

Reprint
as at 19 April 2016



Canterbury Earthquake (Resource Management Act Port of Lyttelton Recovery) Order 2011

(SR 2011/148)

Canterbury Earthquake (Resource Management Act Port of Lyttelton Recovery) Order 2011: revoked, on 19 April 2016, by section 146(2) of the Greater Christchurch Regeneration Act 2016 (2016 No 14).

Anand Satyanand, Governor-General

Order in Council

At Wellington this 23rd day of May 2011

Present:

His Excellency the Governor-General in Council

Pursuant to section 71 of the Canterbury Earthquake Recovery Act 2011, 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 following the Canterbury Earthquake Recovery Review Panel's review of a draft of the order.

Contents

	Page
1 Title	2
2 Commencement	2

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This order is administered by the Ministry for the Environment.

3	Expiry	2
4	Interpretation	2
5	Meaning of port activities	3
6	Location and extent of reclamation land	4
7	Location and extent of haul road	4
	<i>Applications that may be made under this order</i>	
8	Applications	4
	<i>Certain procedural matters disapplied</i>	
9	Local authority policy on discounting administrative charges	5
10	Power to extend time limits	5
	<i>How applications to proceed</i>	
11	Reclamation works and port activities controlled activities	5
12	Applications to be determined on non-notified basis	6
13	Commencement of resource consents	6
	<i>Decisions on applications</i>	
14	Notification of decision	6
	<i>Enforcement</i>	
15	Enforcement proceedings	7

Order

1 Title

This order is the Canterbury Earthquake (Resource Management Act Port of Lyttelton Recovery) Order 2011.

2 Commencement

This order comes into force on 27 May 2011.

3 Expiry

This order expires on the expiry of the Canterbury Earthquake Recovery Act 2011.

4 Interpretation

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

Act means the Resource Management Act 1991

applicant means Lyttelton Port Company Limited

application means an application that complies with clause 8

consent authority means the Christchurch City Council or the Canterbury Regional Council, as the case may require

existing road means the old Sumner access road

Gollans Bay quarry means the quarry area of approximately 53 ha located 3 km east of the Lyttelton township, immediately south of Evans Pass

haul road means the new roading described in clause 7

Papatipu Rūnanga has the meaning given in section 8 of the Ngāi Tahu Claims Settlement Act 1998

port activities has the meaning given in clause 5

reclamation land means the area described in clause 6

reclamation works—

- (a) means activities undertaken to reclaim the reclamation land; and
 - (b) includes—
 - (i) quarrying at the Gollans Bay quarry, construction of a new haul road between the quarry and the reclamation land, and works to widen and improve the existing road; and
 - (ii) any other activity necessary to carry out reclamation works.
- (2) Terms used but not defined in this order, but defined in the Act, have the same meanings as in the Act.

5 Meaning of port activities

In this order, **port activities**—

- (a) means the use of the reclamation land and of the plant, equipment, buildings, and other port facilities and structures on that land for the following activities:
 - (i) the reception of ships' passengers:
 - (ii) the handling of cargo:
 - (iii) port administration:
 - (iv) maintenance and repair activities:
 - (v) ship and boat-building activities:
 - (vi) warehouse and storage facilities:
 - (vii) car-parking facilities:
 - (viii) movement and other activities associated with the berthing and departure of ships:
 - (ix) activities ancillary to any of those activities; but
- (b) does not include the use of any area of the reclamation land or facilities of any kind on the reclamation land for the handling or storage of coal.

6 Location and extent of reclamation land

The land to which this order applies comprises an area of up to a total of 10 ha, measured from the mean high-water springs, and located generally at the north-western corner of Te Awaparahi Bay to the east of the existing Cashin Quay reclamation.

7 Location and extent of haul road

- (1) The new haul road to which this order applies is an extension of up to 330 m to the existing road, to be constructed in an east-south-east direction from the existing road to Te Awaparahi Bay.
- (2) The purpose of the haul road is to provide a link between the Gollans Bay quarry and the reclamation land.

Applications that may be made under this order

8 Applications

- (1) This order applies only to applications lodged by the applicant with—
 - (a) the Christchurch City Council;
 - (b) the Canterbury Regional Council.
- (2) The applications to which this order applies are those made under—
 - (a) section 88 of the Act for resource consents to carry out reclamation works and port activities; or
 - (b) section 127 of the Act to change or cancel any conditions of a resource consent granted under this order.
- (3) Before lodging an application, the applicant must consult with—
 - (a) Te Rūnanga o Ngāi Tahu or any relevant Papatipu Rūnanga identified by Te Rūnanga o Ngāi Tahu; and
 - (b) the Department of Conservation; and
 - (c) Heritage New Zealand Pouhere Taonga; and
 - (d) Maritime New Zealand; and
 - (e) the Lyttelton-Mount Herbert Community Board; and
 - (f) Lyttelton Community Association Incorporated; and
 - (g) Diamond Harbour Community Association Incorporated; and
 - (h) any other person or body that the applicant considers appropriate.
- (4) An application must include—
 - (a) a summary of the consultation undertaken and of the views (if any) of the persons or bodies consulted under subclause (3); and
 - (b) the response of the applicant to those views; and

- (c) any conditions that the applicant proposes be imposed on the resource consents applied for.

Clause 8(3)(c): replaced, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Certain procedural matters disapplied

9 Local authority policy on discounting administrative charges

Section 36AA of the Act does not apply in relation to an application.

10 Power to extend time limits

- (1) Subclause (2) applies as if section 37(1)(a) of the Act provided that the power to extend a time period also applies to a time period specified in this order.
- (2) A consent authority must not extend a time period under section 37(1)(a) of the Act in relation to an application unless the applicant agrees to the extension.

How applications to proceed

11 Reclamation works and port activities controlled activities

- (1) A reclamation work or port activity for which an application is made under clause 8 is a controlled activity within the meaning of section 87A(2) of the Act.
- (2) For the purpose of imposing conditions on a resource consent granted under this order for any reclamation works or port activities, the work or activity is a controlled activity, but only in respect of the following matters:
- (a) before any reclamation works are commenced,—
- (i) the location (within the general area described in clause 6) and shape and size of the area of the reclamation land; and
 - (ii) the materials used in and for any reclamation work; and
 - (iii) the design and construction methods, including the armouring of the reclamation; and
 - (iv) the management of the effects of those activities on—
 - (A) heritage, cultural, and archaeological values; and
 - (B) landscape, natural character, and visual amenity; and
 - (C) coastal processes; and
- (b) while any reclamation works are being carried out,—
- (i) the management of construction work, stormwater, marine bio-security, hazardous substances, coastal water quality, spills, artificial lighting, dust, noise, and vibration; and
 - (ii) the management of the effects of the construction works on—
 - (A) heritage, cultural, and archaeological values; and

- (B) landscape, natural character, and visual amenity; and
 - (c) following completion of reclamation works, the subsequent rehabilitation and stabilisation of the quarry and haul road batters; and
 - (d) in relation to port activities, the management of the height of structures, artificial lighting, and noise.
- (3) The declaration in subclause (1) that reclamation works and port activities are controlled activities in respect of the matters specified in subclause (2) is not limited by the provisions of—
- (a) any other enactment; or
 - (b) the district plan or any regional plan, to the extent that they apply to the reclamation land, or any reclamation works or port activities carried out on that land; or
 - (c) the relevant regional coastal plan.

12 Applications to be determined on non-notified basis

- (1) Applications lodged under clause 8—
- (a) must not be publicly notified or given limited notification; but
 - (b) must be determined in accordance with Part 6 of the Act, unless otherwise specified by this order.
- (2) Subclause (1) applies instead of sections 95 to 103A of the Act (which relate to notification, submissions, pre-hearing, and hearing matters).
- (3) Sections 36A (which relates to consultation) and 89A of the Act (which relates to applications affecting navigation) do not apply to any applications made in reliance on this order.

13 Commencement of resource consents

- (1) This clause applies instead of sections 89(3) and 116(2) of the Act.
- (2) Both consent authorities are deemed to have all the powers, functions, and duties under the Act in relation to the reclamation land and reclamation works and port activities on that land.
- (3) The applicant must submit a plan of survey of the reclamation land for approval under section 245 of the Act not later than 2 years after the date that construction work is first commenced for reclamation work in respect of that land.
- (4) Subclause (2) expires, and the jurisdiction it confers comes to an end, on the day that a certificate is issued in respect of the reclamation land under section 245(5) of the Act.

Decisions on applications

14 Notification of decision

- (1) This clause applies instead of section 115 of the Act.

- (2) A consent authority must give notice of its decision on an application not later than 5 working days after the date that the application was lodged with the consent authority.

Enforcement

15 Enforcement proceedings

For the purposes of reclamation work or a port activity undertaken under a resource consent granted in reliance on this order, only a consent authority or a Minister of the Crown may take enforcement proceedings (including declaratory proceedings) under Part 12 of the Act, including in any case where it is alleged that the consent holder has breached section 16 or 17 of the Act.

Michael Webster,
for Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 26 May 2011.

Reprints notes

1 *General*

This is a reprint of the Canterbury Earthquake (Resource Management Act Port of Lyttelton Recovery) Order 2011 that incorporates all the amendments to that order as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Greater Christchurch Regeneration Act 2016 (2016 No 14): section 146(2)

Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26): section 107