
Authorisation A91227 & A91228: Alliance between Virgin Australia and Air New Zealand

Submission in support of application for
variation under conditions

Public register version – Restriction of publication claimed in relation to part

21 March 2012

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1 Introduction and Executive Summary

On 16 December 2010, the Australian Competition and Consumer Commission (**ACCC**) granted conditional authorisation for an alliance between Virgin Australia (formerly Virgin Blue) and Air New Zealand (the **Applicants**) in relation to air passenger services between Australia and New Zealand (the **Alliance**).

As a condition of authorisation, the Applicants are required each scheduling season to meet certain capacity conditions in relation to each nominated route and in relation to total Trans-Tasman capacity (the **Conditions**). The Conditions specify that the Applicants may apply to the ACCC for a variation of these obligations in "Exceptional Circumstances", as defined in Attachment A to the ACCC's Determination of 16 December 2010.

On 27 July 2011, the ACCC decided to vary the requirement on the Applicants to comply fully with the seat capacity obligations on trans-Tasman routes in condition 1(b) of authorisations A91227 & A91228 for the Northern Summer 2011 (1 April 2011 to 31 October 2011) and the Northern Winter 2011 (1 November 2011 to 31 March 2012) scheduling seasons as a result of the February 2011 earthquake in Christchurch, New Zealand.

In making that decision the ACCC found that:

- the February 2011 earthquake in Christchurch, New Zealand was a force majeure event which constituted "Exceptional Circumstances" under the Conditions;
- the significant reduction in demand for airline travel to and from Christchurch resulting from the earthquake provided a reasonable basis for allowing the variation to the compliance obligations of the Applicants as requested on 3 June 2011; and
- the variation did not materially alter the balance between public benefit and detriment identified in the ACCC's Determination of 16 December 2010.

The impact of the February 2011 Christchurch earthquake continues to result in depressed tourist numbers to Christchurch and to New Zealand's South Island. In particular:

- rebuilding is still in the very early stages and is unlikely to be substantially completed for several years;
- large areas of Christchurch, including former tourist attractions, are still closed to the public as demolition works continue; and
- a number of major aftershocks have hampered reconstruction and resulted in continued unease amongst locals and visitors.

As a result, the Applicants continue to experience a significant reduction in demand for trans-Tasman travel to and from Christchurch.

The Applicants anticipate that the Exceptional Circumstances of the February 2011 earthquake will continue to affect the demand for trans-Tasman services to Christchurch in the Northern Summer 2012 (**NS12**) and Northern Winter 2012 (**NW12**) scheduling seasons. This impact is compounded by the continued tremors and the series of high magnitude earthquakes that have hit Christchurch since the earthquake of 22 February 2011 which have hindered reconstruction efforts and deterred visitors from choosing Christchurch as a travel destination.

In response to the drop in passenger numbers experienced after the earthquake, the Applicants have continued to offer reduced fares across the trans-Tasman routes in order to stimulate demand and to maintain load factors. On the Christchurch routes, reduced fares have not significantly increased passenger numbers. Accordingly, the Applicants have not been able to redeploy capacity, withdrawn in 2011, on the routes to and from Christchurch. As demand has not improved, the Applicants are unable to return to 2010 capacity levels on Christchurch routes. Further, the Applicants consider that there may not be sufficient demand to redeploy any capacity withdrawn from the Christchurch routes onto other trans-Tasman routes.

Accordingly, the Applicants seek a variation to the seat capacity obligations in condition 1(b) for NS12 and NW12, as set out in section 5 below. This submission is made in support of that application for variation.

2 The continued effect of the Christchurch earthquake

2.1 Overview

The Conditions provide that the Applicants may apply to the ACCC for a variation of compliance with the Conditions in Exceptional Circumstances (clause 2(a)(i) of the Conditions). On 27 July 2011, the ACCC found that the Christchurch earthquake of 22 February 2011 was a force majeure event which constitutes Exceptional Circumstances as defined under the Conditions.

The basis for this request for variation of compliance with the Conditions is the significant reduction in demand for airline travel to and from Christchurch which has resulted from the Exceptional Circumstance of the February 2011 earthquake and is anticipated to continue throughout the Northern Summer 2012 and Northern Winter 2012 scheduling seasons.

2.2 Conditions in Christchurch

On 22 February 2011, an earthquake of magnitude 6.3 struck the centre of Christchurch, killing over 180 people and causing severe destruction of homes, businesses, iconic landmarks such as the Christchurch Cathedral, and essential infrastructure. The intensity and violence of the ground shaking involved was measured to be IX on the Mercalli intensity scale, among the strongest ever recorded globally in an urban area.¹ The earthquake resulted in the declaration of New Zealand's first National State of Emergency and caused the Christchurch CBD to be ruled off limits with the Army called in to patrol the red zone.

Following the earthquake of February 2011, Christchurch has continued to be plagued by aftershocks and a series of high magnitude earthquakes. For example:

- on 13 June 2011, aftershocks measuring 5.6 and 6.3 in magnitude hit the general location of Sumner Christchurch, causing further liquefaction and building damage;
- on 23 December 2011, earthquakes and aftershocks measuring 5.8 and 6 in magnitude, closed Christchurch Airport and caused power and water outages in New Brighton; and

¹ Andrea Fox "Building code no match for earthquake", *The Dominion Post*, 1 March 2011: <http://www.stuff.co.nz/dominion-post/news/4714748/Building-code-no-match-for-earthquake>.

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- on 2 January 2012, Christchurch was again rocked by earthquakes and aftershocks measuring 5, 4.2 and 5.5 in magnitude.

This continued seismic activity has delayed the rebuilding of Christchurch and resulted in further liquefaction, building damage, and power outages. A year later, the severe impact of the tragic events of 22 February 2011 is still being felt, keeping many businesses closed, affecting the daily lives of residents and discouraging visitors. The impact has been compounded and prolonged by the subsequent earthquakes and aftershocks in Christchurch delaying the rebuild and serving as a constant reminder of the risk of further damage. This has severely dampened the recovery of demand for travel to and from Christchurch.

2.3 Damage to buildings, services and infrastructure

The February 2011 earthquake and continuing aftershocks in Christchurch have caused severe damage to a substantial number of buildings, public infrastructure and essential services including damage to roads and disruptions to power and water supply. As an illustration, **Attachment A** provides land damage and geotechnical information specific to the Christchurch City Council area that was released to the public on 19 July 2011.²

Since the ACCC's decision to vary the Applicants' required compliance with the Conditions as a result of the February 2011 earthquake on 27 July 2011, the Canterbury Earthquake Recovery Authority (**CERA**) has listed further buildings for demolition, partial demolition and make-safe orders. In the period from 27 July 2011 to 7 February 2012, CERA listed a further 272 buildings for demolition, 131 for partial demolition and 34 for make-safe orders. As at 7 February 2012, the full demolitions list (available from the CERA website³) and attached at **Attachment B**, contains 874 buildings. Many of these buildings were of significant heritage value and many housed important businesses and tourist attractions.

While underground infrastructure is repaired and demolition of damaged buildings is completed, an area of the Christchurch central business district, known as the "red zone" still remains cordoned off from public access.

Cathedral Square, the geographical centre of Christchurch, is currently in the cordoned off area. Cathedral Square has a large number of buildings and statues that are registered as heritage items with the New Zealand Historic Places Trust and are tourist drawcards for the city.⁴ As noted by the Historic Places Trust in its submission to the Canterbury Earthquakes Royal Commission, of the 84 significant heritage buildings in central Christchurch: 31 have been demolished or approved for demolition; 6 partially demolished; 29 secured or made safe; 9 have, or are being, repaired; and 9 have the status of "future unknown".⁵ In particular, on 2 March 2012, it was announced that the Christ Church Cathedral, the heart of Christchurch's CBD and a prime tourist attraction, would be demolished rather than repaired.

There are also a significant number of hotels and backpacker premises that are also no longer operating in the CBD area.

² Available from the Canterbury Earthquake Recovery Authority website at: <http://cera.govt.nz/maps>.

³ See: <http://cera.govt.nz/demolitions/list>.

⁴ Keith Lynch, "More than 128 Christchurch buildings face demolition", *The Press*, 2 April 2011: <http://www.stuff.co.nz/the-press/news/christchurch-earthquake-2011/4838607/More-than-128-Christchurch-buildings-face-demolition>.

⁵ Chris Barton, "Christchurch legacy at risk as city crumbles", *The New Zealand Herald*, 14 January 2012, see: http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10778525.

flooding, damaged retaining walls and rock falls. Around half of all Christchurch’s streets and roads suffered some level of damage in the 22 February earthquake.

Permanent repairs to city roads will take some time as underground services, such as sewer, water and storm water pipes, need to be repaired first. In order to undertake repairs and carry out building demolitions, there continue to be some road closures and Christchurch City Council keeps an interactive map of road and bridge closures which is updated regularly.⁹

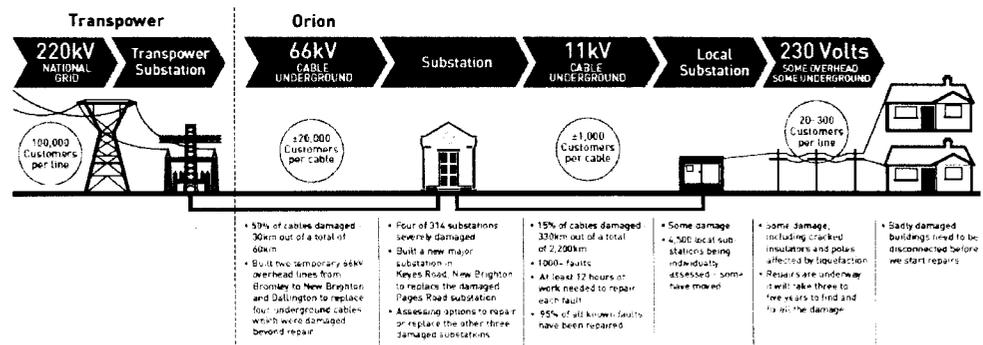
Due to the ongoing repair work on Christchurch roads some bus services continue to be affected by detours.¹⁰

Essential services also continue to be affected. Orion New Zealand Limited, which owns and operates one of the largest electricity distribution networks in New Zealand, notes that recovery work is still occurring anticipating that it will take three to five years to fully restore their electricity network. During the February earthquake, earth movement stretched some underground power cables up to a metre and caused more faults than would usually be seen in a decade. The 5.7 and 6.1 magnitude earthquakes on 13 June 2011 caused further cable damage. The diagram below shows the combined impact on Christchurch’s electricity network of the three major earthquakes on 4 September 2010, 22 February 2011 and 13 June 2011.

Figure 2 – Effect of earthquake activity on the electricity network

Overview of damage to the electricity network since the February earthquake

Updated 31 August 2011



Damage from the earthquakes and numerous aftershocks continues to cause occasional loss of power.¹¹

More than 80 percent of Christchurch’s water and sewerage systems were severely damaged by the devastating earthquakes in September 2010 and February 2011 and this damage will take some time to repair.¹²

⁹ See: <http://www.ccc.govt.nz/homeliving/civildefence/chchequake/roads.aspx>.

¹⁰ See: <http://www.metroinfo.co.nz/limited-services.html>.

¹¹ See also: <http://www.oriongroup.co.nz/Default/Earthquake-recovery-work.aspx>.

The recurring aftershocks in Christchurch and in the Canterbury region more generally, have prolonged recovery efforts, made them more uncertain and contributed to the uneasiness of residents, adding to the perception for potential visitors that Christchurch is unsafe.¹³

(a) Economic impact

The Canterbury region accounts for around 15 percent of New Zealand's Gross Domestic Product (GDP). New Zealand Prime Minister, John Key, has estimated the February 2011 earthquake reconstruction could cost over \$13 billion, in addition to the estimated reconstruction costs of \$6-\$7 billion from the September 2010 earthquake. In the context of New Zealand's GDP of approximately \$200 billion, this represents a huge financial commitment.

In this regard, the Reserve Bank Governor of New Zealand, Alan Bollard, said *"The earthquake has caused substantial damage to property and buildings, and immense disruption to business activity. While it is difficult to know exactly how large or long-lasting these effects will be, it is clear that economic activity, most certainly in Christchurch but also nationwide, will be negatively impacted. Business and consumer confidence has almost certainly deteriorated."*

In a speech to the Canterbury Employers Chamber of Commerce on 27 January 2012, Governor Alan Bollard said the bank expected a gradual lift in activity over 2012, including demolition and repairs to housing and infrastructure, but that it would be next year before reconstruction got under way in earnest. By 2014 and 2015 it will be boosting economic activity by more than 1.5 percent a year, the bank forecasts.¹⁴

The ongoing impact of the earthquake can also be seen in the different consumer confidence results for the Canterbury region and the rest of New Zealand. For example, according to the ANZ-Roy Morgan New Zealand Consumer Confidence measure the Canterbury region recorded the lowest level of confidence out of the regions and the largest fall in confidence for February 2012.¹⁵

We note that since the February 2011 earthquake in Christchurch, New Zealand has had a net loss in migrants in all months except August 2011.¹⁶

(b) Tourism impact

Perception of Christchurch as unsafe

The series of high magnitude earthquakes and continued aftershocks in the Canterbury region, and Christchurch in particular, has caused significant damage to tourist infrastructure. There have been significant losses of accommodation capacity, combined with severe damage to its key attraction, the heritage value of the Christchurch CBD. This, together with a lack of consumer confidence and a perception that Christchurch is unsafe has resulted in a severe reduction in tourist numbers.

¹² See: <http://www.aprs.com.au/australian-water-management-news/water-infrastructure-group-pitches-in-with-the-christchurch-earthquake-recovery>.

¹³ For more information on aftershocks, see: <http://www.geonet.org.nz/canterbury-quakes/>.

¹⁴ Brian Fallow, "Aftershocks will delay Christchurch rebuild: Bollard", *The New Zealand Herald*, 28 January 2012., see: http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=10781658.

¹⁵ ANZ Research, "ANZ-Roy Morgan NZ Consumer confidence a better underlying tone but early days", February 2012.

¹⁶ Statistics New Zealand, International Travel and Migration: December 2011, released 3 February 2012, at page 5.

In the immediate aftermath of the February 2011 earthquake, governments around the world issued travel warnings against all non-essential travel to Christchurch. For around a month following the earthquake, Tourism New Zealand, the Australian Government and the US Government were among those who advised against travel to the city.

With the uncertain and continued aftershocks travel warnings are still in place. For example, the Australian Government Department of Foreign Affairs and Trade warns travellers to exercise a high degree of caution if travelling to the Christchurch and Lyttleton areas, saying:¹⁷

- *Australians in Christchurch and Lyttleton should exercise a high degree of caution because of damage to buildings, public infrastructure, and essential services caused by the earthquake that affected the area on 22 February 2011. While damage is concentrated in the CBD, eastern and seaside suburbs of Christchurch, isolated pockets of serious damage to buildings are present in other parts of the city.*
 - *Aftershocks are continuing and may damage infrastructure such as roads, bridges and power and water supply. On 23 December 2011, there was a series of strong aftershocks in the vicinity of Christchurch, measuring up to magnitude 6.0 on the Richter Scale.*
 - *Strict cordon restrictions have been imposed by the authorities in central Christchurch – see the Canterbury Earthquake Recovery Authority for updates on the cordon zones. Any unauthorised person within the cordon area risks being arrested. You should follow the instructions and advice of local authorities.*
 - *Australians should not enter or approach any damaged buildings and should observe security barriers in place around them, due to the risk of building collapse.*
- *Christchurch City Council advises that tap water delivered through council pipework is safe to drink without boiling. However, until further notice you should boil or treat all water from wells and tankers before drinking, brushing teeth or using to prepare food (including baby formula).*

Such warnings and the uncertainty surrounded by continued aftershocks have the effect of making trans-Tasman travel to Christchurch unappealing for some travellers.

Reduction in visitor numbers

Passenger card data shows that the percentage of international visitors that went through customs at Christchurch airport decreased by 18.6 percent from the year ended December 2010 to the year ended December 2011. Further, there was a 24.8 percent decrease in visitors from Australia disembarking at Christchurch over the same time period.¹⁸

¹⁷ See: http://www.smarttraveller.gov.au/zw-cgi/view/Advice/New_Zealand (as at 13 March 2012). This advice as last issued on 5 January 2012.

¹⁸ Statistics New Zealand, International Visitor Arrivals to New Zealand: December 2011 – Overseas visitor arrivals to New Zealand by country of residence and selected characteristics, tables 6 and 8.

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As noted above, many of the buildings destroyed or damaged by the earthquake were key tourist sites. A year has passed since the earthquake and some of the visitor attractions and activities in Christchurch remain closed. Activities and attractions in the very centre of the city and on the Port Hills to the east of the city are still not operating. For example, there is no access to buildings and activities in Cathedral Square. Other key tourism attractions that are not currently operating include the Mt Cavendish Gondola, the Tram, the Christchurch Art Gallery and the Christchurch Arts Centre.¹⁹

The media release accompanying Statistics New Zealand's Accommodation Survey for December 2011 on 10 February 2012 notes that the number of international visitors to the South Island continues to be lower month on month since the Canterbury earthquakes began in September 2010.²⁰

Figure 3 below illustrates the reduction in visitor numbers in December 2011, compared with December 2010, for total guests and for international guests.

Figure 3 – Reduction of guest nights in December 2011, compared with December 2010

Canterbury	-14.1%	-29%
South Island	-2.0%	-10%
North Island	3.9%	6.2%
Total New Zealand	1.4%	-2.3%

Availability of accommodation

The Accommodation Survey for December 2011 by Statistics New Zealand attributes the severe reduction in visitor nights in Canterbury and the South Island to the effects of the Canterbury earthquakes. It also notes that accommodation capacity is down in Canterbury, particularly for hotels and backpacker accommodation, much of which was in the historical centre of Christchurch.

For the year ended December 2011, total available accommodation capacity was 50.7 million stay unit nights. This number is down 2.3 percent from the year ended December 2010, and down 1.2 percent from the year ended December 2009. The decrease in capacity was primarily due to the Canterbury earthquakes, particularly the 22 February 2011 quake, which put numerous hotel and backpacker establishments out of operation.²¹ As a result of the February 2011 earthquake, the total number of available Christchurch guest rooms has reduced from 15,000 to 9,000.²²

¹⁹ See: <http://www.christchurchnz.com/plan-your-visit/earthquake-update.aspx> as at 21 February 2012.

²⁰ Geoff Bascand, Accommodation Survey: December 2011 – Media Release, 10 February 2012 available at: http://www.stats.govt.nz/browse_for_stats/industry_sectors/accommodation/AccommodationSurvey_MRDec11.aspx.

²¹ Statistics New Zealand, Accommodation Survey: December 2011 released 10 February 2012.

²² Anne Majumdar, "One year on – Christchurch recovery is powering ahead", *Travel Today*, 22 February 2012.

This under-supply of hotel rooms means that tourists will be even less likely to travel to Christchurch. At the same time, the decision by some operators not to re-open reflects the drop in demand for tourism.

Air New Zealand and Virgin Australia anticipate that the reduction in tourism demand will at least continue through to the end of the 2012 scheduling seasons. It will be a significant period of time before Christchurch is again a popular destination for trans-Tasman travel.

The effect of the earthquake on passenger demand for trans-Tasman services to and from Christchurch and for total trans-Tasman services is discussed in more detail below.

3 Effect on demand for Trans-Tasman services

3.1 Demand for services to and from Christchurch

Demand has dropped significantly for trans-Tasman services to and from Christchurch since the Exceptional Circumstances of the February 2011 earthquake and subsequent aftershocks. The Applicants expect the negative impact of the earthquake on demand for air travel to and from Christchurch to continue throughout the 2012 scheduling seasons.

Figure 4 below sets out comparative capacity, passenger numbers, average fares and load factors on trans-Tasman routes to and from Christchurch from NS09 to NW12.

Figure 4 – Capacity, passengers, average fares and load factors on Christchurch routes from NS09 to NW12 for the Alliance²³

	NS09	NS10	NS11	NS12**
	[restriction of publication claimed]			
	[restriction of publication claimed]			
	[restriction of publication claimed]			
	[restriction of publication claimed]			
	[restriction of publication claimed]			
	NW09	NW10	NW11*	NW12**
	[restriction of publication claimed]			
	[restriction of publication claimed]			
	[restriction of publication claimed]			
	[restriction of publication claimed]			
	[restriction of publication claimed]			

* - Actual figures were used from November 2011 to January 2011 and forecasts were used for February 2012 to March 2012

** - Forecast figures

As discussed further below, since the earthquake the Applicants have reduced fares to and from Christchurch and conducted several promotional sales in an attempt to stimulate demand.

However, as shown in Figure 4 above, even after taking into account these promotional fares (including a reduction in average fares of [restriction of publication claimed] in NS11 compared to NS10), actual passenger numbers decreased by [restriction of publication claimed] in NS11 compared with NS10. Similarly, passenger numbers for NW11 (using actuals for November 2011 to January 2011 and forecasts for February 2012 and March 2012) were [restriction of publication claimed] lower than in NW10

²³ Figure 4 uses actual capacity, passenger numbers, average fares and load factors for the completed NS09 to NS11 scheduling seasons.

For February to March 2012 of NW11, forecasts of passenger numbers and average fares were used. The capacity figure used is the Applicants' actual selling capacity for NW11. The earned revenue figure was based on 2012 forward revenue. It is equivalent to multiplying the average fare for NW11 by the number of passengers. The NW11 load factor was determined by dividing passengers by capacity.

For NS12 and NW12, forecasts were used for passenger numbers, and average fares. The capacity figures used are based on the Trans-Tasman Base Year Alliance Seat Capacity for each scheduling season and the capacity flow on Christchurch routes in the Base Year as required under the Conditions. The Base Year capacity numbers were derived with reference to the actual seat capacity of the Applicants for 1 November 2009 to 31 October 2010 (or NW09 to NS10) on Christchurch routes adjusted for changes in seat configuration as if they applied for the whole of the Base Year (see Schedule A, Determination).

The earned revenue figures for each 2012 scheduling season are the sum of each months earned revenue figures which are derived from multiplying the monthly average fares by the monthly passenger numbers. This explains the slight difference in the average fare for the NS11 and NS12 seasons despite the use of the same monthly average fares. The load factors were determined by dividing passengers by capacity.

The methodology used for calculating the forecast passenger numbers and average fares for NW11, NS12 and NW12 is explained in section 3.2 below.

despite an [restriction of publication claimed] reduction in the average fare over the same period.

3.2 How forecast passenger numbers and average fares were calculated

The forecast passenger numbers and average fares for the NW11, NS12 and NW12 scheduling seasons were calculated at an alliance level based on current forward bookings, forward revenues and assumptions about the rate of growth in fare levels and the rate or profile of bookings in the relevant scheduling seasons.

(a) Passenger numbers

The passenger number forecasts for February and March 2012 of the NW11 scheduling season and for April 2012 to the end of June 2012 of NS12 were based on the bookings that the Applicants have already received for those months (as at 19 February 2012) and last year's post earthquake bookings.

The methodology for the forecast passenger numbers is based on the Applicants' analysis that the bookings for 2012 will be at a similar rate to the 2011 post earthquake bookings. To calculate the forecast figures for February 2012 to June 2012, each month's forward bookings (as at 19 February 2012) were added to the final bookings for 2011 (minus bookings up to 20 February 2011). The percentage difference between the calculated numbers and the 2011 final passenger numbers for each month was then applied to the 2011 final passenger numbers to generate the forecast passenger numbers for February 2012 to June 2012.

The Applicants anticipate that passenger demand for July 2012 to March 2013 will not improve on 2011 levels. [restriction of publication claimed].

(b) Average fares

The forecast average fares for February 2012 and March 2012 were calculated in a similar way to the forecast passenger numbers for the February and March 2012 based on the 2012 forward revenue received. The percentage difference between the calculated numbers and the 2011 fares for each month was then applied to the 2011 numbers to generate the forecast average fares.

For the NS12 and NW12 scheduling seasons (April 2012 to March 2013) [restriction of publication claimed]. The average fare for each scheduling season was then calculated. The average fares and earned revenue figures for NS11 and NS12 [restriction of publication claimed].²⁴

At the time these numbers were calculated, forward bookings for Christchurch between April 2012 and June 2012 were down [restriction of publication claimed]. However, based on the above methodology, the Applicants consider that passenger numbers will be down [restriction of publication claimed] on 2011, [restriction of publication claimed].²⁵

²⁴ See also footnote 23 of this submission.

²⁵ Based on Alliance estimates and forward bookings.

3.3 Impact on total trans-Tasman demand

Services to and from Christchurch comprise approximately 20 percent of the Applicants' total trans-Tasman capacity. As such, a large reduction in demand for Christchurch services has a significant impact on total trans-Tasman passenger numbers.

The information provided at **Attachment C** compares the forecast capacity, passenger and revenue figures for NS12 and NW12 against Base Year capacity numbers, and the actual passenger numbers and revenue for 1 November 2009 to 31 October 2010 (or NW09 to NS10) on Christchurch routes, non-Christchurch routes and for trans-Tasman routes as a whole.²⁶

Attachment C shows that, compared to the actual passenger numbers between 1 November 2009 and 31 October 2010, (the period the Base Year is referable to), passengers on Christchurch routes for NS12 are expected to be [restriction of publication claimed] lower and [restriction of publication claimed] lower for NW12, despite average fares NS12 and NW12 being [restriction of publication claimed] and [restriction of publication claimed] lower over the same period of comparison.

[restriction of publication claimed].

4 Applicants' response to excess capacity on Christchurch services

4.1 Applicants' response to drop in demand to date

As noted above, since the earthquake the Applicants have attempted to stimulate demand through trans-Tasman sale activity and Christchurch specific sale activity and promotions. Both Applicants have had numerous sales for Christchurch routes. For example, Figure 5 below highlights some of the Alliance's Christchurch sales activity over the last few months.

²⁶

The methodologies for the forecast figures in Attachment C for non-Christchurch routes are consistent with those used for the forecast figures in Figure 4 above. Capacity figures are based on actual selling capacity for February 2012 and March 2012 and current selling capacity for April 2012 to the end of October 2012. The Applicants have assumed a year on year increase of [restriction of publication claimed] in capacity for the non-Christchurch routes for November 2012 to March 2012. Passenger number forecasts were made as per the methodology used for the Christchurch routes in Figure 4 for travel between February 2012 and June 2012. For travel between July 2012 and March 2013, forecast passenger numbers were based on the percentage change in capacity (eg, where capacity was forecast to increase [restriction of publication claimed] that percentage increase was applied to forecast passenger numbers). The average fares were forecast in a similar manner to those in Figure 4 (ie, based on 2012 forward revenue and an assumption of [restriction of publication claimed]). However, the October average fare was [restriction of publication claimed] to account for the higher bookings received in October 2011 due to the Rugby World Cup.

Figure 5 – Sample Christchurch promotional airfares

NZ	48 hour sale	25-26 July 2011	CHC-BNE/MEL/OOL/SYD	\$129
NZ	24 hour sale	12 October 2011	CHC-BNE/MEL/OOL/SYD	\$139
NZ	48 hour sale	14-15 November 2011	CHC-BNE/MEL/OOL/SYD	\$149
NZ	48 hour sale	13-14 February 2012	CHC-BNE/MEL/OOL/SYD	\$139
AU	Alliance Launch	11-13 July 2011	BNE/MEL/OOL/SYD-CHC	\$129
AU	48 hour sale	3-4 August 2011	BNE/MEL/OOL/SYD-CHC	\$139
AU	24 hour sale	14 September 2011	BNE/MEL/OOL/SYD-CHC	\$139
AU	48 hour sale	20-21 February 2012	BNE/MEL/OOL/SYD-CHC	\$139

The Applicants have also engaged in promotion of Christchurch flights and Christchurch as a tourism destination, including by working with tourism bodies.

4.2 Proposed reductions in capacity

As a consequence, the Applicants consider that they are unable to significantly redeploy Christchurch capacity which was withdrawn in 2011.

Attachment D shows the reductions to the Base Year capacity required to achieve a load factor of at least [restriction of publication claimed] percent based on the Applicants' forecast passenger numbers for Christchurch routes. The first table shows actual passenger numbers and revenue for the period 1 November 2009 to 31 October 2010 and the Base Year capacity (as a proxy of these parameters if no earthquake occurred). The second table shows forecast passenger numbers and revenue (post-earthquake) against Base Year Capacity. The third table shows the load factors implied by the passenger forecasts if the Base Year capacity was flown. The last table shows the capacity figures required to achieve a load factor of at least [restriction of publication claimed] percent given forecast passenger and revenue numbers.

As a result of the continuing impact of the earthquake, the Applicants propose to reduce capacity (as against the Base Year) as follows:

(a) Northern Summer 2012

For NS12, to allow for a load factor of at least [restriction of publication claimed] percent based on forecast passenger numbers the Alliance proposes to reduce capacity on Christchurch routes by 20.8 percent from the Base year.

The proposed reduction equates to a 4.2 percent reduction in total Trans Tasman Base Year Alliance capacity for the northern summer scheduling season.

(b) Northern Winter 2012

For NW12, to allow for a load factor of at least [restriction of publication claimed] percent based on forecast passenger numbers the Alliance proposes to reduce capacity on Christchurch routes by 19.2 percent from the Base year.

The proposed reduction equates to a 4.2 percent reduction in total Trans Tasman Base Year Alliance capacity for the northern winter scheduling season.

The slightly higher total Trans Tasman capacity relief for NS12 compared to that requested for NS11 (4.2 percent versus 3.0 percent) reflects the difference in the timing of the request for variation, that is, the point in the scheduling season at which the request for variation was made. The NS12 season starts on 1 April 2012 and runs through to the end of October 2012. Typically, passengers book trans-Tasman travel 2-3 months in advance of the travel date. Therefore, the ability for the Alliance to influence capacity levels in the months of April and May are now fairly limited, however the Alliance can still vary capacity beyond this period. This is a different situation to the last application where at the time of the last submission (3 June 2011) April and May had already passed and the Alliance had limited ability to introduce capacity reductions, restricted only to September and October of the NS11 season.

5 Application for variation of compliance with conditions

5.1 Overview

In the light of the above information, the Applicants apply for variation of compliance with the conditions. The Applicants request that the requirement that the Applicants must fly in respect of each Scheduling Season not less than 100 percent of the Trans-Tasman Base Year Seat Capacity (1)(b) be varied to reflect the continued drop in demand on the services to and from Christchurch, as described in sections 5.2, 5.3 and 5.4 below. No routes to and from Christchurch are Nominated Routes for the purposes of the Conditions.

5.2 Variation of compliance for Northern Summer 2012

The Applicants apply for the following variation of compliance for NS12 obligations:

Figure 6 – Northern Summer 2012: Variation of Alliance Seat Capacity

Trans Tasman Base Year Alliance Seat Capacity	2,360,250
Alliance Base Year Capacity – Christchurch routes	481,129
Total proposed reduction	100,041
Total proposed reduction (as % of Christchurch Base Year capacity)	20.8%
Total % of Trans Tasman Base Year Alliance Seat Capacity	4.2%
Varied Trans Tasman Base Year Alliance Seat Capacity	2,260,209

5.3 Variation of compliance for Northern Winter 2012

Figure 7 – Northern Winter 2012: Variation of Alliance Seat Capacity

Trans Tasman Base Year Alliance Seat Capacity	1,725,205
Alliance Base Year Capacity – Christchurch routes	377,085
Total proposed reduction	72,470
Total proposed reduction (as % of Christchurch Base Year capacity)	19.2%
Total % of Trans Tasman Base Year Alliance Seat Capacity	4.2%
Varied Trans Tasman Base Year Alliance Seat Capacity	1,652,735

If demand conditions materially improve between the grant of variation and the commencement of the Northern Winter 2012 schedule, the Applicants will have the incentive to deploy further capacity onto the trans-Tasman to match demand.

5.4 Summary of requested variation of compliance

The Applicants apply for the following variation of compliance with their obligations under the Conditions:

Figure 8 – Requested variation

	NS12	NW12
Trans Tasman Base Year Alliance Seat Capacity	2,360,250	1,725,205
Total proposed reduction	100,041	72,470
Total % of Trans Tasman Base Year Alliance Seat Capacity	4.2%	4.2%
Varied Trans Tasman Base Year Alliance Seat Capacity	2,260,209	1,652,735

5.5 Remainder of term

The Applicants will continue to monitor the effects of the earthquake on demand. In the absence of any further request for variation, in subsequent seasons the Applicants will comply with the requirement to fly not less than 100 percent of the Trans-Tasman Base Year Alliance Seat Capacity, as specified in the Conditions of authorisation.

5.6 Urgency of request

The Applicants understand that the ACCC may wish to consult interested parties in relation to this request.

The Applicants request that the ACCC consider this request as quickly as possible. The Northern Summer 2012 schedule commences in April 2012 and planning for the season

has already been completed. While there are few forward bookings for Christchurch routes, the Applicants wish to minimise any disruptions to those passengers who have booked services.

6 Variation of compliance would not change the balance between benefit and detriment

On 27 July 2011, the ACCC found that the requested variation resulting from the February 2011 Christchurch earthquake did not materially alter the balance between public benefit and detriment identified in the ACCC's Determination of 16 December 2010.

This request for variation simply extends the application of reduced capacity obligations in line with the continued reduction in demand as a result of the earthquakes and aftershocks suffered by Christchurch. The slightly higher total Trans Tasman capacity relief for NS12 compared to that requested for NS11 (4.2 percent versus 3.0 percent) reflects the difference in the timing of the request for variation.

Accordingly, this request for a variation of compliance as a result of the Exceptional Circumstance of a series of earthquakes to apply to NS12 and NW12 does not change the balance between benefit and detriment found by the ACCC in its Determination.

The ACCC found no competition concerns in relation to the Christchurch routes or to the trans-Tasman generally. Rather, it concluded that there was sufficient competition on these routes to constrain the Alliance and that the Alliance would not have the ability or incentive to withdraw capacity in order to raise fares on these routes.²⁷ This is reflected in the fact that no Christchurch route is included as a Nominated Route for the purposes of the Conditions. This competitive environment will not be changed by the requested variations.

The Christchurch earthquake of 22 February 2011 clearly constitutes an Exceptional Circumstance under the Conditions and the ACCC found this to be the case in its variation decision of 27 July 2011. The variation process under the Conditions was designed to provide the Alliance with some flexibility to address demand conditions in the event of situations like this. The requested variations are consistent with the purpose of the Conditions and are proportional to the severity of the circumstances in Christchurch which are expected to continue at least throughout Northern Summer 2012 and Northern Winter 2012.

²⁷ ACCC, Determination: Applications for authorisation lodged by Virgin Blue Airlines Pty Ltd and Others in respect of an airline alliance between the Applicants, 16 December 2010, pp 74-80, 86-92.

**Attachment A Christchurch City Council area land damage
information released to the public on 19 July 2011.**

Attachment B CERA Demolitions list

Attachment C Effect of earthquake on passenger demand

[Restriction of publication claimed]

Attachment D Proposed capacity withdrawal

[Restriction of publication claimed]

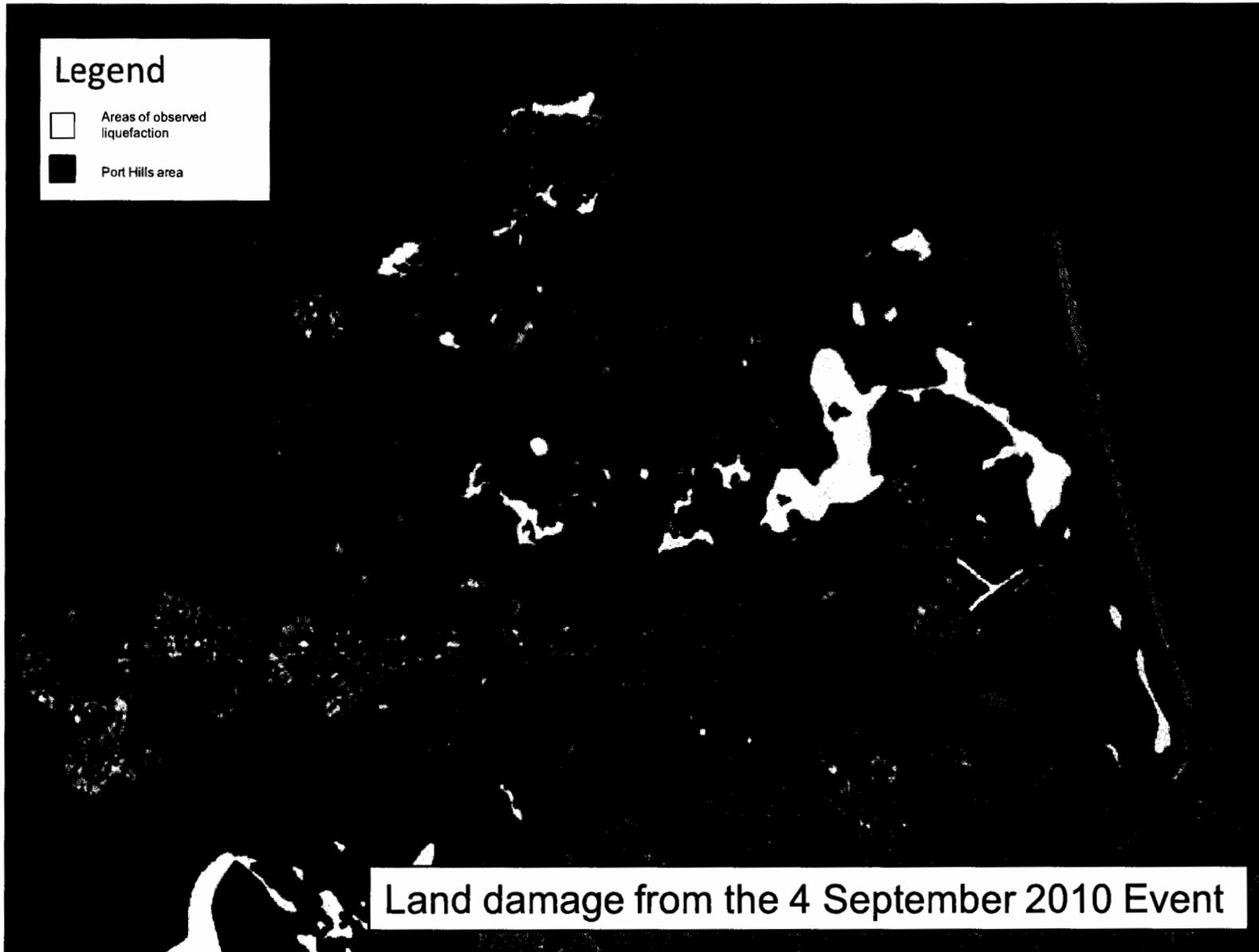




Observed Liquefaction Overview Map

Legend

-  Areas of observed liquefaction
-  Port Hills area

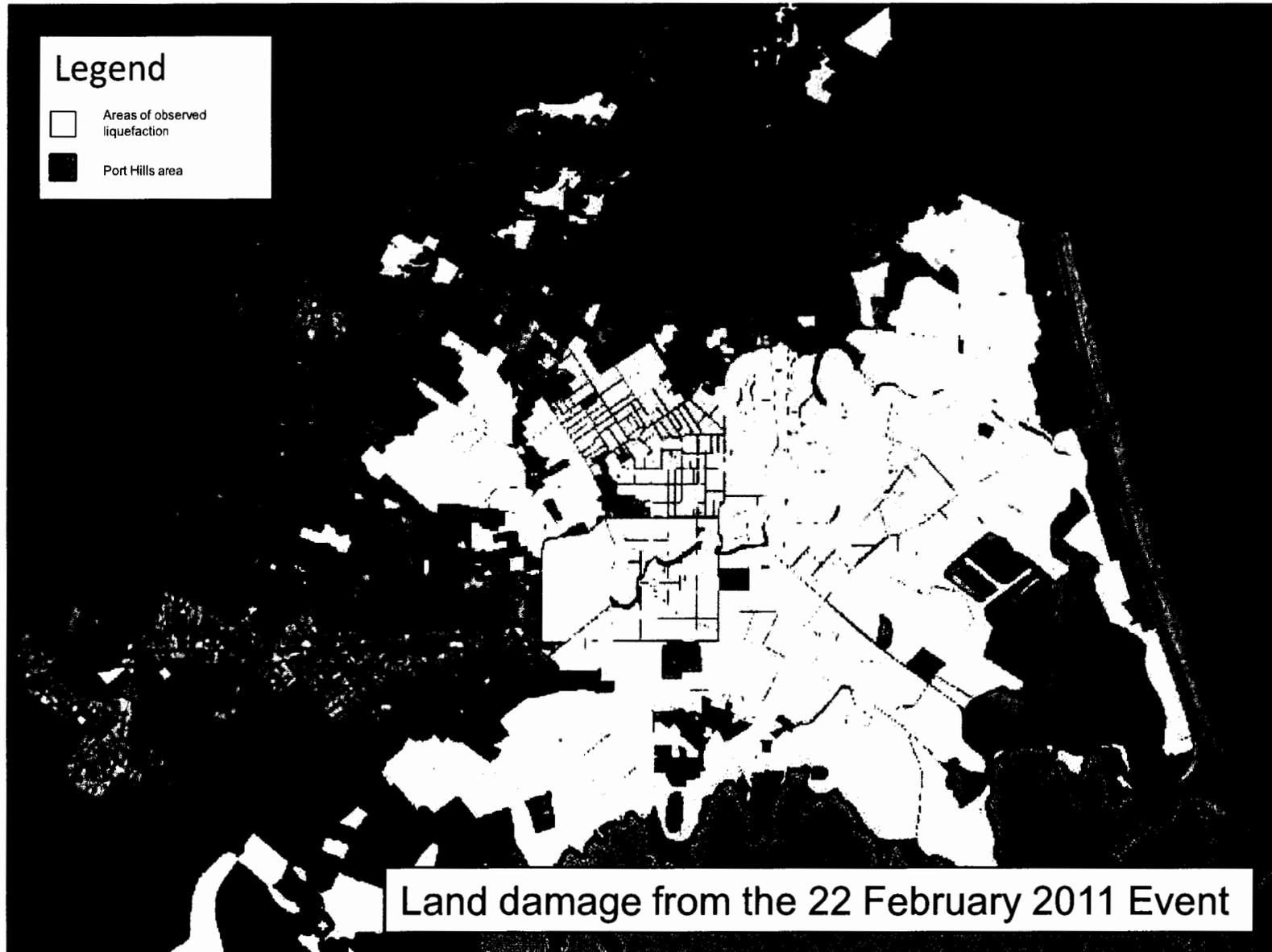


Low-resolution aerial photos sourced from Google Earth (Copyright: 2009).





Observed Liquefaction Overview Map



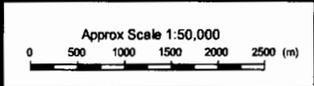
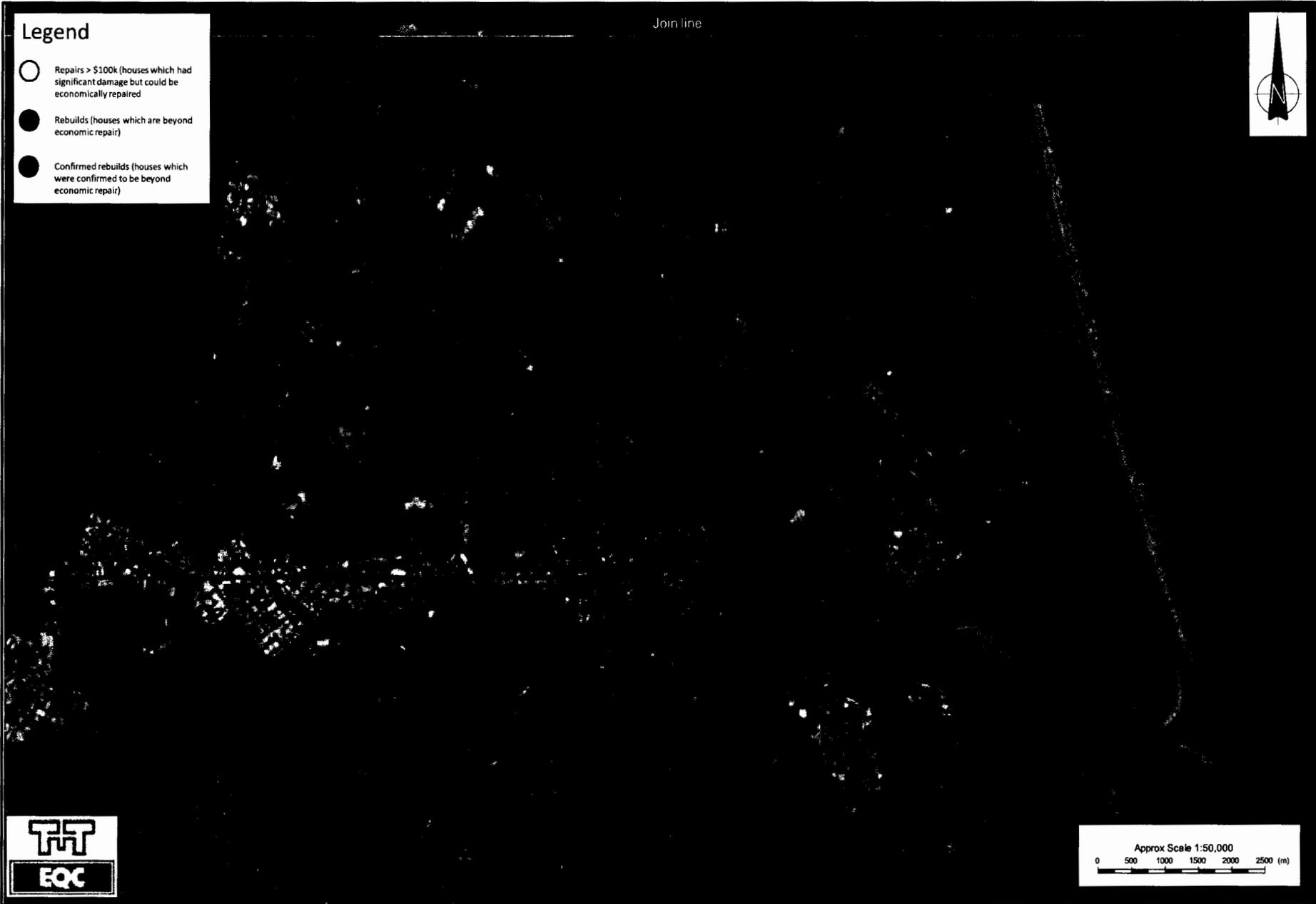
Low-resolution aerial photos sourced from Google Earth (Copyright: 2009).



Legend

-  Repairs > \$100k (houses which had significant damage but could be economically repaired)
-  Rebuilds (houses which are beyond economic repair)
-  Confirmed rebuilds (houses which were confirmed to be beyond economic repair)

Join line



Notes:

Low-resolution aerial photos sourced from Google Earth (Copyright: 2009).
 High-resolution aeriels provided by New Zealand Aerial Mapping (February 2011)
 Property boundaries provided by Christchurch City Council
 Building damage based on data provided by AMI, Ansvar, EQC, FMG, Housing New Zealand, IAG, Lumley, MAS, Tower and Vero



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APPROVED	
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APPROX. SCALE (AT A3 SIZE)	NTS
PROJECT No.	

CERA
 CANTERBURY EARTHQUAKE RECOVERY
 Aggregated Building Damage Map
 Building Damage After 4 September 2010

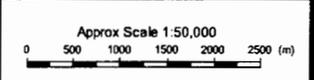
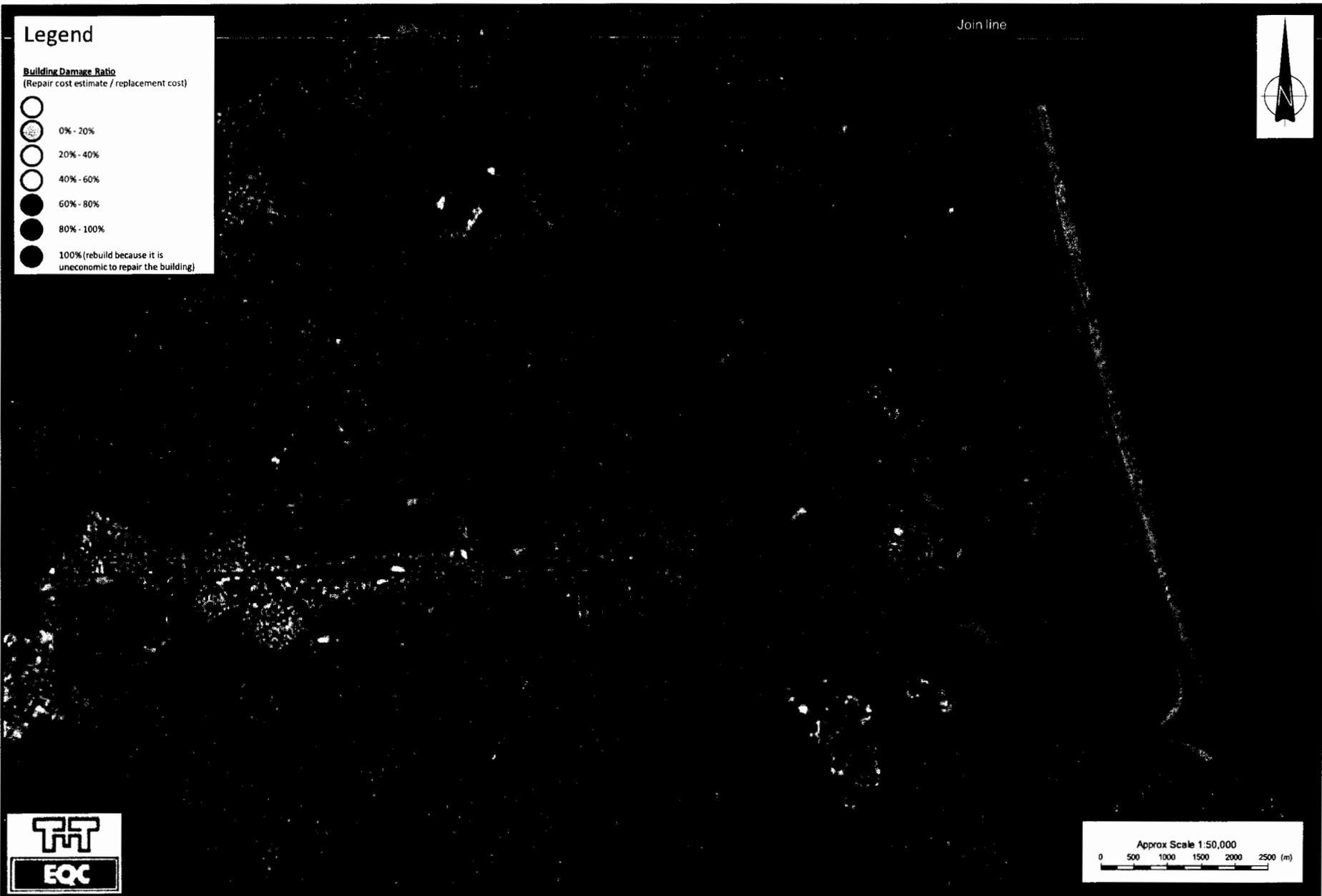
FIG. No.

REV 0

Legend

- Building Damage Ratio**
(Repair cost estimate / replacement cost)
- 0% - 20%
 - 20% - 40%
 - 40% - 60%
 - 60% - 80%
 - 80% - 100%
 - 100% (rebuild because it is uneconomic to repair the building)

Join line



Notes:
 Low-resolution aerial photos sourced from Google Earth (Copyright: 2009).
 High-resolution aerials provided by New Zealand Aerial Mapping (February 2011)
 Property boundaries provided by Christchurch City Council
 Building damage based on data provided by AMI, Ansva, EQC, FMG, Housing New Zealand, IAG, Lumley, MAS, Tower and Vero



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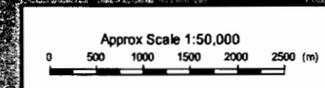
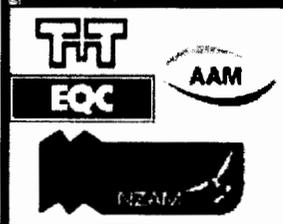
CERA	
CANTERBURY EARTHQUAKE RECOVERY	
Aggregated Building Damage Map	
Aggregated Building Damage After 22 February 2011	
FIG. No.:	REV 0

Height Difference (2003 to 2011)

- -1.5 to -1.0m
- -1.0 to -0.5m
- -0.5 to -0.4m
- -0.4 to -0.3m
- -0.3 to -0.2m
- -0.2 to -0.1m
- -0.1 to +0.1m
- +0.1 to +0.2m
- +0.2 to +0.3m
- +0.3 to +0.4m
- +0.4 to +0.5m
- +0.5 to +1.0m
- +1.0 to +1.5m

 Port Hills area

Join line



Notes:
 Low-resolution aerial photos sourced from Google Earth (Copyright: 2009).
 High-resolution aerials provided by New Zealand Aerial Mapping (February 2011)
 Property boundaries provided by Christchurch City Council
 LiDAR data provided by AAM Pty Ltd Group (2003 and 2008) and New Zealand Aerial Mapping (March 2011)



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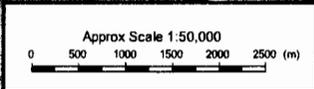
CERA	
CANTERBURY EARTHQUAKE RECOVERY	
Change in Ground Surface Elevation Between the	
LiDAR Survey's of 2003 and March 2011	
FIG No.	REV
	0

Join line



LIDAR RL (2011)

0.0 to 0.5m (9.04 to 9.54mCGD)
0.5 to 1.0m (9.54 to 10.04mCGD)
1.0 to 1.5m (10.04 to 10.54mCGD)
1.5 to 2.0m (10.54 to 11.04mCGD)
2.0 to 2.5m (11.04 to 11.54mCGD)
2.5 to 3.0m (11.54 to 12.04mCGD)
3.0 to 3.5m (12.04 to 12.54mCGD)
3.5 to 4.0m (12.54 to 13.04mCGD)
4.0 to 4.5m (13.04 to 13.54mCGD)
4.5 to 5.0m (13.54 to 14.04mCGD)
5.0 to 5.5m (14.04 to 14.54mCGD)
5.5 to 6.0m (14.54 to 15.04mCGD)
> 6.0m (> 15.04mCGD)



Notes:
 Low-resolution aerial photos sourced from Google Earth (Copyright: 2009).
 High-resolution aeriels provided by New Zealand Aerial Mapping (February 2011)
 Property boundaries provided by Christchurch City Council
 LiDAR data provided by New Zealand Aerial Mapping (March 2011)



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CERA	
CANTERBURY EARTHQUAKE RECOVERY	
Ground Surface Elevation	
LiDAR Survey March 2011	
FIG No.	REV 0