

Severe Weather Events Recovery Review Panel

21 July 2023

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

Hon David Parker
Minister for the Environment
Executive Wing
Parliament Buildings
WELLINGTON 6011

via email

Dear Ministers

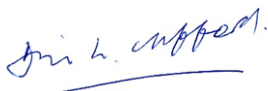
SEVERE WEATHER EMERGENCY RECOVERY (TEMPORARY ACCOMMODATION) AMENDMENT ORDER 2023

On 21 July 2023 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.

The Panel is understanding of the need for and desirability of an effective response to the local housing need, and the opinion from local authorities that this draft Order is a way to achieve that. The following report contains observations and recommendations of the Panel developed in the process of considering the Order, which the Minister may well consider to be necessary or desirable.

Yours sincerely



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)

Associate Professor Dr Hamish Rennie

Dr Veronica Jacobsen

Rachel Devine

Liana Poutu

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| REPORT AND RECOMMENDATION OF THE REVIEW PANEL |
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SEVERE WEATHER EMERGENCY RECOVERY (TEMPORARY ACCOMMODATION) AMENDMENT ORDER 2023

1. We have been provided with a draft of the Severe Weather Emergency (Temporary Accommodation) 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); and
 - d. not an unjustified limit on NZBORA rights and freedoms;

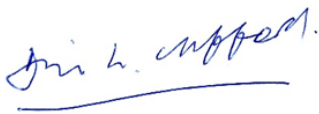
by supplementing the range of information and advice available to the Minister.
3. Paragraphs seven and 14 of the Terms of Reference for the Panel expand on this to provide that:
 - a. the Panel has been appointed to provide expert, technical advice and scrutiny of the draft Orders in Council; and
 - 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. Officials from the Ministry for the Environment and Ministry for Housing and Urban Development attended a session with the Panel to discuss the proposal, as did members of affected local authorities. 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 reclassify temporary accommodation that otherwise breaches certain district plan rules as a permitted activity under the Resource Management Act 1991 (RMA).
8. Our understanding of the effect of this draft Order is that it would override certain rules in the relevant RMA district plans which restrict matters such as how many dwellings can be on a property or how close to the boundary a dwelling can be. Other district plan rules, which manage the wider environmental impacts of development, will remain in place.
9. To assist in reviewing the draft Order, officials provided the following materials:
 - a. the draft Severe Weather Emergency (local government) Order 2023;
 - b. the draft Statement of Reasons;
 - c. a Cabinet paper titled Proposed Orders in Council under the Severe Weather Emergency Recovery Legislation Act 2023 – Tranche 3: Temporary accommodation and waste management under the Resource Management Act 1991;
 - d. the consultation document; and
 - e. a table summarising the feedback received during consultation activities.
10. The Panel is understanding of the need for and desirability of an effective response to the local housing need, and the opinion from local authorities that this draft Order is a way to achieve that. In the process of considering the draft Order, which the Minister may well consider to be necessary or desirable, we have the following observations and recommendations.
11. While the definition of temporary activities is the same as was provided for in the Canterbury Earthquake (Resource Management Act Permitted Activities) Order 2011, the Panel has raised questions with officials about its consistency with other terms in the RMA and understands that the draft Order will be revised to address the following changes:
 - a. to clarify the nature of the permitted activity through adding substantive content to the definition of the activity being permitted such as the temporary qualities of the accommodation;

- b. to clarify the relationship of the operational provisions in the Order with rules in district plans;
 - c. to clarify the operation of the creation of a permitted activity and other matters in the draft Order; and
 - d. to remove reference to a minimum floor level requirement.
12. We recommend that public notice be provided for in the Order and that it be made clear in the Order that at the end of the three-year period, if a consent is sought, the receiving environment against which effects are assessed is the environment in existence before the activity permitted by the Order.
13. Additionally, we acknowledge that at the end of the three-year period, the high demand for housing in these locations is likely to result in these temporary dwellings being made permanent. Therefore, advisory support for people seeking a resource consent at the end would be beneficial, particularly if they have acquired resource consents for aspects of infrastructure connections, like water and waste-water.
14. Finally, we note that the approach empowered by changes in this Order will only work to the extent that local authorities have appropriately responsive approaches to consenting the water and sanitary connections required, and propose that officials at the Ministry for the Environment and Ministry of Housing and Urban Development may wish to follow up on this with local authorities.



The Honourable Denis Clifford

Date: 21 July 2023

Convenor, Severe Weather Events Recovery Review Panel