



15 August 2011



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

Dear Sir John

**Canterbury Earthquake (Resource Management Act – Electricity Network Recovery) Order 2011 and Canterbury Earthquake (Reserves Act – Electricity Network Recovery) Order 2011**

**Proposal**

1. The Canterbury Earthquake Recovery Review Panel is asked by the Ministry for the Environment and the Department of Conservation to consider a proposal for Orders in Council to expedite Resource Management Act 1991 (RMA) and Reserves Act 1977 (Reserves Act) processes for electricity network recovery works in Christchurch.
2. The Canterbury Earthquake (Resource Management Act – Electricity Network Recovery) Order 2011 (RMA Order) provides for resource consent applications for electricity network recovery works to be treated as non-notified controlled activities with the matters over which control is retained specified in the Order. The effect of the RMA Order will be that there will be no public notification of applications, submission process, public hearing or rights of appeal to the Environment Court, except on the part of the applicant.
3. It is proposed that the RMA Order provides for the Christchurch City Council (CCC) to be able to extend timeframes under section 37 of the RMA but only with the agreement of the applicant. The RMA Order also removes the ability for persons (other than CCC or a Minister of the Crown) to take enforcement action.
4. The Canterbury Earthquake (Reserves Act – Electricity Network Recovery) Order 2011 (Reserves Order) provides an exemption from the requirement of CCC to notify an easement for a new substation on Rawhiti Domain. It also changes the recreation reserve classification for the part of Rawhiti Domain to be used for the new substation, and provides for an extension of the purposes for which licences to occupy reserves it administers can be granted by CCC and an exemption from notification.

5. A final draft of the proposed Orders is attached to this letter. Maps indicating the area of Christchurch affected by the damage to Orion's network and indicating the location of the temporary lines and substation site at Rawhiti Domain (substation marked 'proposed Keyes Road substation') are attached as Appendices One and Two.

## **Background**

6. Orion New Zealand Limited's (Orion) electricity network in the eastern suburbs of Christchurch was significantly damaged during the 22 February 2011 earthquake. Orion received authorisation from the National Civil Defence Controller to commence repair work to its network under RMA emergency provisions and to proceed with a replacement substation on Rawhiti Domain.
7. The works Orion has undertaken include:
  - constructing three temporary 66kV lines between Bromley, Dallington and New Brighton
  - building a replacement for the damaged Pages Road substation at Rawhiti Domain
  - distributing and operating diesel generators to minimise disruption to supply from repairs and supplement generation capacity.
8. Orion advised the Ministry for the Environment that resource consents from CCC are required retrospectively to authorise these works. Authorisation under the Reserves Act is also required. Normal RMA and Reserves Act processes could take several months or more and provide limited certainty of approval.
9. Expediting RMA resource consent and Reserves Act processes for electricity network recovery works in Christchurch is consistent with the purposes of the Canterbury Earthquake Recovery Act 2011 in respect to:
  - a. Section 3(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. Section 3(d): to enable a focussed, timely, and expedited recovery
  - c. Section 3(f): to facilitate, coordinate and direct the planning, rebuilding and recovery of affected communities, including the repair and rebuilding of land, infrastructure, and other property
  - d. Section 3(g): to restore the social, economic, cultural and environmental well-being of greater Christchurch communities.

## Policy Objective

10. The policy objective to be achieved through these Orders is to ensure that RMA resource consent and Reserves Act processes do not present undue delays or costs, which are associated with notification, hearing and appeal/objection processes. It is considered essential to Christchurch's earthquake recovery that damaged electricity networks are restored as soon as possible. Normal RMA and Reserves Act processes could take several months or more and provide limited certainty of approval.
11. Under the Christchurch City Plan, retrospective resource consents are required for the substation on Rawhiti Domain, overhead lines and large temporary generators. It is likely that any resource consent applications lodged with CCC for Orion's electricity network recovery works would normally require public notification.
12. Notified resource consent applications provide the opportunity for the public to make submissions, but as a result, take significantly longer to process than non-notified applications. Any person can make a submission on a publicly notified application and at least twenty working days must be given for the submission period. Notified applications take a minimum of two to three months to process, but generally in excess of six months for more complex proposals. Publicly notified consents are also significantly more costly than non-notified consents.
13. Another source of delay is the potential appeal process available to submitters following a decision, which can take anywhere between six months to a year or more to resolve.
14. Under the Reserves Act, the right for the substation to remain at Rawhiti Domain for the long term, the temporary use of reserves for emergency generators and where the three temporary lines cross other reserves, needs to be confirmed by a formal authority.
15. Rawhiti Domain is a recreation reserve vested in CCC. The normal process to grant an easement involves approval from the Minister of Conservation and (potentially) public notification of the intention to grant. To give CCC authority to use powers under the Reserves Act, such as excluding the public, a change in the recreation reserve classification is also required. Normal processes to change the reserve classification involve approval from the Minister of Conservation and then conducting a full public consultation process. These processes can take a significant amount of time.
16. The ability for CCC to grant blanket licences across all reserve classifications (for council administered reserves) for the use of temporary generators and where any of the three temporary lines may cross a reserve needs to be clarified.

## Timing

17. It is proposed that the Orders in Council will come into force the day after notified in the *Gazette*. This will enable the applicant to apply for resource consents under the RMA and apply for authorisations under the Reserves Act as soon as possible under the streamlined processes provided for in the Orders.

## Preferred Option

18. The status quo option, that of following normal RMA consenting and Reserves Act processes, is not preferred as it imposes costs and delays of such magnitude that it will not achieve the policy objective.

### Resource Management Act

*Option One: Resource consent applications for Orion's electricity network recovery works to be treated as non-notified controlled activities (preferred option).*

19. Option One is preferred as it provides certainty and reduced risk for retrospective resource consent applications to restore Christchurch's damaged electricity network, while retaining the responsibility for imposing conditions and managing adverse effects with CCC.
20. Removing the requirement for written approvals and opportunities for wider public notification reduces the administrative and consultative burden on Orion and CCC, saving time and cost.

*Option Two: Declaring the substation, temporary lines, and temporary generators to be permitted activities under the Christchurch City Plan.*

21. Option Two would result in a complex and drawn out process for preparing an Order in Council. Performance standards would be developed by Central government and any changes to the performance standards would require amendment to the Order in Council.

*Option Three: The land on which the substation, temporary lines, and temporary generators sit would be deemed to be designated for the purpose of those works.*

22. Option Three is not supported. Designations are geographically defined and are usually noted on a plan. For Orion's electricity network recovery works, accurate descriptions of activities, including defining the geographic location or extent of each activity would need to be included in the Order. Orders do not typically include plans.

## Reserves Act

- Option One: i) Non-notified easement for substation and lines with exemption from notification requirements and without consent of the Minister of Conservation
- ii) Extending licensing powers for temporary occupation of reserves by generators (preferred option)
23. Option One is preferred. Easements are used for many other similar uses on CCC reserves and will provide the necessary mechanism to hold the land, provide protection to Orion, and use other powers in the Reserves Act such as excluding the public.
24. It is necessary to ensure CCC can issue blanket licences over all classes of reserves to provide certainty and efficiency of process.
- Option Two: Non-notified lease for the substation and easement for the lines without the consent of the Minister of Conservation.*
25. Option Two is not supported as it does not provide a permanent interest in land to Orion. Orion is seeking to hold the land for a long term ie. a 999 year lease. This was considered to amount to a disposal of land, which is not supported.
- Option Three: Disposal of required area of Rawhiti Domain without public notice.*
26. Option Three is not supported as it removes the land permanently from CCC's reserve holdings and provides no future opportunities regarding the reserve.

## Assessment of alternative sites and locations

27. The damaged New Brighton substation is on the banks of the Avon River, while the large majority of the customers it supplies are on the opposite northern side of the Avon. Given that this substation needed to be rebuilt and the temporary arrangements did not have sufficient capacity to meet winter demand, Orion chose to shift the site north of the river and mitigate potential future earthquake risk.
28. When deciding on sites for substations, Orion attempt to be as close to the customer base as possible, while also considering the impact of the substation including noise and aesthetics on neighbouring properties. A survey of possible sites indicated that properties closer to the coast did not incur the same level of earthquake damage as alternative sites.
29. In response to the damage caused to four large high voltage cables, which need to be replaced, Orion considered a number of options including the laying of new underground cables and the use of diesel generators. Laying new underground cables could take over a year for each cable to be installed. There could also be substantial difficulties installing cables across the Avon River. The decision was made to install three temporary overhead lines while permanent underground replacements are made.

30. A range of criteria was used to determine the routes of the temporary overhead lines including engineering considerations, avoiding traffic hazards on main roads, construction impacts on arterial traffic routes, trees and speed of construction. The advantages in choosing the current route is that it posed the least complicated engineering design (avoiding street corners), had the widest berm keeping the poles as far away from the boundaries as possible, avoided already high street lighting, traffic hazards and bridges.

## **Costs and Benefits**

### Resource Management Act: – Non-notified controlled activity

#### *Benefits*

- Prompt and certain resource consent process to ensure a robust and reliable electricity network in Christchurch. Reduced risk to Orion being served with either an abatement notice to stop works or the possibility of facing compliance costs for breaches against the plan requirements.
- Reduced application and compliance costs. Controlled activity status provides certainty as to the types of conditions of consent which may be imposed, while still allowing flexibility for the actual terms and conditions to be negotiated with CCC.
- Ability to manage environmental effects is retained. CCC is still able to consider effects, impose conditions, and monitor and enforce those conditions.
- Reduces the burden and time on CCC staff spent undertaking extensive negotiations and administration tasks, including obtaining written approvals and support associated with hearings.

#### *Costs/Limitations*

- No obligation to obtain written approvals and no requirement to consult with the wider community.
- CCC would have no ability/discretion to decline an application. CCC may have to rely on general RMA environmental protection duties and responsibilities under sections 16 and 17 to manage unforeseen environmental effects.

### Reserves Act: – Non-notified easement for substation and lines

#### *Benefits*

- Provides a long-term permanent interest in the Rawhiti Domain site as easements are typically perpetual.
- Avoids delays associated with lengthy notification processes.
- Does not exclude any future land exchange agreements being made between CCC and Orion if suitable land is found.
- Retains land as reserve vested in CCC, should Orion cease to use the land for electricity purposes, or should a land exchange option become available.

### *Costs/Limitations*

- Affected persons would not get the opportunity to be part of the process as there would be no requirement to publicly notify.

### *Reserves Act: – Extending licensing powers for temporary occupation of reserves*

#### *Benefits*

- Would not need to be site specific, but would ensure that appropriate authorisation would be in place.
- Is consistent with approaches that have previously been used by CCC for similar works.
- CCC would be able to set standard terms and conditions, for example requirement for reserve land to be reinstated when generator is removed.
- Temporary licences do not require notification, therefore reducing delays.

#### *Costs/Limitations*

- No costs have been identified with this option.

### **Risks**

31. The proposed Order will have an impact on the principles of natural justice by removing the statutory rights for hearings and RMA appeals. The applicant and CCC will have the responsibility for identifying and addressing all adverse effects of the electricity network recovery works as submission and appeal rights will be removed. To ensure some legal checks and balances remain the ability to seek judicial review is retained.

### **Consultation**

32. The following departments have been consulted: Canterbury Earthquake Recovery Authority, Department of Building and Housing, Department of Internal Affairs, Land Information New Zealand, Ministry of Agriculture and Forestry, Ministry of Economic Development, Ministry of Health, Ministry of Justice, Ministry of Transport, Ministry of Culture and Heritage, Te Puni Kokiri, and Treasury. The Department of Prime Minister and Cabinet has been informed.
33. Both CCC and Orion have been consulted in the preparation of the Order and are supportive of the recommended approach.

### **Profile of draft OIC & proposed publicity**

34. The Order will be published in the *Gazette*. Any publicity around the Orders will be undertaken as part of the wider communication strategy for the

Canterbury Earthquake. These arrangements include engagement with the Canterbury Earthquake Recovery Authority, Orion, and CCC and other key stakeholders, as well as media announcements.

## Conclusion

35. We look forward to receiving your recommendations so that regard can be had to them before the Minister makes a recommendation on the draft Orders. The key contact for this item of work is Laura Harding ([laura.harding@mfe.govt.nz](mailto:laura.harding@mfe.govt.nz)).

Yours sincerely



Kevin Currie  
Director, Environmental Regulation  
Ministry for the Environment



Doris Johnston  
Deputy Director-General, Policy for  
Director-General of Conservation



**APPENDIX ONE:**

**North-eastern Christchurch electricity network affected**

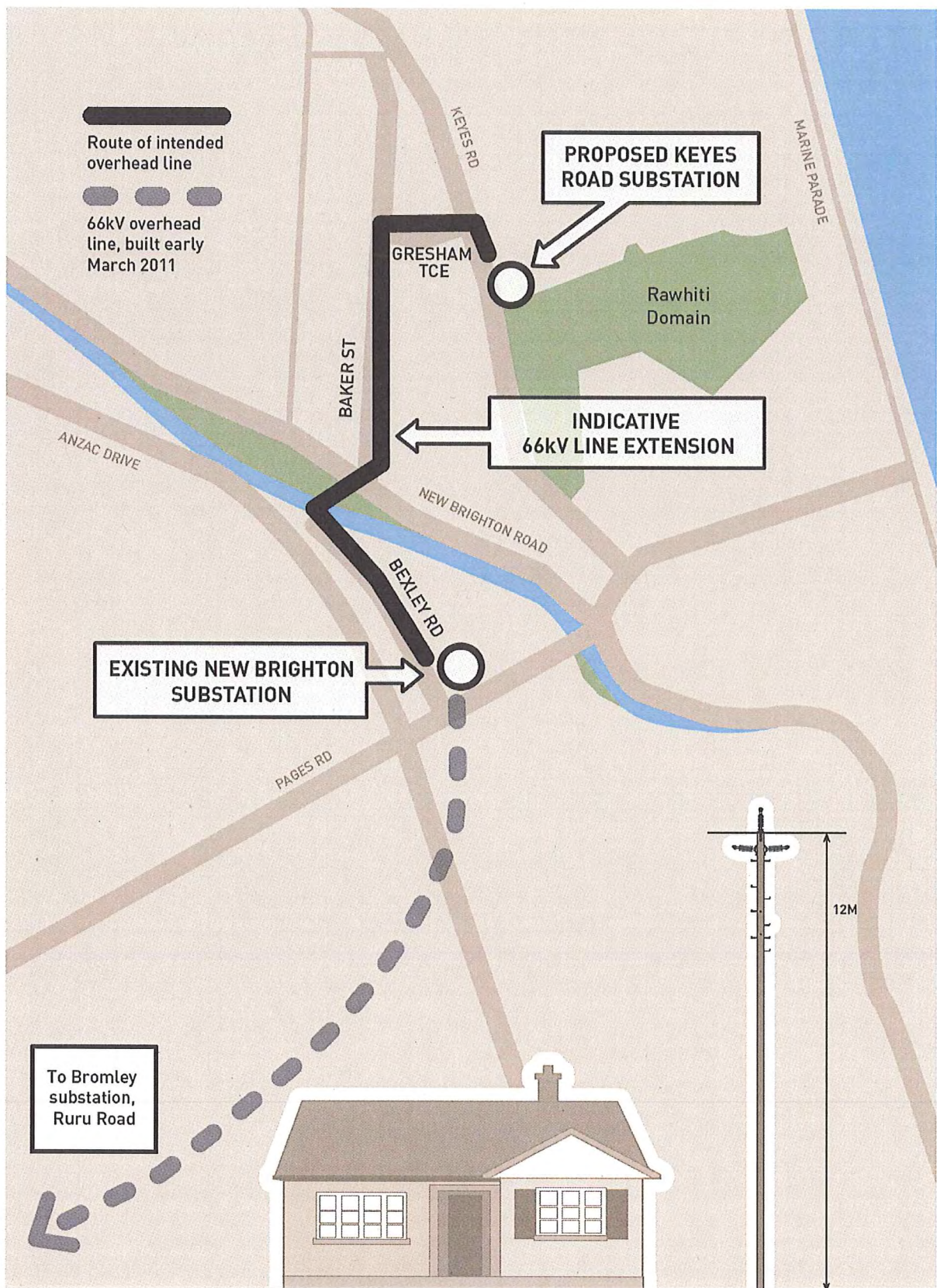


## APPENDIX TWO:

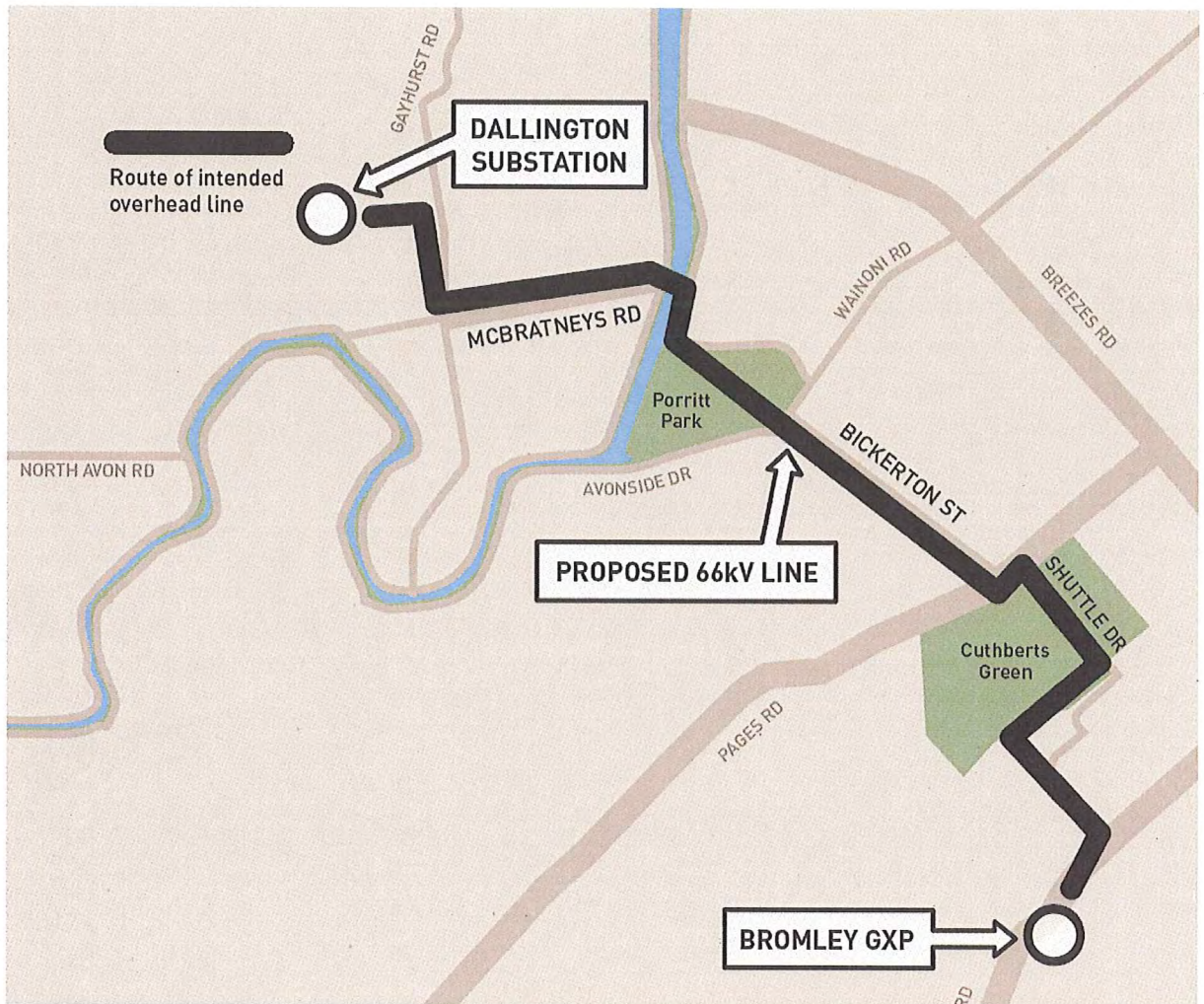
### Indicative location of temporary overhead lines



66kV line extension from Bromley to Orion's existing New Brighton substation - distance approximately 2.5 kilometres.



66kV temporary line extension from Orion's New Brighton substation in Pages Road to the new substation on Keyes Road – a distance of approximately 1.5 kilometres.



66kV temporary line extension from the Transpower Bromley substation to Orion's Dallington substation in Coopers Road/Strathfield Avenue – a distance of approximately 4.5 kilometres