



Canterbury Earthquake (Resource Management Act Permitted Activities) Order 2011

Anand Satyanand, Governor-General

Order in Council

At Wellington this 8th day of March 2011

Present:

His Excellency the Governor-General in Council

Pursuant to section 6 of the Canterbury Earthquake Response and Recovery Act 2010, His Excellency the Governor-General makes the following order acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the relevant Minister in accordance with section 6(2) of that Act.

Contents

		Page
1	Title	2
2	Commencement	2
3	Expiry	2
4	Interpretation	2

**Canterbury Earthquake (Resource
Management Act Permitted Activities)
Order 2011**

cl 1

2011/36

	<i>Limit on scope of orders</i>	
5	Status of activities permitted by this order	3
	<i>Enforcement</i>	
6	Enforcement proceedings	3
	<i>Temporary accommodation</i>	
7	Temporary accommodation deemed to be permitted activity	4
	<i>Temporary depots and storage facilities</i>	
8	Temporary depots and storage facilities deemed to be permitted activities	5

Order

- 1 Title**
This order is the Canterbury Earthquake (Resource Management Act Permitted Activities) Order 2011.
- 2 Commencement**
This order is deemed to have come into force on 22 February 2011.
- 3 Expiry**
This order expires on the close of 31 March 2012.
- 4 Interpretation**
In this order, unless the context requires another meaning,—
Act means the Resource Management Act 1991
Controller has the meaning given in section 4 of the Civil Defence Emergency Management Act 2002
council means—
(a) Christchurch City Council:
(b) Selwyn District Council:
(c) Waimakariri District Council:
(d) Canterbury Regional Council
Director has the meaning given in section 4 of the Civil Defence Emergency Management Act 2002

permitted activity has the meaning given in section 2(1) of the Act

plan has the meaning given in section 43AA of the Act, and for the purposes of this order includes, as relevant, a proposed plan and a regional coastal plan (within the meaning of sections 43AA and 43AAC of the Act)

public notice means a written notice that may be given by—

- (a) publication in any local or national newspaper; and
- (b) Internet publication.

Limit on scope of orders

5 Status of activities permitted by this order

- (1) An activity that is a permitted activity by virtue of this order retains that status for the duration of this order, or until an earlier time (if any) specified in this order.
- (2) While an activity is a permitted activity under this order, it is to be treated as if it were a permitted activity under the plan that would, but for this order, apply to the activity.
- (3) However, an activity undertaken in reliance on this order does not—
 - (a) give rise to, or create, any existing use right for the land or structures after the expiry of this order; or
 - (b) qualify for—
 - (i) a certificate of compliance under section 139 of the Act; or
 - (ii) an existing use certificate under section 139A of the Act.

Enforcement

6 Enforcement proceedings

Despite anything in the Act, for the purposes of an activity that is a permitted activity by virtue of this order, only the relevant consent authority may take enforcement proceedings (including declaratory proceedings) under Part 12 of the Act, including in cases where it is alleged that the consent holder has breached section 16 or 17 of the Act.

Temporary accommodation

7 Temporary accommodation deemed to be permitted activity

Interpretation

(1) In this clause,—

specified location means an area of land on which temporary accommodation is sited

temporary accommodation means accommodation provided for persons displaced from their normal place of residence or normal place of business because of—

- (a) damage to, or destruction of, land or structures caused directly or indirectly by the Canterbury earthquake;
- (b) subsequent repair or reconstruction of structures or essential services;
- (c) land remediation works;
- (d) risk of damage to land or structures, or of injury to those inhabitants or passers-by, including risk arising because of the state of adjacent structures.

Permitted activity

(2) Despite anything to the contrary in a plan that applies to a specified location, temporary accommodation sited on the specified location is a permitted activity for the purposes of the Act.

(3) Subclause (2) applies only if—

- (a) the specified location is identified by public notice given by a council and the temporary accommodation complies with any standards imposed by that notice; and
- (b) every person providing the temporary accommodation, or using the temporary accommodation, at all times complies with any further requirements, imposed under a public notice given by a council after the temporary accommodation activity has commenced,—
 - (i) for the purposes of controlling the emission of noise from the specified area; or
 - (ii) for the purposes of avoiding, remedying, or mitigating any adverse effects of the activity on the environment.

Temporary depots and storage facilities

8 Temporary depots and storage facilities deemed to be permitted activities

Interpretation

(1) In this clause,—

construction work has the meaning given in section 6 of the Construction Contracts Act 2002

specified location means an area of land on which temporary depots and storage facilities are sited

temporary depots and storage facilities—

- (a) means depots or storage facilities for transport purposes, or for use by tradespersons, service providers, or contractors, if those depots or facilities are reasonably incidental to any construction work undertaken for the purpose of the Canterbury Earthquake Response and Recovery Act 2010; and
- (b) includes land and structures used for—
 - (i) such activities as the delivery, transit, distribution, or storage of vehicles, machinery, equipment, materials, food, emergency supplies, debris and waste materials, or other relevant things; or
 - (ii) the provision of services.

Permitted activity

(2) Despite anything to the contrary in a plan that applies to a specified location, temporary depots and storage facilities site on the specified location are permitted activities for the purposes of the Act.

(3) Subclause (2) applies only if—

- (a) the specified location is identified by public notice given by a council and the temporary depots and storage facilities comply with any standards imposed by that notice; and
- (b) every person providing the temporary depots and storage facilities, or using the temporary depots and storage facilities, at all times complies with any further requirements, imposed under a public notice given by a council

- after the temporary depots and storage facilities activity has commenced,—
- (i) for the purposes of controlling the emission of noise from the specified area; or
 - (ii) for the purposes of avoiding, remedying, or mitigating any adverse effects of the activity on the environment.
- (4) If the construction work to which the temporary depots and storage facilities are related cease before the expiry of this order, those depots and facilities are no longer permitted activities and must also cease.

Rebecca Kitteridge,
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 in Council is made under the Canterbury Earthquake Response and Recovery Act 2010 and its effect is temporary. The order is deemed to have come into force on 22 February 2011 and expires on 31 March 2012.

The purpose of the order is to enable temporary accommodation and temporary depots and storage facilities to be treated as permitted activities for the purposes of the Resource Management Act 1991 (the **Act**).

Clause 4 contains definitions that apply to the order as a whole, including terms from the Act and from the Civil Defence Emergency Management Act 2002.

Clause 5 provides that an activity that is a permitted activity under this order retains that status for the duration of the order, unless a shorter period is specified in the order. Such an activity is to be treated as if it were a permitted activity under the plan that would, but for this order, apply. However, this temporary status does not give rise to ongoing rights such as existing use rights or the right to

be granted a compliance certificate or an existing use certificate under the Act.

Clause 6 provides for limited enforcement proceedings, which may be brought against a consent holder only by the relevant consent authority.

Temporary accommodation

Clause 7 sets out a definition of temporary accommodation and provides that activities within the scope of that definition are permitted activities under the Act. Temporary accommodation covers both residential and workplace accommodation, where persons are displaced from their normal place of residence or business because of the damage or destruction caused by the Canterbury earthquake. It also includes accommodation required while structures or essential services are rebuilt or land is reinstated. It further covers the situation where, as a result of the risk of damage or injury, including the risk from adjacent structures, persons are displaced.

However, the clause covers temporary accommodation only if it is located in areas specified for the purpose by public notice by a council. Persons using or providing such accommodation must comply with any directions, standards, or other requirements notified publicly by the relevant council.

Temporary depots and storage facilities

Clause 8 accords permitted activity status to temporary depots and storage facilities that are reasonably incidental to any construction work being undertaken for the purpose of the Canterbury Earthquake Response and Recovery Act 2010. These are defined so as to encompass a range of service activities. Their use must cease when the construction work is completed.

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2011/36

Issued under the authority of the Acts and Regulations Publication Act 1989.

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This order is administered by the Ministry for the Environment.
