



Canterbury Earthquake (Local Government Act 2002) Order (No 2) 2011

Rt Hon Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 31st day of October 2011

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to section 71 of the Canterbury Earthquake Recovery Act 2011, Her Excellency the Administrator of the Government 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 the draft order.

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Order

1 Title

This order is the Canterbury Earthquake (Local Government Act 2002) Order (No 2) 2011.

2 Commencement

This order comes into force on the 28th day after the date of its notification in the *Gazette*.

3 Expiry

This order expires on the close of 1 July 2015.

4 Interpretation

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

2009/19 long-term plan means a council's long-term plan for the 10 or more financial years starting on 1 July 2009

2012/13 annual plan means a council's annual plan for the financial year starting on 1 July 2012

2012/13 annual report means a council's annual report for the financial year starting on 1 July 2012

2012/22 long-term plan means a council's long-term plan for the 10 or more financial years starting on 1 July 2012

Act means the Local Government Act 2002

Amendment Act means the Local Government Act 2002 Amendment Act 2010

council means the Christchurch City Council, the Canterbury Regional Council, the Selwyn District Council, or the Waimakariri District Council

long-term plan means a long-term plan adopted under section 93 of the Act.

- (2) The modifications to the Act made by this order do not affect the text of the Act but require it to be read as if it had been amended in the manner indicated in this order.

5 Application of clause 6

Clause 6 applies to the Christchurch City Council, the Canterbury Regional Council, the Selwyn District Council, and the Waimakariri District Council.

6 Council may choose not to prepare 2012/22 long-term plan

- (1) A council may decide not to adopt a 2012/22 long-term plan in 2012.
- (2) If a council makes a decision under subclause (1) not to adopt a 2012/22 long-term plan, clauses 7 to 11 apply to the council.

7 Modification of requirement to adopt long-term plan

- (1) Section 93(1) of the Act does not apply to a council from 1 July 2012 until the close of 30 June 2013.
- (2) Section 93(3) of the Act does not require the council to adopt a long-term plan in 2012, but applies to the council's long-term plan to be adopted in 2015 and later years.
- (3) Instead of complying with section 93(3) of the Act in 2012, the council must prepare and adopt a long-term plan before 1 July 2013 covering a period of not less than 9 years starting on that date.
- (4) The long-term plan adopted under subclause (3) continues in force until the close of the second consecutive year to which it relates.

- (5) Section 93 of the Act, other than subsections (1), (3), and (7)(a), applies to the long-term plan prepared and adopted under subclause (3).

2009/19 long-term plan

8 Requirements for 2009/19 long-term plan

- (1) The provisions of the 2009/19 long-term plan specified in subclause (2) continue in force until the close of 30 June 2013.
- (2) The provisions are those that address the requirements of clauses 4, 5, and 6 of Schedule 10 of the Act as it was before it was amended by the Amendment Act.

2012/13 annual plan

9 Modification of requirements for 2012/13 annual plan

- (1) The amendments made by the Amendment Act to section 85(2)(a) and Schedule 10 of the Act do not apply to a 2012/13 annual plan.
- (2) The 2012/13 annual plan must include the information specified in clause 2(2) of Schedule 10 of the Act (as it was before it was amended by the Amendment Act) for the year covered by the 2012/13 annual plan.

10 Modification of section 97 of Act

- (1) Section 97(2) of the Act does not apply to a decision described in section 97(1) of the Act.
- (2) A council may make a decision described in section 97(1) of the Act only if the circumstances in subclause (3) or (4) apply.
- (3) The council may make a decision if the decision—
- (a) is expressly provided for in the 2012/13 annual plan; and
 - (b) was included in the statement of proposal prepared under section 85 of the Act in relation to the 2012/13 annual plan.
- (4) The council may make a decision if it has used the special consultative procedure in considering whether to make the decision.

*2012/13 annual report***11 Modification of requirements for 2012/13 annual report**

- (1) The amendments made by the Amendment Act to Schedule 10 of the Act do not apply to a 2012/13 annual report.
- (2) The amendments made by the Amendment Act to section 99 of the Act do not apply to the auditor's report on the 2012/13 annual report.
- (3) Clause 15(e) of Schedule 10 of the Act (as it was before it was amended by the Amendment Act) applies to the 2012/13 annual report as if the reference in subparagraph (i) to the long-term council community plan in respect of that year were a reference to the 2012/13 annual plan.

Michael Webster,
for 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, which comes into force on the 28th day after the date of its notification in the *Gazette* and expires on the close of 1 July 2015, allows each of the Christchurch City Council, the Canterbury Regional Council, the Selwyn District Council, and the Waimakariri District Council to decide whether to adopt a long-term plan in 2012 for the 3 years starting on 1 July 2012. In accordance with the existing planning cycle, the councils' current long-term plans will expire on 30 June 2012 and they would have to prepare and adopt a new long-term plan before 1 July 2012.

If a council decides not to adopt a long-term plan in 2012,—

- it must adopt a long-term plan in 2013 for a period of at least 9 years starting on 1 July 2013; and
- certain provisions of the council's 2009/19 long-term plan continue in force until it adopts a long-term plan in 2013, namely provisions relating to—
 - council-controlled organisations:

- the development of Māori capacity to contribute to decision-making processes;
- funding and financial policies; and
- Schedule 10 of the Local Government Act 2002 (the **Act**) as it was prior to its amendment in 2010 applies to the council's 2012/13 annual plan and annual report with the following modifications:
 - the council's 2012/13 annual plan must include the information specified in clause 2(2) of Schedule 10 of the Act (prior to its amendment in 2010). The information relates to levels of service provision for groups of activities, including performance targets and measures. That information would normally be included in the council's long-term plan starting on 1 July 2012;
 - clause 15(e)(i) of Schedule 10 of the Act (prior to its amendment in 2010) applies to the council's 2012/13 annual report as if the reference to the long-term council community plan were a reference to the council's 2012/13 annual plan. This change reflects the change to the requirement in relation to the 2012/13 annual plan; and
- section 97 of the Act is modified so that a major decision described in that section cannot be made unless it is explicitly provided for in the annual plan and was explicitly provided for in the draft annual plan (in usual circumstances the decisions cannot be made unless provided for in the long-term plan and draft long-term plan) or the council uses the special consultative procedure in considering whether to make the decision.

This Order in Council is made under the Canterbury Earthquake Recovery Act 2011 and its effect is temporary.

2011/402 **Canterbury Earthquake (Local Government
Act 2002) Order (No 2) 2011**

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

Date of notification in *Gazette*: 3 November 2011.

This order is administered by the Department of Internal Affairs.
