



13 February 2026

Committee Secretariat  
Governance and Administration Committee  
Parliament Buildings  
Wellington

Dear Committee Members,

### **Emergency Management Bill (No.2)**

1. Thank you for this opportunity to make a submission on the Emergency Management Bill (No.2) (the *Bill*).

#### **Summary of Submission**

2. Orion supports the Bill and acknowledges the proposed improvements following the discontinuance of the Emergency Management Bill in 2023. However, we ask the Committee to make some clarifications and changes that will enhance this important piece of legislation. Our main points are:
  - Recasting the duty in clause 74(a) so that an **essential infrastructure provider (rather than the essential infrastructure itself)** is able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency:
  - Changing the clauses relating to sector response plans so that
    - i. sector response plans can only be prepared outside of a state of emergency or transition period:
    - ii. the obligation on essential infrastructure providers in clause 74(d) is softened so that it becomes a reasonable endeavours obligation:
    - iii. clause 105(2) no longer refers to duties:

- Access by an essential infrastructure provider to its essential infrastructure during an emergency is not impeded. We have suggested a new clause 130(5) to clarify this position:
- Amending clause 173(4)(b) so that information that is provided in accordance with a direction under clause 170 is also subject to the same protection as is advice that is provided under clause 74(f):
- Specifically excluding the compliance regime from applying to electricity distribution businesses (EDBs) in respect of legislative requirements under the Bill. EDBs are already highly regulated under the Commerce Act 1986, governed by the Electricity Industry Act 2010, and subject to separate compliance regimes under those Acts.
- If the compliance regime is retained for EDBs, the functions of the Director-General of Emergency Management in clause 14 are broadened to include a facilitation and capability function:
- Clause 212(c) is changed so that it is clear it only applies to those persons or bodies that have express reporting obligations under the Bill.

## **Background**

3. Orion New Zealand Limited (Orion) is responsible for the electricity distribution network across Central Canterbury, covering both rural and urban areas, including Christchurch. The network spans over 8,000 square kilometres, serving more than 229,000 homes and businesses, making Orion the third largest EDB in New Zealand.
4. Orion is a Lifeline Utility for the purposes of the Civil Defence Emergency Management Act 2002 (CDEMA). As you will be aware, Orion has a statutory duty under this legislation to ensure it is able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency. Orion is also a member of the Canterbury Lifeline Utility Group. The Group has been set up to assist the region in reducing its infrastructure vulnerability, improving resilience and encouraging utilities to participate in Canterbury CDEM Group activities. The Group is a non-statutory organisation, comprising territorial authorities and commercial utilities operating in the Canterbury region, research organisations and emergency services.

5. Orion is a community-owned company, with its main shareholders being the Christchurch City Council (via Christchurch City Holdings Ltd) and the Selwyn District Council. Orion also owns Connetics, an industry service provider, and together they form the Orion Group.
6. Central Canterbury is experiencing rapid growth and change, with Christchurch at its centre. Electricity distribution is fundamental to the wellbeing and economic prosperity of the region. Orion's services are crucial for both residents and businesses, and Orion is playing a key role in New Zealand's transition to a low carbon economy.
7. As we noted in our submission on the Emergency Management Bill in 2023, our community is increasingly dependent on our electricity distribution service, so it's essential we identify and manage our key risks. Our community especially depends on electricity during and after High Impact Low Probability (HILP) events such as major earthquakes or storms.
8. Orion is currently preparing an application to the Commerce Commission for a Customised Price Path.<sup>1</sup> We will make our application in June this year. A key component of our customised price path application will be investing more to strengthen the Orion network so it can better withstand severe weather and natural disasters. This will mean that we are able to restore power more quickly after a disruption.
9. Central Waitaha Canterbury faces a high seismic risk. While the Alpine Fault lies outside the Orion network area, it still poses a significant threat, with scientific research estimating a 75% chance of a magnitude 8 earthquake within the next 50 years. The potential also exists for significant aftershocks in our region. Climate change is also increasing the frequency and severity of extreme weather events such as windstorms, flooding, and wildfires, further raising the risk of network damage.
10. With that background in mind, we now set out our comments on the Bill.
11. We also support the submission of Electricity Networks Aotearoa on this Bill.

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<sup>1</sup> Like most electricity distributors in New Zealand, Orion is regulated by the Commerce Commission. The Commission determines the level of investment, the overall amount we can charge customers each year, and the minimum service quality we must provide. Two types of price quality path are available – a default price-quality path (default path) or a customised path.

## Essential infrastructure providers and duties

12. Orion notes the new definitions of essential infrastructure, essential infrastructure provider, essential service and infrastructure components in clause 7.
13. We also note there is the ability under clause 75 for the Governor-General, by way of Order in Council to amend Schedule 3, acting on a recommendation from the Minister. We are pleased to see that before the Minister makes such a recommendation, the Minister must
  - consider any potential negative implications, effects, or costs of recognising or removing recognition of the entity or entities, including for the entity or entities (clause 75(2)(b)(i)); and
  - have regard to the nature of the entity or entities that are proposed to be recognised or removed from recognition, take all practicable steps to consult the persons, or the representatives of the persons, that the Minister considers will be substantially affected by the recommendation (clause 75(3)(b)).
14. Clause 74 sets out the duties of essential infrastructure providers. There are some differences from current section 60 of the CDEMA. Whereas section 60(a) of the CDEMA currently provides that every **lifeline utility** must “ensure that it is able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency”, new clause 74(a) states that an essential infrastructure provider must “ensure that the **essential infrastructure** that it is responsible for providing is able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency:”. We note the focus has shifted from the entity to the infrastructure and this duty would seem to be of a higher standard than what is currently required under the CDEMA.
15. Furthermore, given the new definition of infrastructure components (which means assets, information, networks, systems, suppliers, people, and processes) which is the basis of the definition of “essential infrastructure”, our view is that this duty is going to be difficult to comply with. It is not clear to what extent the lines of responsibility will extend when an EDB has contractual relationships with respect to infrastructure components. It is not clear what costs an EDB will incur in order to meet this duty.

16. Our submission is that this clause should be amended so that an essential infrastructure provider (rather than the essential infrastructure itself) is able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency. This means that clause 74(a) should be amended as follows:

(a) ensure that ~~the essential infrastructure that it is responsible for providing it~~ is able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency:

17. There is a new duty in clause 74(d) to “contribute to developing sector response plans if required to do so by the Director-General:”. We discuss this in further detail in our submission at paragraph 22 onwards.

### **Sector Response Plans**

18. The Bill includes new provisions relating to sector response plans. Under clause 104, the Director-General may develop sector response plans if the Director-General is satisfied that it would be desirable for essential infrastructure providers from 1 or more classes of essential infrastructure providers to co-ordinate on the timely restoration of essential infrastructure in the event that an emergency causes a disruption of national significance to their provision of that essential infrastructure.

19. Orion supports the introduction of sector response plans and we anticipate that the preparation of these plans could draw on past work and experiences of the Lifeline Utility Groups.

20. We are pleased to see that the Director-General will consult with the essential infrastructure providers affected by the plan in accordance with clause 104(3) before approving any such plans.

21. However, we are keen to see that sector response plans are prepared outside of a state of emergency or transition period. Therefore, we would like to see a new clause inserted into the Bill that provides that the Director-General will not exercise this power during a state of emergency or during a transition period. As noted by Electricity Networks Aotearoa, it could be a significant distraction from the task of responding to the emergency itself to contribute to the development of a sector response plan at the same time.

22. Under clause 74(d), it is a duty for essential infrastructure providers to contribute to developing sector response plans if required to do so by the Director-General. Clause 104(2)(b) also provides that the Director-General may require the relevant essential infrastructure providers to contribute to the development of a sector response plan. (Although it is not a duty to comply with a sector response plan as such.) We suggest that the duty in clause 74(d) would benefit from softening so that it states, “***make all reasonable endeavours*** to contribute to developing sector response plans if required to do so by the Director-General:”. We would also like to see a corresponding amendment to clause 104(2)(a). We note that EDBs must comply with extensive resilience, continuity and asset management obligations under Commerce Commission and Electricity Authority requirements, and therefore we do not consider that it is necessary to create an additional separate duty in relation to the development of sector response plans.
23. Given that compliance with sector response plans is not mandatory because of the wording of clause 105(2), we ask that an amendment is made to clause 104(3) which refers to the consultation with “*any other person (or their representative) who would have responsibilities **or duties** under the plan.*” Technically no one will have duties under the plan and the words “or duties” should be deleted.
24. In terms of the content of the sector response plans, we note that clause 105(b) provides that a sector response plan may address “*default information sharing and co-ordination arrangements for the essential infrastructure providers.*” The mechanisms by which default information sharing will operate, as well as the corresponding safeguards under other provisions of the Bill, are not immediately clear. As we see it, because provisions in sector response plans will not impose legal obligations or carry legal protections, there will still be a need for confidentiality agreements between the parties which will need to be negotiated separately. These agreements will need to include assurances about how information is securely stored. This is because information shared by essential infrastructure providers may well be “commercial in confidence” or constitute sensitive information relating to specific security procedures or systems used by the essential infrastructure provider. Potentially it could also include personal information which will not be covered by section 24 of the Privacy Act 2020. We note that there is no protection for information provided in accordance with a sector response plan under clause 173.

## Access to Orion infrastructure during an emergency

25. Clause 130 of the Bill sets out various powers to close roads and public places. We note that the Regulatory Impact Statement (RIS) details that *“Under the CDEM Act (section 88), access to roads or public places can be restricted. The way the power available to restrict access is used has sometimes restricted the ability of lifeline utilities, marae, and other first responders to respond. The Inquiry found that some lifeline utility workers were repeatedly turned away from controlled access routes before finally being accredited, slowing their ability to restore power. This issue was exacerbated by delayed communication due to outages. Similar concerns were raised in select committee submissions on the discharged Emergency Management Bill.”*
26. The RIS went on to look at a number of options including option 4 which stated *“Clarify that access can be restricted to any class or group of persons (primary legislation)”*. The RIS notes that *“Under this option, the CDEM Act would explicitly enable those using the power to restrict access (section 88 of the Act) to any class or group of persons (or prevent access by any class or group of persons – for example, any organisation that has not been accredited by a CDEM Group). Option 4 clarifies, rather than extends, the current power in section 88 to restrict access to make it clear that access could be restricted to a class or group of persons. For example, those accredited by the CDEM Group and who have ID passes issued using the form set out in regulations. ...”*
27. The RIS recommended adopting option 4 (clarify that access can be restricted to any class or group of persons”) in conjunction with developing guidance and training on managing cordons and prescribing the form of identification passes through regulations.
28. Clause 130(3) provides a specified person<sup>2</sup> may prohibit or restrict the following from accessing a road or public place
- (a) persons, including 1 or more classes or groups of persons:
  - (b) vehicles, including 1 or more classes or groups of vehicles.

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<sup>2</sup> A specified person means the National Controller, a Regional Controller, a District Controller, a constable. See clause 121.

29. Clause 130(4) says that a prohibition or restriction under subsection (3) may be total or partial.
30. Although this draft successfully blocks or limits access to a road or public area, we don't believe it clearly allows for entry for specific groups, such as authorised Orion staff or authorised contractors to access Orion infrastructure. We suggest that this clause could be improved with an additional subclause as follows:

**(5) Any prohibition or restriction issued under subsection (3) may identify the classes or groups of persons or vehicles that are permitted to access the road or public place, provided that any such persons comply with any identification requirements as set out in the rules.**

31. This issue is of particular concern to Orion. We adhere to strict safety requirements for those wanting to access our network. Competencies and controls need to be in place to ensure the safety of those undertaking the work, our customers and the protection of our network assets. Consequently, Orion would not allow unauthorised persons to work on the Orion network.<sup>3</sup> However, we do need workable provisions in place during an emergency to allow for access for our authorised staff and contractors to our network.

#### **Information for emergency management**

32. The Bill includes provisions relating to the provision of information. We have discussed some of these provisions above (e.g. sector response plans).
33. As mentioned, clause 74(f) requires essential infrastructure providers to provide, free of charge, any technical advice to the Director-General or any Emergency Management Committee that is reasonably required by the Director-General or that Committee. Clause 74(g) requires essential infrastructure providers to ensure, so far as possible, that any information that is disclosed to the entity for the purposes of the Act is used by the entity, or disclosed to another person, only for the purposes of the Act.
34. Clause 170 also provides that certain designated persons may, by notice in writing, require **any person** to give them or it, during a state of emergency or a transition period, information that is,—

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<sup>3</sup> See <https://www.worksafe.govt.nz/topic-and-industry/electricity/>

- (a) in the opinion of the designated person or Committee requiring the information, reasonably necessary for them or it to obtain in order to carry out emergency management; and
- (b) in the possession of the person who is asked to give the information; and
- (c) capable of being provided without unreasonable difficulty or expense.

35. Clause 170 is broader than clause 74(f), and applies to **any person** which can include essential infrastructure providers. It applies to **information, which is also wider than “technical advice”**.

36. Clause 173 sets out restrictions on disclosure and use of information in relation to the person who receives the information. The clause applies whether or not the person who receives information is the person who required the information under the applicable section. This includes the information obtained as a result of the duty for an essential infrastructure provider to provide advice under clause 74(f), as well as a requirement to give information under clause 170. Having received the information the person may disclose or use that information only for the purposes of the Act. Under new subclause (4)(b), the person must not use advice provided under clause 74(f) to enforce obligations under this Act, regulations, or rules, other than the obligation in clause 74(f) itself.

37. While clause 173 places restrictions on those who receive information pursuant to the Act, it falls short in safeguarding essential infrastructure providers who must disclose information under section 170 during a state of emergency or a transition period, rather than under clause 74(f).<sup>4</sup> Information that is not technical advice could be used to enforce obligations under the Act, regulations, or rules. We do not consider this to be appropriate. Therefore, our submission is that clause 173(4)(b) is changed so that information that is provided in accordance with a direction under clause 170 is also subject to the same protection as is technical advice that is provided under clause 74(f). This means clause 173(4)(b) would read as follows:

*(b) \_\_\_\_\_ the person must not use advice provided under section 74(f) **or information provided under section 170** to enforce obligations under this Act, regulations, or rules, other than the*

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<sup>4</sup> We assume that disclosures in accordance with clause 74(f) will meet the requirements of section 24 of the Privacy Act 2020.

*obligation in section 74(f) or section 170, as the case may be itself.*

### **Compliance orders**

38. We note that the Bill introduces a new compliance mechanism, whereby the Director-General of Emergency Management will have the power to serve a compliance order on a person. (Refer clauses 174 to 178.) A compliance order may include requiring a person to do something that the Director-General believes, on reasonable grounds, will ensure compliance by the person, or on behalf of the person, with a legislative requirement. The definition of a legislative requirement is a requirement that is imposed under any of the Act, regulations, rules, the national emergency management plan, regional emergency management planning standards.
39. The compliance order provisions are similar to those contained in the Water Services Act 2021. We note that the definition of legislative requirement in the Water Services Act 2021 specifically excludes some requirements from its application. Orion's submission is that the Bill should also specifically exclude the legislative requirements in the Bill that apply to EDBs for the purpose of compliance orders. We say this because EDBs are highly regulated under the Commerce Act 1986 and governed by the Electricity Industry Act 2010. Distribution businesses are subject to high expectations regarding reliability, performance, and resilience — either through formal regulatory settings or through governance obligations. We are also subject to separate compliance regimes under those Acts. Duplication of compliance regimes have the potential to cause confusion and lead to increased costs for our customers.
40. Whether or not the compliance order regime is retained in relation to EDBs, we think the functions of the Director-General of Emergency Management should be extended so that Director-General facilitates and builds the capability of persons having responsibilities under the Act to meet their regulatory responsibilities. This is the approach of the Water Services legislation. Under the Water Services Authority – Taumata Arowai Act 2020, an education function goes hand in hand with the compliance function. The functions of Taumata Arowai include facilitation and training to support drinking water safety and regulation, as well as building and maintaining the capability of drinking water suppliers to fulfil their regulatory responsibilities. Therefore, we suggest that the functions of the Director-General in clause 14 of the Emergency Management Bill are broadened to include the following:

**“(fa) facilitate and build the capability of Emergency Management Committees and persons who have responsibilities under this Act, to fulfil their regulatory responsibilities:”**

## **Regulations and rules**

41. The Bill shifts some of the regulation-making powers from section 115 of the CDEMA to new clause 212. New clause 212(1)(b) provides the Minister may make rules prescribing technical and data standards, performance standards, operating practices, procedures, and systems, organisational arrangements, training and training requirements, and qualifications for the purposes of this Act. This provision expands the current regulation making power in section 115(1)(e) which covers technical standards, performance standards, operating procedures, training systems, and qualifications. While we are not opposed to expanding this rule-making provision, we would **not** want to see it being used for introducing levels of service requirements such as those that were proposed in 2023.<sup>5</sup> However, we are pleased to see that clause 213 requires the Minister to give public notice of a rules proposal and give interested persons reasonable time to make submissions on the proposed rule.
42. There is also a new requirement relating to reporting which allows the Minister to make rules *“prescribing reporting requirements for the purposes of this Act that are additional to the reporting requirements in this Act”*. It is not clear whether this provision extends the reporting requirements in the Bill to additional persons such as essential infrastructure providers, or alternatively whether it imposes additional requirements on persons who are already subject to reporting requirements in the Bill such as Emergency Management Committees, the National Controller, Regional Controllers, the National Recovery Manager, and Regional Recovery Managers.
43. Orion’s position is that the new rule making power in relation to reporting should only apply to those persons who have express reporting obligations under the Bill. The rule making power should not be used to expand reporting requirements to other persons. We note that EDBs already have substantial reporting and disclosure obligations under the Electricity Distribution Information Disclosure Determination 2012. The Determination provides that EDBs must provide details of risk

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<sup>5</sup> The PELOS proposal.

policies, assessment and mitigation in their Asset Management Plans including

- strategies used to identify areas of the network that are vulnerable to high impact low probability events and a description of the resilience of the network and asset management systems to such events; and
- details of emergency response and contingency plans.

44. Any double up of reporting is likely going to increase costs for EDBs which will ultimately be borne by customers.

#### **Concluding comments**

45. Thank you again for the opportunity to provide this submission. We would like to be heard in relation to this submission.

46. If you have any questions please contact Vivienne Wilson, Policy Lead, [Vivienne.wilson@oriongroup.co.nz](mailto:Vivienne.wilson@oriongroup.co.nz), (03) 363 9898.

Yours sincerely

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