

24. 11. 2011

18. REVIEW OF TEMPORARY ACCOMMODATION STANDARDS AND USE OF COMMISSIONERS TO MAKE DECISIONS ON SITE SPECIFIC APPLICATIONS



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PURPOSE OF REPORT

1. The purpose of this report is to:
 - (a) Provide a review on the operation of the current standards in the public notice for temporary accommodation (**Attachment 1**) and to recommend changes to some of those standards.
 - (b) Provide a review on the use of Commissioners to make decisions on site specific applications for temporary activities which do not comply with the standards. This review is in accordance with the following Council resolution of 31 March 2011:

“That the use of Commissioners is made due to the current workload of Councillors, and that this will be reviewed at three and six months.”

EXECUTIVE SUMMARY

2. The Canterbury Earthquake (Resource Management Act Permitted Activities) Order 2011 (OIC) was made on 8 March 2011. It enables the Council to permit temporary accommodation for displaced people and businesses that otherwise would not comply with the City Plan and to permit depots and storage facilities incidental for construction work undertaken for earthquake recovery purposes.
3. Temporary accommodation, depots and storage facilities in specified locations are deemed to be a permitted activity under the OIC as long as they comply with any standards and requirements imposed by the Council. The locations, standards and requirements must be outlined in a public notice given by the Council. Such a notice was issued on 9 April 2011.
4. Activities that comply with all of the requirements and standards of this general public notice are permitted under the OIC. Where an activity does not comply with any of the requirements and standards of this general public notice, the Council may issue a site specific public notice to permit the activity.
5. Site specific approvals can be sought in any of the following situations:
 - The proposal does not meet one or more of the prescribed standards in the public notice.
 - The activity is not listed in the public notice.
 - The activity is located in a different zone to those located in the public notice.
 - A combination of the above.

Site specific approvals provide the Council with the discretion to decline consents for activities which may create detrimental adverse effects or alternatively, impose conditions to mitigate adverse effects.

6. At its meeting on 28 April this year the Council appointed four sole practice commissioners to determine applications for activities which do not comply with the standards in the Public Notice for Temporary Accommodation.
7. The overriding requirement for both permitted and site specific approvals is that the activity must fall within the scope of the OIC, that is, by being temporary accommodation for displaced businesses or residents, or being a depot or storage facilities for construction work for earthquake recovery purposes as defined in the OIC. If it does not meet this requirement, it cannot be dealt with under the OIC and must instead either comply with the City Plan or obtain a resource consent.

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8. The current standards for temporary accommodation have now been in place for six months. They have generally worked well and have facilitated the relocation of many businesses and other activities whose premises were damaged in the September and February earthquakes. At the time of writing this report 239 activities had applied using the temporary accommodation provisions. Of these 155 complied with the standards and 84 involved applications for site specific approval.
9. While the standards have worked well, staff have come across a few issues in relation to their operation particularly in Living Zones. These are set out below:
 - (a) The standard which has caused most concern is the provision for retailing in Living zones. The definition of retailing in the City Plan is broad and embraces all forms of retailing and commercial services. It includes food and beverage outlets such as cafes, takeaway bars and liquor stores. Some of these retail activities have the potential to have an adverse effect on the amenity of residential areas. In view of this potential Council staff administering the temporary activity provisions consider it would be prudent for the current standards to be amended to remove permitted activity status for retailing in Living zones. This amendment would not prevent an applicant wanting to establish a retail activity in a Living Zone from applying for a site specific approval.
 - (b) There is currently no limit on the number of activities which can establish on a property in Living Zones. This means that one property can have multiple tenancies. A potential consequence of this is the creation of small scale shopping complexes or office parks on a single site. In Living Zones these sorts of developments can create adverse effects. In view of this potential staff consider it would be sensible to amend the current standards so as to limit relocated activities to one per existing title in Living Zones. Applicants wanting to establish more than one activity on a title could apply for a site specific approval.
 - (c) The current standards provide for a maximum of 10 FTE staff for relocated activities in Living zones. The provision for 10 staff is considered to be appropriate however if an activity employs part time staff the standard enables many more than 10 employees to be on site at any one time. To prevent the potential adverse effects this can create in residential areas, staff suggest the current standard be amended to remove reference in the standard to FTEs in relation to Living zones are. Again, applicants wanting to establish activities with more than 10 staff would be able to apply for a site specific approval.
 - (d) The current standards permit existing pre-schools to have a 30 per cent increase in children and staff numbers. The same standard also provides an exemption for preschools using this provision from having to comply with the other standards in the Public Notice. Consequently there is no requirement for new buildings or extensions constructed to accommodate an increase in child numbers to comply with other standards in the notice such as set backs from boundaries. The exemption could therefore result in new structures having a detrimental effect on nearby properties. An amendment to the exemption so that it does not apply to extensions of existing buildings or new buildings would fix this problem.
10. The use of Commissioners to make decisions on site specific applications for temporary activities has also worked well. The four Commissioners the Council appointed to perform this task have been available and able to make decisions quickly. This has assisted in the three day turnaround from the time a completed application is received until the time a decision is released generally being met. The experience of the Commissioners has also meant they have been able to make the sound and practical decisions required in the circumstances. This is reflected in the low level of complaints that Council has received about activities which have relocated in accordance with site specific approvals.
11. It is understood that Councillors workloads remain high due to the impact of earthquake related work and that this will continue to be the case for some months. Councillor availability to serve on panels to make decisions on site specific applications may therefore be problematic. Given this situation it is recommended that the current use of Commissioners to make decisions on site specific applications continue and be reviewed again in six months.

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12. Not applicable.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

13. Not applicable.

LEGAL CONSIDERATIONS

14. Not applicable.

Have you considered the legal implications of the issue under consideration?

15. Yes.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

16. Not applicable.

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

17. Not applicable.

ALIGNMENT WITH STRATEGIES

18. Not applicable.

Do the recommendations align with the Council's strategies?

19. Not applicable.

CONSULTATION FULFILMENT

20. Not applicable.

STAFF RECOMMENDATIONS

1. That the Council authorise the following amendments to the standards for permitted temporary accommodation and depots and storage facilities:
 - (a) Remove the provision for retailing in Living Zones.
 - (b) Add a standard limiting the number of relocated activities in Living Zones to not more than one per existing title.
 - (c) Remove the reference to FTE staff in Living zones.
 - (d) Amend the exemption for pre-schools increasing child numbers so that it does not apply to extensions of existing buildings or new buildings.
2. That the use of commissioners to make decisions on site specific applications continue and be reviewed again in six months.