

House of Representatives

Supplementary Order Paper

Tuesday, 12 April 2011

Canterbury Earthquake Recovery Bill

Proposed amendments

Hon Gerry Brownlee, in Committee, to move the following amendments:

Clause 4

Definition of **CERA** in *subclause (1)*: to add (line 14 on page 6) “established by the State Sector (Canterbury Earthquake Recovery Authority) Order 2011”.

Definition of **dangerous building** (lines 21 to 29 on page 6): to omit this definition and substitute the following definition:

dangerous building has the same meaning as in section 121 and 122 of the Building Act 2004, but with the modifications made by clause 7(1) of the Canterbury Earthquake (Building Act) Order 2010

Subclause (2): to insert after “**heritage order,**” (line 8 on page 8) “**notice of requirement**”.

Clause 8

Paragraph (b): to omit “approving” (line 14 on page 9) and substitute “recommending for approval”.

Paragraph (f): to insert after “other instruments” (lines 24 and 25 on page 9) “applying”.

New paragraph (fa): to insert after line 26 on page 9 the following paragraph:

(fa) giving directions to councils or council organisations under **section 48**:

Clause 9

Paragraph (k): to omit this paragraph (lines 31 and 32 on page 10).

Clause 11

Heading to *clause 11*: to omit “**approval**” (line 24 on page 11) and substitute “**consideration**”.

Subclause (1): to omit “approval” (line 26 on page 11) and substitute “consideration”.

Subclause (2): to omit this subclause (line 27 on page 11) and substitute the following subclause:

- (2) The Governor-General may, by Order in Council made on the recommendation of the Minister, approve a Recovery Strategy.

Subclause (5): to omit this subclause (line 14 on page 12).

Clause 14

Subclause (2): to omit “approval” (line 3 on page 13) and substitute “consideration”.

Subclause (3): to omit “**Section 11(4) and (5)**” (line 4 on page 13) and substitute “**Sections 11(2) and (4) and 12**, with the necessary modifications.”.

Subclause (4): to omit this subclause (lines 6 to 8 on page 13) and substitute the following subclause:

- (4) However, **section 11(4) and 12** do not apply to any amendment of a Recovery Strategy to correct any minor errors.

Clause 15

Subclause (2): to omit “Minister’s notification in the *Gazette* of his or her” (lines 15 and 16 on page 13) and substitute “commencement of the”.

Clause 17

To add:

- (6) The Christchurch City Council must have regard to section 77 of the Local Government Act 2002 in the development of a Recovery Plan for the CBD.

Clause 18

To omit this clause (lines 25 to 32 on page 14).

Clause 20

Subclause (1): to omit “**and 18**” (line 18 on page 15) and substitute “**and 20A**”.

Subclause (3): to add (line 33 on page 15) “**or 20A**”.

New clause 20A

To insert after clause 20 the following clause:

20A Public notification of draft Recovery Plans

- (1) The chief executive of the Christchurch City Council must ensure that any draft Recovery Plan for the CBD is publicly notified and must also ensure that a copy of the draft is provided to the Minister, the chief executive of CERA, Environment Canterbury, and Te Rūnanga o Ngāi Tahu.
- (2) The Minister must ensure that all other draft Recovery Plans are publicly notified.

- (3) The notification must—
 - (a) advise where the document can be viewed; and
 - (b) invite members of the public to make written comments on the document in the manner and by the date specified in the notice.

Clause 22

Subclause (2): to add “, including, if appropriate, consultation with persons or organisations who were identified by the Minister under **section 20(1)** and consulted in the development of the draft Recovery Plan”.

Clause 23

Subclause (1): to omit “a council” (line 30 on page 16) and substitute “any person exercising functions or powers under the Resource Management Act 1991”.

Subclause (2): to insert after “A council” (line 10 on page 17) “, requiring authority, or heritage protection authority”.

Subclause (3): to insert after “A council” (line 13 on page 17) “, requiring authority, or heritage protection authority”.

To add:

- (4) For the purposes of an application for a resource consent for a restricted discretionary activity, the Recovery Plan is a matter over which discretion is restricted and section 87A(3) of the Resource Management Act 1991 applies accordingly.

Clause 24

Subclause (1): to insert after “RMA document” (line 17 on page 17) “(to the extent that it relates to greater Christchurch)”.

Clause 25

To add as subclause (2):

- (2) To avoid doubt, this section applies in relation to any matter before the Environment Court and any further appeals while this Act is in force.

Clause 27

Subclause (5)(a): to omit this paragraph (lines 36 to 38 on page 20) and substitute the following paragraph:

- (a) the person who held the resource consent remains liable for the performance of any conditions under the consent; and

Subclause (6): to omit “**subsection (1) or (4)**” (line 4 on page 21) and substitute “**subsection (1), (2), or (4)**”.

Clause 29

Subclause (3): to add (line 32 on page 21) “or affects any privilege recognised by sections 54 to 64 of the Evidence Act 2006”.

Clause 35

Subclause (3): to omit “specified in the direction” (lines 28 and 29 on page 23) and substitute “that refers to the approval of a cadastral survey dataset or survey plan”.

Clause 37

Subclause (2): to omit “**section 68(1) to (4) and (6)**” (line 10 on page 25) and substitute “**section 68**”.

To add the following subclause (after line 11 on page 25):

- (3) However, the requirement in **section 68(5)** that an appeal be brought within 10 working days after the decision appealed against is given does not apply to an appeal under **subsection (2)**.

Clause 38

Subclause (4)(a): to omit this paragraph (lines 28 to 32 on page 25) and substitute the following paragraph:

- (a) the owner must give notice to the chief executive within 10 days after the chief executive’s notice is given stating whether or not the owner intends to carry out the works and, if the owner intends to do so, specifying a time within which the works will be carried out; and

Subclause (4)(b): to omit “agreed time” (line 35 on page 25) and substitute “time specified or otherwise agreed”.

Subclause (4)(b)(ii): to omit this subparagraph (lines 3 to 6 on page 26) and substitute the following subparagraph:

- (ii) in the case of the demolition of a building to which **section 40(1) or (2)** refers, the chief executive may recover the costs of carrying out the work from the owner of the dangerous building in question:

Clause 40

Subclauses (2) and (3): to omit these subclauses and substitute the following subclauses:

- (2) If the chief executive demolishes a non-dangerous building in order to demolish a dangerous building, the Crown is liable to compensate the owner of the non-dangerous building for a loss resulting from the demolition of the non-dangerous building whether or not the loss is insured in whole or in part.
- (3) If the chief executive demolishes a non-dangerous building for any other reason, and the Crown has not acquired the land on which the building is situated, the Crown is liable to compensate the owner of the non-dangerous building for a loss resulting from the demolition of the non-dangerous building whether or not the loss is insured in whole or in part.

Subclause (5): to omit this subclause (lines 12 to 17 on page 28).

Clause 42

Subclause (2): to insert after “is liable” (line 31 on page 28) “on summary conviction”.

To add the following subclause (after line 32 on page 28):

- (3) It is a defence to a charge against a person in relation to a failure to comply with **section 38(4)(a)** or with a notice given under **section 39(2)(c)** if the defendant proves—
 - (a) that the defendant took all reasonable steps to ensure that the defendant complied with that provision or notice; or
 - (b) that, in the circumstances of the particular case, the defendant could not reasonably have been expected to comply with that provision or notice.

Clause 46

Subclause (5): to omit this subclause (lines 9 to 11 on page 30) and substitute:

- (5) The chief executive must consult the relevant road controlling authority—
 - (a) before stopping a road or part of a road under this section;
 - (b) if practicable, before exercising any other power under this section in relation to a road.

Clause 47

Heading to *clause 47*: to insert after “relating to” (line 18 on page 30) “**access and**”.

Subclause (1): to omit “**section 46**” (line 20 on page 30) and substitute “**section 45 or 46**”.

Subclause (2): to insert after “is liable” (lines 21 and 22 on page 30) “on summary conviction”.

Clause 48

Subclause (1): to omit “chief executive may direct any local authority” (line 30 on page 30) and substitute “Minister may direct any council”.

Subclause (3): to omit “chief executive” (line 12 on page 31) and substitute “Minister”.

To omit “local authority” (line 13 on page 31) and substitute “council”.

Subclause (4): to omit “local authority” (line 20 on page 31) and substitute “council”.

New clause 50A

To insert the following clause before the heading on page 32:

50A Requiring structural survey

The chief executive may require any owners, insurer, or mortgagee of a building that he or she considers has or may have experienced structural change in the Canterbury earthquakes to carry out a full structural survey of the building before it is re-occupied for business or accommodation by the owner, a tenant, or any member of the public.

Clause 51

To omit this clause (lines 14 to 21 on page 32) and substitute the following clause:

51 Power to direct owner to act for benefit of adjoining or adjacent owners

- (1) This section applies if the chief executive considers that it is desirable that the owners of any 2 or more adjoining or adjacent properties should act for the benefit of each other, whether because it would assist the implementation of a Recovery Plan or because they have sufficiently linked interests in relation to those properties as a result of any of the Canterbury earthquakes.
- (2) The chief executive may direct any of them to act for the benefit of any other adjoining or adjacent owners in the manner specified by the chief executive.

Clause 52

Subclause (3): to omit “section 40” (line 29 on page 32) and substitute “sections 40 to 42”.

To add the following subclause (after line 3 on page 33):

- (6) To avoid doubt, any requirements to offer land back under the Public Works Act 1981 continue to apply to any land declared under **subsection (5)** to be held under this Act.

Clause 54

Subsection (4): to omit “if he or she thinks fit” (line 21 on page 34) and substitute “on the recommendation of the Minister”.

Subclause (7)(a): to insert after “land;” (line 4 on page 35) “or”.

Clause 57

To add the following subclause (after line 14 on page 36):

- (5) If any offer to sell land under **subsection (2)** has not been accepted within 20 working days of the receipt of the offer, the chief executive may dispose of the land on any terms and conditions that he or she thinks fit.

Clause 63

Subclause (2)(b): to omit “a date determined by the Minister” (lines 30 and 31 on page 37) and substitute “the date of the notice of demolition or the date of the loss, as the case may be”.

Subclause (3): to add “as determined by a valuation carried out by a registered valuer; and so far as practicable, the Minister must determine compensation in accordance with the relevant provisions of Part 5 of the Public Works Act 1981”.

Clause 66

Subclause (1): to omit “**section 41**” (line 19 on page 38) and substitute “**section 40 or 41**”.

Clause 67

Subclause (1): to omit “**sections 68 and 69**” (line 28 on page 38) and substitute “**sections 68, 69, 78, and 79**”.

Clause 68

Subclause (1): to insert after “Any person” (line 15 on page 39) “referred to in **subsection (1A)**”.

New subclause (1)(da): to insert after line 28 on page 39 the following paragraph:

- (da) against a decision to give a call-in notice under **section 50**; or

New subclause (1A): to insert the following subclause after *subclause (1)* (after line 29 on page 39):

- (1A) The persons who may appeal under **subsection (1)** are,—
 - (a) in the case of an appeal under **subsection (1)(a)**, the claimant;
 - (b) in the case of an appeal under **subsection (1)(b)**, the council, requiring authority, or heritage protection authority concerned;
 - (c) in the case of an appeal under **subsection (1)(c) or (d)**, the person who would otherwise have had a right of appeal or objection under the Resource Management Act 1991;
 - (d) in the case of an appeal under **subsection (1)(da)**, the council or council organisation concerned and the person who is the subject of the decision that was called in;
 - (e) in the case of an appeal under **subsection (1)(e)**, any adjoining owner who disputes the survey concerned.

Clause 71

Subclause (1): to add (line 31 on page 42) “, 1 of whom must be a former or retired Judge of the High Court or a lawyer (as defined in section 6 of the Lawyers and Conveyancers Act 2006)”.

Clause 80

Subclause (2): to insert after “is liable” (lines 1 and 2 on page 46) “on summary conviction”.

Clause 82

New subclause (6A): to insert after line 18 on page 47:

- (6A) No action lies against a council or council organisation that acts in accordance with a direction under **section 48(1)** for any loss or damage resulting for acting in accordance with the direction, unless it acts in bad faith or with gross negligence.

Clause 83

Subclause (1): to insert after “decision made” (line 23 on page 47) “or purportedly taken or made”.

To insert after “taken or made” (line 26 on that page) “or purportedly taken or made”.

Explanatory note

This Supplementary Order Paper amends the Canterbury Earthquake Recovery Bill.
