



17 May 2011

Sir John Hansen  
Convener  
Canterbury Earthquake Recovery Review Panel  
c/- Canterbury Earthquake Recovery Authority  
Private Bag 4999  
**CHRISTCHURCH 8140**

Dear Sir John

**Canterbury Earthquake (Transport Legislation) Amendment Order 2011 and  
Canterbury Earthquake (Land Transport Rule: Operator Licensing) Order  
2011**

**Proposal**

1. The draft Orders in Council attached (Appendix One) provide a means of:
  - a. exempting operators of Australian and Canadian heavy motor vehicles from requirements imposed under the Transport (Vehicle and Driver Registration and Licensing) Act 1986, the Land Transport Act and the Road User Charges Act 1977. These vehicles are involved in the removal of silt and sewage and in the assessment of seismic threats in the Canterbury area
  - b. deferring until 1 May 2012 the date by which Christchurch taxis must comply with new requirements, contained in Land Transport Rule: Operator Licensing 1997 (as amended in 2011), regarding in-vehicle security cameras, and telecommunications systems which include emergency alert and response facilities.

## Background

### *Application of road user charges and vehicle registration and licensing requirements to Australian and Canadian vehicles*

2. To assist with the recovery in Christchurch, sixteen heavy motor vehicles have been imported temporarily into New Zealand from Australia and one from Canada. The Australian 'jetters' and 'sewage sucker trucks' are being used to remove silt and sewage. The Canadian 'seismic vibe unit' is being used to gather information about the land affected by the Canterbury earthquakes, assessing the threat posed by aftershocks and facilitating the planning, rebuilding, and recovery of affected communities.
3. To use these vehicles, -
  - a. the Road User Charges Act 1977 requires the payment of road user charges (RUC)
  - b. the Land Transport Act 1998 requires that the vehicles are registered in New Zealand, issued with New Zealand number plates and that associated registration and annual licensing charges and ACC levies are paid. (Prior to 1 May 2011, these requirements were imposed by the Transport (Vehicle and Driver Registration and Licensing) Act 1986).
4. The vehicles would also need to be fitted with hubodometers and carry distance licences appropriate to the types and weights of the vehicles
5. The vehicles are currently operating in breach of these requirements.
6. Removing silt and sewage and conducting seismic research will help address potential public health risks and improve understanding of the threat posed to the recovery by aftershocks. The compliance costs associated with requirements under the Road User Charges Act 1977, Land Transport Act 1998 and Transport (Vehicle and Driver Registration and Licensing) Act 1986, and the prospect of enforcement action for non-compliance, have the potential to discourage the use of the Australian and Canadian vehicles in achieving these objectives.
7. An Order in Council has already been made under the Canterbury Earthquake Recovery Act 2011 to exempt New Zealand heavy motor vehicles involved in removing silt and other waste from RUC requirements subsequent to the 22 February earthquake.



### *Application of new security requirements to Christchurch taxis*

8. Land Transport Rule: Operator Licensing 2007 requires that all taxis operating in specified cities and towns be fitted with approved in-vehicle camera systems, and approved telecommunications systems, by 1 August 2011. Christchurch is one of the areas to which the requirement applies.
9. Although the New Zealand Taxi Federation was active in lobbying for these taxi security requirements, the Federation has, on behalf of its member companies in Christchurch, requested that the commencement date for them be deferred from 1 August 2011 until 2012.
10. Taxi operators and organisations have experienced significant reductions in income due to reduced activity at Christchurch Airport and in the entertainment areas in the now-closed CBD. In addition, they have had to deal with the loss of, or lack of access to, their offices.
11. While all companies are now either back in their offices or using temporary facilities, the significant administrative disruption has made it difficult to organise taxi 'fit-outs' in the time available before the new security requirements take effect. In addition, auto-electrical firms that would have been expected to fit many of the new systems have also suffered disruption due to the loss of premises.
12. The earthquakes disrupted public transport, damaged private vehicles and produced an influx of recovery workers from outside the city. Fully functioning taxi services are therefore vital to the recovery of the Christchurch community. Taxi operators and organisations may, if they wish, fit approved in-vehicle security cameras but imposing costly security requirements at this time will not support the provision of taxi services in Christchurch.

### **Policy Objective**

#### *Canterbury Earthquake (Transport Legislation) Amendment Order 2011*

13. The objectives of this Order are to ensure that authorised transport operators are not subject to regulatory requirements that would discourage the use of vehicles that are vital to:
  - a. ensuring a focused, timely, and expedited recovery from the impacts of the earthquakes, and
  - b. collecting information that is essential to the repair and rebuilding of land, infrastructure, and other property.



14. These objectives align with the following purposes of the Canterbury Earthquake Recovery Act 2011:
- a. to provide appropriate measures to ensure that greater Christchurch and the councils and their communities respond to, and recover from, the impacts of the Canterbury earthquakes
  - b. to enable a focused, timely, and expedited recovery
  - c. to enable information to be gathered about any land, structure, or infrastructure affected by the Canterbury earthquakes
  - d. to facilitate, coordinate, and direct the planning, rebuilding, and recovery of affected communities, including the repair and rebuilding of land, infrastructure, and other property.

*Canterbury Earthquake (Land Transport Rule: Operator Licensing) Order 2011*

15. The objective of this Order is to encourage the provision of fully functioning taxi services by giving operators sufficient time to recover from the dislocation and reduced income resulting from the 22 February earthquake before requiring them to comply with new taxi security requirements.
16. This objective aligns with the following purposes of the Canterbury Earthquake Recovery Act 2011:
- a. to provide appropriate measures to ensure that greater Christchurch and the councils and their communities respond to, and recover from, the impacts of the Canterbury earthquakes
  - b. to restore the social, economic, cultural, and environmental well-being of greater Christchurch communities.

**Preferred Option**

*Exemptions from road user charges and vehicle registration and licensing requirements for Australian and Canadian vehicles*

17. There is no existing power to exempt the Australian and Canadian vehicles from registration, licensing and road user charges requirements. Amendments to primary legislation would be the only alternative to the Canterbury Earthquake (Transport Legislation) Amendment Order 2011. Given the issue is a relatively urgent and short-term one, the Order is the preferred option.



*Deferring application of new security requirements to Christchurch taxis*

18. The Canterbury Earthquake (Land Transport Rule: Operator Licensing) Order 2011 is the most expedient means of deferring the new security requirements for Christchurch taxi operators. For this reason it is preferred to the alternative of making an ordinary amendment to the relevant land transport rule, which would involve a more cumbersome and resource intensive process that would put the 1 August deadline at risk.
19. The Land Transport Act 1998 enables the NZ Transport Agency to issue exemptions from the requirements of land transport rules under certain conditions. It is unlikely that the proposed deferral of security requirements would meet these criteria. In any case, this course of action would require the individual consideration of the circumstances of around 1000 taxis.

**Costs and Benefits**

20. The costs of the proposal are difficult to quantify.

*Canterbury Earthquake (Transport Legislation) Amendment Order 2011*

21. In principle, there is potential for authorised heavy motor vehicles to impose costs on the road network.
22. The Canterbury Earthquake (Transport Legislation) Amendment Order 2011 seeks to mitigate these costs and risks through an authorisation process. That process includes the ability for the New Zealand Transport Agency to impose conditions on the heavy motor vehicles, including conditions as to where and when they may be operated. Although the new cleanup is likely to extend over a longer period than the previous cleanup, the number of vehicles involved will remain limited.
23. Under the Order, revenue that would have come from road user charges and ACC levies will not be collected. However, given the relaxation of road user charges and registration requirements will only apply to the limited number of vehicles that receive authorisations, any reduction in revenue is expected to be minimal. Further, it is possible that the vehicles would not have been imported in the first place, had operators known they would be required to pay road user charges and ACC levies.
24. The benefits of the proposal are avoidance of additional compliance costs for transport operators (including potential fines) and elimination of a potential source of disruption to work schedules.
25. It is not possible to accurately estimate the extent of the likely benefits, as we do not have sufficient information about the possible impact on the



efficiency and effectiveness of earthquake cleanup operations, or the extent to which operators might be exposed to risk of prosecution. We note, however, that operating without a road user charges licence is punishable by a fine of up to \$15,000, while operating in contravention of vehicle registration and licensing requirements attracts a maximum fine of up to \$1,000 for an individual and \$5,000 for a body corporate.

#### *Canterbury Earthquake (Land Transport Rule: Operator Licensing) Order 2011*

26. Deferring the date for Christchurch taxis to comply with the new security requirements will have very little cost. If taxi operators delay upgrading their equipment, the expected benefits from the provisions will also be delayed. There will be greater risk to the safety of taxi drivers and passengers, albeit no greater than at present. Again, we note that the request to defer the new security requirements came from the New Zealand Taxi Federation itself.
27. The only other groups potentially disadvantaged by deferring the requirements are the suppliers and fitters of the required camera and telecommunications equipment. However, some of these have also been affected by the earthquakes and would, in any case, have had to deal with taxi operators who had difficulty organising or paying for fitting. The two Christchurch-based camera suppliers spoken to by the NZ Transport Agency both indicated that, while they would prefer that the requirements were not deferred, a delay in the cameras being fitted would not greatly affect their business. One, further, sympathised with the goal of deferring the requirements.
28. The benefit of deferring the date for Christchurch taxis to comply with the new security requirements is that taxi operators will be given a reasonable opportunity to comply. The deadline of 1 August was known to entail a tight time-frame and did not account for the situation now faced by Christchurch taxi operators.

#### **Risks**

29. There is very little risk from this proposal. The exemptions are precisely targeted to authorised heavy vehicles and to taxis operating in Christchurch. Minor risks associated with the operation of the heavy vehicles, or of taxis without upgraded security equipment, are comparable to existing risks.

## Consultation

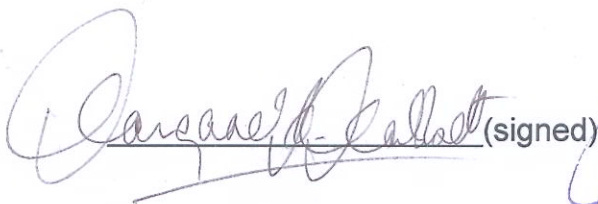
30. The Minister of Canterbury Earthquake Recovery, the Canterbury Earthquake Recovery Authority, the Department of Labour, the New Zealand Transport Agency, the New Zealand Police, Simpson Grierson (solicitors for Christchurch City Council), the Treasury, the Ministry of Justice, and the Parliamentary Counsel Office have been consulted on the proposals. Comments provided by those consulted have been taken into account in preparing this paper. The Department of the Prime Minister and Cabinet has been informed.

## Publicity

31. No specific publicity is proposed.
32. The NZ Transport Agency will notify affected taxi operators.

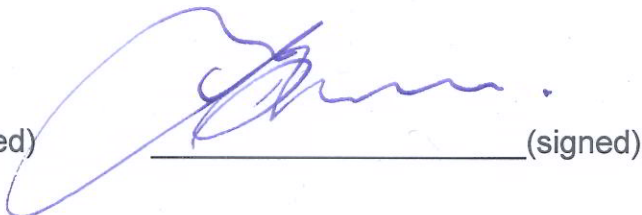
## Conclusion

33. We look forward to receiving your recommendations so that regard can be had to them before the Minister of Transport makes a recommendation on the draft Orders. The key contact for this item of work is Lisa Nickson, Principal Solicitor. Lisa may be contacted on 04 439 9366 or by email [l.nickson@transport.govt.nz](mailto:l.nickson@transport.govt.nz).



(signed)

Margaret Mabbett  
**Manager, Investment and Revenue,  
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(signed)

Leo Mortimer  
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