessity and desirability of an Order as required in section 8(1)(a)(i) of the Act.
6. We have based our review on our collective assessment of the materials provided to us and on our individual experience and expertise. Other than as stated in this report, we have not undertaken any further enquiries.

Reasons Recommendations and Brief Comments

7. The draft Order proposes to extend the timeframes for the meeting of deadlines for notice and emissions returns and surrendering units for those required to do so under the Climate Change Response Act 2002 (the Act). These timeframes place those impacted by the severe weather events under an administrative burden that they cannot meet.
8. To assist in reviewing the draft Order, officials provided the following materials:
 - a. the draft Severe Weather Emergency (climate change—forestry) Order 2023;
 - b. the draft Statement of Reasons;
 - c. a Cabinet paper titled Approval to begin Order in Council processes relating to local government statutory processes in response to severe weather events;
 - d. the consultation document; and
 - e. a table summarising the feedback received during consultation activities.
9. We understand the reasons explained to us for the making of the Order. However, the mechanics of the way in which these extension provisions will operate is not clear to the Panel from the draft Order itself, particularly that under clause (5)(3)(d).
10. The Panel also is not clear on the reason for the revocation date being 31 March 2028, as this does not align with the rationale for providing extensions and the due date of returns.
11. Notwithstanding those matters, based on the information before us, we are not aware of any reason why the Minister might not consider the Order to be necessary or desirable.



The Honourable Denis Clifford

Date: 23 May 2023

Convenor, Severe Weather Events Recovery Review Panel