



## Proactive Release

The following documents have been proactively released by the Department of the Prime Minister and Cabinet (DPMC), and National Emergency Management Agency (NEMA), on behalf of (Hon Kiritapu Allan), Minister for Emergency Management:

### **Emergency Management System Reform**

The following documents have been included in this release:

***Title of paper: [Emergency Management System Reform \(GOV-21-SUB-0043 refers\)](#)***

***Title of minute: [Emergency Management System Reform \(GOV-21-MIN-0043 refers\)](#)***

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant section of the Act that would apply has been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

### **Key to redaction code:**

- Section 9(2)(f)(iv), to maintain the confidentiality of advice tendered by or to Ministers and officials

In Confidence

Office of the Minister for Emergency Management

Cabinet Government Administration and Expenditure Review Committee

## Emergency Management System Reforms

### Proposal

- 1 This paper seeks agreement to:
  - 1.1 a proposed new Emergency Management Bill (the Bill) to replace the Civil Defence Emergency Management Act 2002 (the CDEM Act) – with a revised legislative programme bid for 2021 to enable immediate drafting
  - 1.2 revisions to previously agreed tranche one policy proposals for the Civil Defence Emergency Management (CDEM) Amendment Bill, from June 2020
  - 1.3 issue drafting instructions to Parliamentary Counsel Office
  - 1.4 an explicit legislative shift to building community resilience for population groups disproportionately impacted by emergencies
  - 1.5 legislate to enable iwi and Māori to participate in and have decision-making roles across the emergency management system
  - 1.6 a new legal framework for the emergency management system, and
  - 1.7 changes to how critical infrastructure is reflected in emergency legislation and guidance.
- 2 Targeted engagement with iwi and Māori and the CDEM sector will inform final policy decisions presented to Cabinet. s9(2)(f)(iv)

### Relation to government priorities

- 3 The 2020 Labour Party Manifesto committed to ensuring Aotearoa New Zealand's emergency management system is geared towards inclusive, community-led responses to natural disasters and other emergencies (including health events), as well as continuing to work with iwi and Māori on the role they play in emergency management.
- 4 Budget 2021 provided Vote Prime Minister and Cabinet \$46.6m allocated over four years for the 'Enabling the National Emergency Management Agency to Build Safe and Resilient Communities' initiative. This investment will give further effect to the decisions made by the Government in response to the Technical Advisory Group Ministerial Review 'Better Responses to Natural Disasters and Other Emergencies' and other reviews by building the core

capability of the National Emergency Management Agency (NEMA) and wider emergency management system.

- 5 The proposed emergency management system reforms will ensure Aotearoa New Zealand's emergency management system is geared towards inclusive, community-led responses to natural disasters and other emergency events (including health events) and realise the Government's commitment to enable Māori and the Crown to work together in partnership on emergency management.

## Executive Summary

- 6 The 2017 Ministerial Review into Aotearoa New Zealand's responses to natural disasters and other emergencies (TAG) identified vulnerabilities in Aotearoa New Zealand's emergency management system.
- 7 Since then, the frequency, duration, complexity and socio-economic consequences of hazard events and emergencies have increased, including those, like the Whakaari White Island eruption of 2019 and COVID-19, which have resulted in multiple fatalities, serious injuries, serious harm to people's wellbeing, and damage to the environment and the economy. These events have also demonstrated that vulnerabilities in the emergency management system identified in the TAG and other reviews remain a challenge.
- 8 The system must be improved if it is to realise the Government and public's ambition for a modern and fit-for-purpose emergency management system, where:
  - 8.1 communities better understand the risks they face, and are better prepared to respond to and recover from emergencies
  - 8.2 the emergency management system is well-coordinated, high-performing and enjoys widespread trust and confidence
  - 8.3 the impacts of emergencies on people, the economy and the environment are reduced, and
  - 8.4 iwi and Māori participation is recognised, enabled and valued.
- 9 The CDEM Act reflects the prescriptive drafting practices in use at the time the Act was implemented and is inconsistent with modern, more flexible and responsive emergency management practices. A new Emergency Management Bill, incorporating what already works within the emergency management system but built on a fit-for-purpose legal framework that addresses its shortcomings, is required.

## Context

- 10 In August 2018, the then Minister for Civil Defence released the Government's response to the TAG report, which set the direction for the transformation

required to deliver better responses to natural disasters and other emergencies. The response set out five key areas for improvement:

- 10.1 putting the safety and wellbeing of people at the heart of the emergency response system
  - 10.2 strengthening the national leadership of the emergency management system
  - 10.3 making it clear who is responsible for what, nationally and regionally
  - 10.4 building the capability and capacity of the emergency management workforce, and
  - 10.5 improving the information and intelligence system that supports decision making in emergencies.
- 11 In 2019, the National Disaster Resilience Strategy (NDRS) came into effect and outlined the Crown's goals in relation to civil defence emergency management. The NDRS reaffirms the integrated 'all hazards, all-risks' approach to emergency management and the importance of working across the '4 Rs' of risk reduction, readiness, response, and recovery. It also introduced a priority of enabling, empowering and supporting community resilience.
- 12 In 2019, Cabinet agreed to establish NEMA and it was stood up as a departmental agency on 1 December 2019, replacing the Ministry of Civil Defence & Emergency Management. NEMA's establishment was an important preliminary step in implementing the Government response to TAG's objective of strengthening the national leadership of the emergency management system.
- 13 NEMA's 2021 Strategic Framework guides NEMA in meeting the Government's vision for Aotearoa New Zealand's emergency management system. It outlines NEMA's functions of steward, operator and assurer.
- 14 A NEMA stakeholder survey in May 2021 showed support for the creation of a more flexible and modern emergency management regulatory framework.
- 15 Local government is undergoing significant reform programmes, including three waters, resource management system and a review of the future for local government. The emergency system reforms have been long signalled, are not in the same scale of transformative change, and can proceed in parallel with these other programmes.

### **A new Emergency Management Bill**

- 16 A new Emergency Management Bill, that builds on what already works within the emergency management system, is required. Local government structures will not change – local emergencies will continue to be declared locally, and CDEM Groups will continue to lead emergency management at the regional

level. I am not proposing to reform the current emergency management powers, nor remove the existing key local and regional response and recovery roles, such as Group Controllers and Recovery Managers. It is intended that these will be incorporated into the new Bill as they currently stand.

- 17 The proposed Bill will address the shortcomings of the current emergency management system, by:
- 17.1 adopting an inclusive and community-led approach to emergency management with a focus on disproportionately impacted communities
  - 17.2 introducing a new power for the Chief Executive of NEMA to make 'Emergency Management Rules' (EM Rules) to improve the flexibility and responsiveness of the legal framework, separate to the use of emergency powers and to be used to steward the system outside of a response
  - 17.3 modernising the treatment of lifeline utilities, including renaming to critical infrastructure and clearly setting out the roles and responsibilities of critical infrastructure sectors and entities
  - 17.4 clarifying roles and responsibilities across the system at the national, regional, and local levels
  - 17.5 setting out NEMA's functions and roles (including as a steward and assurer of the emergency management system)
  - 17.6 introducing a truly integrated '4 Rs' (risk reduction, readiness, response, and recovery) approach to emergency management.
- 18 I acknowledge the capacity and capability uplift required across the emergency management system will take time. This has begun with Government's investment in NEMA to date as steward of the system, and will continue through joint effort by NEMA, CDEM Groups, iwi and others.
- 19 The Bill will enable implementation of the necessary changes required to modernise existing emergency management structures and make them fit-for purpose. These changes will set the system up to grow and deliver. They will also set a solid foundation should substantial structural changes be required in the future.
- 20 Alongside the proposed Emergency Management Bill, much work is underway across Government that will influence (or be influenced by) the policy decisions taken in relation to emergency management. In particular:
- 20.1 the review of national security policy being led by DPMC will consider system architecture, roles and responsibilities,
  - 20.2 the Future for Local Government and 3-Waters reviews will have significant implications for local government architecture and roles, and

- 20.3 the repeal of the Resource Management Act and its replacement with the Natural and Built Environments Act, the Strategic Planning Act and the Climate Change Adaptation Act, will impact how hazards and risks are managed across New Zealand.
- 21 I have asked my officials to work closely with partner agencies in the national security and local government systems to support alignment of purpose and outcomes, and, as far as possible, timeframes.

## **Towards an inclusive and community-led response to emergency management**

- 22 Through an inclusive and community-led response to emergency management, our focus is on enabling, empowering, and supporting community resilience. This includes enabling and empowering individuals, households, organisations, and businesses to build their resilience, paying particular attention to those people and groups who may be disproportionately affected by disaster.
- 23 Hazard events and some emergencies do not discriminate, but they do disproportionately impact some populations. These populations include Māori, Pacific peoples, rural communities, the culturally and linguistically diverse, seniors, children, and those experiencing socio-economic deprivation, disability, ill health, or isolation.
- 24 As an example, during the COVID-19 level 4 lockdown in 2020 it was difficult to be confident that disabled people were safe and getting access to the range of emergency services being provided. This is in part because disabled people are not easily identified as a demographic and are often only identifiable through a devolved and not overly coherent network of providers and membership organisations such as disabled people's organisations.<sup>1</sup>
- 25 These populations face higher risk of harm from the consequences of emergencies for several reasons, including:
- 25.1 information about emergencies is not presented in a way that is relevant or accessible
- 25.2 consideration is not given to population groups that may not be as well-resourced and therefore less able to meet national guidance recommendations
- 25.3 information about Aotearoa New Zealand's natural and other hazards, and their consequences, is not presented in a way that is relevant or accessible

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<sup>1</sup> The Independent Monitoring Mechanism's report on the New Zealand Government's response to the COVID-19 emergency, January 2021, *Making Disability Rights Real in a Pandemic Te Whakatinana i ngā Tika Hauātanga i te wā o te Urutā*, Making Disability Rights Real in a Pandemic | Ombudsman New Zealand accessed 29 October 2021.

- 25.4 higher rates of risk factors such as health conditions and disabilities that limit physical access and social circumstances that may promote isolation and loneliness.

## Proposal to introduce Emergency Management Rules

### Issues

- 26 The prescriptive form of the current legislation has created issues in terms of enabling flexibility and durability of systems, processes, roles and responsibilities. In addition, the Act does not recognise NEMA's functional role as steward and assurer of the emergency management system.
- 27 The regulation making powers in the Act, though broad, have not been extensively used. This is primarily due to the time and resource required to create regulations, and the inability to easily update regulations in response to technical changes and operational improvements.
- 28 To address these issues, I intend to make better use of the legislative tools available to create a modern, fit-for-purpose legal framework that:
- 28.1 is flexible, durable and responsive
  - 28.2 incorporates Treaty analysis
  - 28.3 provides a clear statement of roles and responsibilities
  - 28.4 ensures optimal use of resources and coordination of effort
  - 28.5 is easy to understand and navigate
  - 28.6 aligns with best practice in comparable jurisdictions, and
  - 28.7 empowers the system and the functional roles of NEMA in the long-term.

### A legal framework including new Emergency Management Rules

- 29 I am proposing to create a new power which authorises the Chief Executive of NEMA to make 'Emergency Management Rules' (EM Rules).
- 30 The Legislation Guidelines set out core principles for the design of secondary legislation, one of which is that an Act should not authorise secondary legislation to be made in respect of matters that are appropriate for an Act.<sup>2</sup>
- 31 In line with this principle, it is proposed that the Chief Executive of NEMA be empowered to make rules that will deal exclusively with technical,

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<sup>2</sup> Chapter 14, Legislation Guidelines, Legislation Design Advisory Committee, 2018.

administrative and operational matters related to the implementation and operation of the Act. This includes:

- 31.1 the mechanics of implementing the Bill, such as monitoring and reporting requirements, or certain lower-level procedures
  - 31.2 large lists and schedules of minor details
  - 31.3 technically complex matters such as roles and responsibilities of a participant in the emergency management system under specific circumstances
  - 31.4 subject matter that requires flexibility or updating in light of technological developments in an area – the emergency management sector is undergoing thorough reform, and a flexible instrument is required to keep pace, and
  - 31.5 material that requires input from experts or key stakeholders, such as welfare agencies and the services they can provide.
- 32 Specific examples of the subject matter of EM Rules is as follows:
- 32.1 specifying the roles and responsibilities of participants in the emergency management system under specific conditions
  - 32.2 prescribing forms for the purposes of the CDEM Act and any rules and regulations made under it
  - 32.3 prescribing the form and subject matter of emergency management plans at the national, regional and local levels<sup>3</sup>
  - 32.4 prescribing technical standards, performance standards, operating practices and procedures, operating systems, organisational arrangements, training systems, and qualifications for the purposes of the CDEM Act
  - 32.5 prescribing reporting requirements that Groups must comply with
  - 32.6 providing for the establishment of shared emergency management services agreements
  - 32.7 prescribing the form and use of identification passes, warrants, badges, or other insignia
  - 32.8 providing for the establishment, maintenance, control, and operation of warning systems

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<sup>3</sup> At the time of writing, it is intended that the rules will provide for a cascading structure of emergency management plans. However, this is yet to be confirmed, and the power may be limited to providing for national plans or national and regional plans.



- 32.9 prescribing the level of competence or standard to be met by persons carrying out specified emergency management functions, and
- 32.10 providing for the identification and promotion of emergency management services.
- 33 The proposed rule-making power is distinct from the emergency powers conferred on the Director of Civil Defence Emergency Management (the Director) by the Act. The EM Rules are a form of secondary legislation dealing with administrative, operational and technical matters during 'peacetime', that best sit with the Chief Executive.
- 34 As secondary legislation, the EM Rules will be subject to a range of strict safeguards, including review by the Regulations Review Committee (see paragraphs 42-45). Emergency powers are not subject to the same safeguards, and the Director currently does not have the delegated authority to make secondary legislation.<sup>4</sup> In view of this, it is considered that the proposed rule-making power should be delegated to the Chief Executive of NEMA rather than the Director.

**Draft empowering provision for the new rule making power**

- 35 The proposed legal framework requires an empowering provision in the Bill:
- 35.1 for a new rule-making power to enable rule-making by the Chief Executive of NEMA. This provision will set out the topics for which rules are to be made
- 35.2 to specify the mandatory consultation requirements, which include:
- 63.2.1 an inclusive (but not exhaustive) list of who must be consulted, with an appropriately phrased "and anyone else" clause. For example, at minimum this list will include local authorities and appropriate iwi and Māori representatives
- 63.2.1 the minimum consultation period (with the flexibility to reduce the length of this period in times of urgency)
- 35.3 to allow the Chief Executive of NEMA to make rules about any other matters that:
- 63.3.1 are contemplated by this Act, necessary for its administration, or necessary for giving it full effect
- 63.3.2 the Chief Executive considers necessary, and
- 63.3.3 are consistent with the purposes of this Act
- 35.4 to enable the Chief Executive of NEMA to make changes to correct minor flaws and updates to rules without a requirement to consult.

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<sup>4</sup> The authority conferred by section 9(3) of the Act relates to non-legislative instruments such as guidelines and technical standards.

### **Advantages of a framework including EM Rules**

- 36 Acts such as the Civil Aviation Act 1990 and the Maritime Transport Act 1994 contain provisions empowering the Governor-General, on the recommendation of the Minister, to make rules by Order in Council. Maintaining rules of this type is labour-intensive, time consuming and costly.
- 37 In Aotearoa New Zealand and in comparable jurisdictions, there is a trend towards primary legislation empowering chief executives to make rules without involving the Minister or an Order in Council (for example, the Customs and Excise Act 2018 and the Education and Training Act 2020).
- 38 The proposed EM Rules would increase the emergency management system's durability and flexibility by enabling it to respond to changing or unforeseen circumstances and allowing minor updates to be more easily made to enable the smooth implementation and operation of the legislation.
- 39 It is intended that the EM Rules will be NEMA's main secondary instrument supporting its stewardship, operating and assurance functions. There will still be a role for regulations in the new legal framework, however, this type of secondary instrument will deal with more significant matters, such as fees and charges, or compliance matters requiring more legal force and therefore a higher level of parliamentary scrutiny.
- 40 The key advantage of this approach is that it would enable NEMA to set mandatory requirements without the complex and lengthy compliance processes required by primary legislation and regulations. Setting mandatory requirements through the proposed rules would be an effective means of addressing incidents where a participant in the emergency management system has refused to carry out their roles and responsibilities despite these being clearly set out in secondary legislation and documented in guidance.
- 41 The Director already has the authority to issue guidance and standards under section 9(3) of the Act. The existing guidance material will be reviewed, and the number of guidance products rationalised, to ensure that legislation and guidance are aligned and accessible.

### **Safeguards ensure that rules do not exceed empowering provisions**

- 42 The lack of ministerial approval of EM Rules could raise concerns about inadequate consultation and the excessive delegation of law-making authority. This risk can be mitigated by the adoption of a range of safeguards. Safeguards provide a vital check on the exercise of the Chief Executive's power. Under Standing Order 327(2), the Regulations Review Committee (the Committee) can provide this accountability assurance by drawing the Rules to the attention of the House if the Committee considers the rule or regulation exceeds the mandate of its empowering legislation.
- 43 The proposed rules will be designed to prevent this by ensuring that:

- 43.1 each rule supports the purposes of the Bill and is made in accordance with its general objects and intentions
- 43.2 there are no provisions in the rules relating to detention and seizure of property that could be interpreted as trespassing on personal rights and liberties
- 43.3 no rule exceeds the specifications and limitations on the powers conferred by the empowering provision in the Bill in an unusual or unexpected way
- 43.4 any provision relating to the rights and liberties of persons, and to reviews of decisions, are restricted to primary legislation
- 43.5 the empowering provision in primary legislation does not permit a rule to exclude or infringe on the jurisdiction of any court
- 43.6 there is no capacity for the retrospective application of a rule in the Bill's empowering provisions, and
- 43.7 every rule is made in accordance with the notice and consultation requirements stipulated in the primary legislation.
- 44 As an additional safeguard, it is envisaged that the empowering provision in the Bill will set out a transparent and participatory development process for the rules. This process will provide for initial and repeated engagement with iwi and Māori partners and other stakeholders to ensure that these groups are involved in development and implementation throughout the rule-making process.
- 45 Through adherence to Standing Orders and to the Legislation Design and Advisory Committee (LDAC) Legislation Guidelines, along with design principles that reflect previous Committee decisions, it is intended that the form or purpose of the proposed rules will not require elucidation by the Committee.

#### **EM Rules cannot establish new emergency powers for the Chief Executive**

- 46 Emergency powers are established exclusively in primary legislation through empowering provisions. Unless specifically authorised by Parliament, secondary legislation such as the proposed rules cannot be used to establish new emergency powers for the Chief Executive. Any attempt by the Chief Executive to exercise emergency powers under the rules would be unlawful or ultra vires and may result in costly and time-consuming litigation. There is no intention to seek such authorisation for the Chief Executive in the draft empowering provision for the EM Rules.
- 47 Although the EM Rules cannot be used to establish emergency powers for the Chief Executive, they may be used to specify the technical, administrative and operational responsibilities of persons and entities during an emergency event.

*Power to Act*

- 48 I propose that the Minister for Emergency Management make decisions on any issues of detail relating to the new emergency management legal framework that may arise during the drafting process without further reference to Cabinet, subject to the decisions being consistent with the policy directions in this paper. I propose to report back to Cabinet on any such decisions made when completing final policy approvals that shape drafting instructions.

## **Legislative arrangements for the Critical Infrastructure Sector**

### **Issues**

- 49 The CDEM Act and the Plan set out the obligations of Lifeline Utility entities (LUs) across five infrastructure sectors:
- 49.1 Water (potable, storm and wastewater)
  - 49.2 Energy (electricity, liquid fuel and gas)
  - 49.3 Transport (air, marine and land)
  - 49.4 Telecommunications, and
  - 49.5 Media.
- 50 Currently, the CDEM Act is weak in relation to the role and responsibilities of LUs within the emergency management system. Since 2002, the importance of having a more comprehensive legal framework for LUs has been emphasised by events.
- 51 There are several gaps and inconsistencies with the obligations on LUs currently outlined in the CDEM Act and the Plan. Specifically:
- 51.1 The current definition of LUs needs updating to more accurately reflect how identified infrastructure and services are critical during emergencies. The concept of 'Critical Infrastructure' provides better alignment with the terminology of Organisation for Economic Co-operation and Development countries and is a better fit for purpose.
  - 51.2 The current wording for primary duties for LU infrastructure sectors is that they 'be operational to the fullest possible extent, even if it is at a reduced level'. This is vague and not measurable. There are no mechanisms set out in the Act for LUs to establish minimum service levels or provide assurance of performance during and after an emergency event.
  - 51.3 There is also a lack of consistency around the duties laid out in the CDEM Act and the Plan.
  - 51.4 The Act allows for supporting plans for LUs but does not impose an obligation for LU sectors to create sector specific response plans that

would enable effective and efficient response during major disruption to services. Currently the only supporting plan that exists is the National Fuel Plan.

- 51.5 There is also no obligation for LUs to proactively report on how well the various organisations/entities in a sector are meeting their obligations under the existing legal framework.
  - 51.6 There is currently no provision for LUs to provide assurance that they are meeting the requirements set upon them in the CDEM Act and/or the Plan.
  - 51.7 There are also no requirements for LUs to proactively share information before, during and after emergencies, which limits Government's ability to plan for, and manage, the consequences of disruptions on communities
- 52 Parts A and B of Schedule 1 of the CDEM Act list all the LUs and infrastructure sectors. To update the Schedule requires considerable time and effort.
- 53 Additionally, duties and guidance in relation to LUs are distributed across the CDEM Act and Plan which causes confusion and inconsistent application.

### Proposals

- 54 I propose changes to the Lifeline Utilities provisions in the CDEM Act to address these gaps and inconsistencies. The proposed changes include:
- 54.1 Replacing the terminology 'Lifeline Utilities' with 'Critical Infrastructure', which is more fit for purpose and reflects international practice.
  - 54.2 Creating a definition of 'Critical Infrastructure' in the Act, proposed to be "critical infrastructure means essential and enabling assets, systems, networks, and services."
  - 54.3 Assigning a lead agency to each Critical Infrastructure sector.
  - 54.4 Specifying the critical infrastructure sectors and entities via a notice made by the Minister in the New Zealand Gazette. This change from an Order in Council would allow for increased flexibility within the sector.
  - 54.5 Developing criteria to inform the Minister's decision-making (see Appendix One).
  - 54.6 Introducing obligations for sector-specific response plans, to be updated at three-year intervals, which would enable effective and efficient response if services were to be majorly disrupted.

- 54.7 Introducing a requirement for Critical Infrastructure entities to proactively, and on request, share information with lead agencies, risk owning agencies, other Critical Infrastructure entities and CDEM Groups for monitoring and planning. The sharing of information will also extend to immediately before, during and after emergency events.
- 55 The above proposals have been consulted on with the Critical Infrastructure sector and received wide support.
- 56 Two further proposals were also consulted on and received split support by the sector. I am interested in exploring these proposals further through targeted engagement. The proposals are:
- 56.1 Establishing mechanisms for Critical Infrastructure entities to establish minimum service levels and provide assurance of performance during and after emergency events.
- 56.2 Introduce reporting, monitoring and evaluation arrangements by which Critical Infrastructure entities must provide an annual statement to the lead agency demonstrating their ability to comply with the duties and responsibilities under the new Emergency Management Act signed by the entity Chief Executive or equivalent authority.
- 57 NEMA will continue to consult with Ministry of Business, Innovation, and Employment, the Department of the Prime Minister and Cabinet, along with other relevant stakeholders, and evaluate these proposals alongside further feedback.
- 58 Once the Critical Infrastructure definition and criteria have been established, NEMA will consider what other entities and sectors meet the requirement to be nominated as Critical Infrastructure under the CDEM Act.

**Critical infrastructure provisions will have specific implications for Māori**

- 59 In considering the implications of critical infrastructure for Māori, NEMA has focused on the Māori media sector. While the strategic goal of the Māori media sector is to normalise te reo use, it is also a significant asset within Aotearoa New Zealand. In an emergency management context, the Māori media sector can provide accessible and appropriate messages to Māori communities and beyond. Policy proposals will be developed that explore the pathway for the Māori media sector to become critical infrastructure.
- 60 NEMA has received feedback from key stakeholders, including the Ministerial Advisory Committee on Emergency Management, the National Iwi Chairs Forum Pou Tangata, and Te Puni Kōkiri, in relation to additional proposals that could be considered as having impacts for Māori. With regards to these considerations NEMA officials are working with stakeholders to determine the utility of these proposals. One such proposal was the role of marae and we expect that other proposals might be raised through stakeholder engagement.

## Ensuring recognition and representation for the role iwi and Māori play in emergency management

61 With a proposed change to the structure of the legislation to better reflect the 4 Rs, the emergency management system will focus its efforts and priorities across the 4 Rs, as opposed to a primary focus on response. Feedback from our iwi and Māori partners suggests that this broader focus, especially on readiness along with risk reduction, response and recovery, will enable the type of relationship building that will assist the emergency management system to build towards a more sustainable and future focused approach. In addition to this, CDEM Groups will benefit from this input from iwi and Māori.

### Māori Emergency Management Advisory Group

62 My goal is to enable iwi and Māori participation at all levels of the emergency management system, and I propose that this take a number of different forms. At the highest level, I intend to establish a new national body; the Māori Emergency Management Advisory Group (Māori EM Advisory Group). This proposal will be considered as part of targeted engagement with iwi and Māori partners, along with CDEM Groups, as part of considering roles and responsibilities. See Appendix Two for a diagram of CDEM bodies.

63 In terms of the functions of the Māori EM Advisory Group, the proposed scope is varied and includes providing advice to NEMA on a range of matters including:

63.1 the establishment of electoral processes to elect iwi and Māori representatives to Group Joint Committees (see paragraphs 66-71)

63.2 NEMA's assurance function and how the emergency management system is performing for Māori at all levels

63.3 the proposed Chief Executive rule-making powers (see paragraphs 29-34).

64 I propose that the Māori EM Advisory Group also provide advice and guidance to CDEM Groups on:

64.1 the establishment of electoral processes to elect iwi and Māori representatives to Group Joint Committees

64.2 methods of enabling iwi and Māori participation in Coordinating Executive Groups

64.3 consultation and collaboration with Māori and iwi partners in the development of CDEM Group Plans and strategies.

### Legislative change

65 My priority for legislative change is focussed on:

- 65.1 enabling iwi and Māori to participate in all CDEM Group Coordinating Executive Groups and in Joint Committees with full voting rights
- 65.2 establishing an iwi and Māori function in the description of CDEM Group functions in the replacement to section 17 of the Act
- 65.3 including iwi and Māori roles and responsibilities in the National Civil Defence Emergency Management Plan Order 2015 (the Plan)
- 65.4 providing for mandatory consultation of iwi and Māori in the development of planning and strategy documents
- 65.5 enabling iwi and Māori to be provided government financial support directly for costs incurred while caring for affected people in an emergency (rather than having to go via local government mechanisms) and using the same criteria that currently provide reimbursement for such welfare services to Territorial Local Authorities.

*Iwi and Māori representation on Joint Committees*

- 66 Joint Committees (JCs) are governance bodies which determine and lead emergency management in each region, composed of elected members from local authorities.
- 67 In order to achieve my goal of enabling iwi and Māori participation at all levels of the emergency management system, I propose supporting iwi and Māori interests to participate and make decisions at the local level. This requires legislative change.
- 68 This approach reverses the Government's response to the TAG review where the recommendation to include iwi and Māori members on Joint Committees was not accepted.
- 69 I propose that iwi and Māori elect two members with full voting rights to CDEM Group Joint Committees. I recognise the need for iwi and Māori to be involved in selecting these members to the CDEM Group Joint Committees. To support this, I recommend that the proposed Māori EM Advisory Group give guidance on electoral processes to elect iwi and Māori representatives to CDEM Group Joint Committees. No two regions are the same so this guidance will be broad and enabling and leverage existing relationships between iwi and Māori and CDEM Groups where they have already been established. I note that there will be instances where iwi and Māori interests will appear in multiple CDEM regions.
- 70 I propose to centrally fund the membership fees and expenses of iwi and Māori members on Joint Committees from NEMA's existing baseline.
- 71 I consider that targeted engagement with iwi and Māori stakeholders on aspects of this proposal is necessary to:



- 71.1 develop an electoral system to ensure that, like other CDEM Group members, iwi and Māori members of JCs have a democratic mandate, and
- 71.2 address issues of liability under the Health and Safety at Work Act 2015.

*Iwi and Māori representation on Coordinating Executive Groups*

- 72 Each CDEM Group has a CEG consisting of chief executives of local authorities along with representatives from the District Health Board, Fire and Police. The CEG's function is to advise the CDEM Group, implement its decisions, and develop and implement the group plan. In the CDEM group structure, the CEG is responsible for management, oversight and monitoring of CDEM activities within its area.
- 73 I also propose to legislate to achieve participation of iwi and Māori in all Coordinating Executive Groups (CEGs). This proposal reconfirms the Government's previous commitment to coverage across Aotearoa New Zealand [GOV-20-MIN-0035]. The proposed Māori EM Advisory Group will also provide guidance to support the ways in which this can occur, noting this may vary across the regions.
- 74 NEMA officials will undertake further analysis to establish a funding mechanism for the membership fees and expenses of iwi and Māori members on CEGs. I expect that the funding will be drawn from NEMA's baseline, and I intend to make this additional funding part of a future budget bid.

*Iwi and Māori function in CDEM Group description*

- 75 Section 17 of the CDEM Act lists all the functions of Joint Committees. However, this does not include a specific function for iwi and Māori.
- 76 To provide for an iwi and Māori function in the CDEM Group description, I propose including requirements in the legislation requiring all CDEM Group members to:
  - 76.1 identify the needs of iwi and Māori within their CDEM region
  - 76.2 develop plans to address these needs
  - 76.3 identify the contributions iwi and Māori can make to managing an emergency event
  - 76.4 communicate this information to the wider CDEM Group, their communities and others as required.

*Iwi and Māori roles and responsibilities in the National CDEM Plan*

- 77 Part 5 of the Plan specifies the roles and responsibilities of participants in the emergency management system.

- 78 However, despite the contribution iwi and Māori make to emergency management, specific roles and responsibilities are not assigned to iwi and Māori entities on the same basis as for example the Police and fire services.
- 79 To address this, I propose inserting a new section in the Plan outlining specific roles and responsibilities for iwi and Māori entities. This will help ensure that iwi and Māori are enabled to participate in all levels of the emergency management system.

*Consultation of iwi and Māori in the development of CDEM Group Plans and strategies*

- 80 Currently, section 52 of the Act requires CDEM Groups to notify the public before making a civil defence emergency management group plan (CDEM Group Plan). At their discretion, CDEM Groups may also notify particular entities and individuals. There is no explicit requirement to notify and consult iwi and Māori.
- 81 I propose introducing mandatory requirements for CDEM Groups to:
- 81.1 collaborate with Māori and iwi partners in the development of CDEM Group Plans
  - 81.2 have systems and processes to ensure that it has the capability and capacity to engage with Māori and to understand perspectives of Māori
  - 81.3 notify iwi and Māori partners as a requirement of planning – starting with the CDEM Group Plan and moving to other plans, as appropriate
  - 81.4 have regard to the comments received from iwi and Māori on CDEM Group planning documents, and
  - 81.5 set out the arrangements for coordination with Māori during response/recovery in CDEM Group Plans.

*Permanent legislative authority to reimburse iwi and Māori*

- 82 Section 115A of the Act currently provides for a permanent legislative authority (PLA) for incurring expenses to reimburse a Territorial Local Authority or regional council for certain expenses they incurred in connection with an emergency, subject to the expenses meeting the criteria for being reimbursed set in Government policy at the time.
- 83 Iwi and Māori carry out vital work in ensuring the welfare of their people, and those in the communities surrounding them. Iwi and Māori entities often incur similar costs as local authorities and are unable to access reimbursements directly from Government. Instead, they are required to lodge claims with local authorities, who in turn request the reimbursement from the government. This unnecessarily increases the burden of administration and reduces the security and confidence of iwi to continue performing essential activities in an

emergency. There is an opportunity to reinforce the principle of partnership by enabling iwi and Māori entities to seek funding directly from the Crown.

- 84 I am seeking to empower iwi and Māori to be able to act with more independence in an emergency, by enabling them to seek reimbursement directly from NEMA for welfare-related costs incurred during a non-COVID 19 emergency event. I therefore seek Cabinet approval to include this change in the Bill.

### Non-legislative change

- 85 I also recognise that there are other conditions for iwi and Māori that need addressing within the emergency management system reforms. These include that:

- 85.1 iwi and Māori are typically not considered key partners in the emergency management system, and in some instances are experiencing alienation from the emergency management system
- 85.2 lead agencies do not have any defined responsibility to work with iwi and Māori and have inconsistent capability to do so
- 85.3 CDEM Groups lack overall capability with regard iwi and Māori organisations
- 85.4 a small number of marae operate as hubs in their community, but often not as an official part of an emergency response
- 85.5 marae develop their resilience and preparedness in an ad hoc way across the country, and
- 85.6 Recovery Office and Recovery Stakeholders Groups include an expectation that iwi and Māori interests are included, but this does not always occur.

- 86 The outcomes that I seek are that:

- 86.1 iwi and Māori are key partners in the emergency management system
- 86.2 lead agencies' responsibilities are clearly defined and articulated, and they are expected to develop and maintain capability for working with iwi and Māori as part of their planning
- 86.3 CDEM Groups report high levels of trust and confidence from their key Māori partners due to their increased capability
- 86.4 NEMA, along with CDEM Groups, develop a pathway for marae to become Civil Defence Centres or community-led centres (as appropriate)
- 86.5 the development of marae resilience and preparedness occurs in a systemised way, and

- 86.6 All Recovery Offices and Recovery Stakeholders Groups include iwi and Māori interests from the outset.
- 87 These changes will be achieved through the overall reform programme but are not dependant on changes to the legislation.
- 88 My intention is to engage in a targeted way with iwi and Māori and the CDEM sector, as outlined in paragraph 111, on how these outcomes may best be achieved.

### Revisions to Tranche One Policy Approvals

89 In August 2020, Cabinet approved tranche one policy proposals for the Civil Defence Emergency Management Amendment Bill and authorised the Minister for Emergency Management to issue drafting instructions to the Parliamentary Counsel Office [CAB-20-MIN-0366, confirming GOV-20-MIN-0035]. Subsequently, the need for substantive changes to two of the policy approvals have been confirmed (functions of local controllers and approved warning providers).

90 s9(2)(f)(iv)

[Redacted text block]

### Functions of Local Controllers

- 91 In the Cabinet paper entitled “Updating the legislative framework to strengthen Aotearoa New Zealand’s response to emergencies – tranche one,” Cabinet agreement was sought to amend the Act to strengthen local CDEM Groups. The amendments were set out in Appendix One of the Cabinet paper and approved by Cabinet [GOV-20-MIN-0035].
- 92 Currently, a local controller may be appointed by a CDEM Group to carry out any of the functions and duties of a group controller. In Appendix One, it was proposed that the functions of local controllers, being the co-ordination of the response to an emergency and the direction of personnel in the local area, should be set out in the Act. However, the accompanying drafting recommendation included an additional function of managing the consequences of emergencies.
- 93 Recent events have demonstrated the need to build Aotearoa New Zealand’s recovery capability. NEMA is investing in building a community of practice to enable this and, also, progressing work on providing for greater recognition of recovery in the law. It is therefore desirable to more clearly delineate in the primary statute between the respective functions of local controllers in response and those of local recovery managers. I propose that the functions of local controllers, as set out in the statute, should be to co-ordinate the response to an emergency and direct personnel in the local area.

## Approved Warning Providers

- 94 Cabinet agreement was also sought to create a new power for the Minister for Emergency Management to approve warning providers to issue warnings under the CDEM Act.
- 95 As a result of further policy work, it has become clear that further elaboration is required to achieve the policy intent. In particular, the responsibilities of warning providers in respect of issuing notifications need to be clarified. I propose therefore that:
- 95.1 the Emergency Management Act refer to “providers of warnings and notifications”
  - 95.2 the National Emergency Management Agency is specified in the Act as a provider of warnings and notifications
  - 95.3 the term “notifications” is defined along the lines of “including but not limited to advisories, non-threat notifications, and cancellations” and
  - 95.4 the Minister for Emergency Management, in deciding whether to approve an organisation as a provider of warnings and notifications, must consult the Director of Civil Defence Emergency Management.

## Legislative Implications

- 96 A place has been allocated on the 2021 Legislation Programme for a general Civil Defence Emergency Management Amendment Bill. As the policy work has progressed, it has become clear that there are significant issues with the Civil Defence Emergency Management Act 2002 that cannot be addressed through an amending Bill focused predominantly on response. The Act requires a more comprehensive overhaul to ensure it is fit for purpose. The Parliamentary Counsel Office has advised that modernisation can best be achieved through a new Act.
- 97 I propose revising the bid for a place on the 2021 Legislation Programme to provide for the repeal of the Civil Defence Emergency Management Act 2002 and its replacement with a new Emergency Management Act. It is estimated that the Emergency Management Bill will be over 80 clauses and of high complexity. s9(2)(f)(iv)
- 98 The Government has an ambitious agenda to progress the reforms of the Emergency Management System. This follows investment made in recent years including the establishment of NEMA. The direction of these reforms have been widely socialised previously with the CDEM sector following the TAG review and the Government’s response to it. s9(2)(f)(iv)

99 s9(2)(f)(iv) [Redacted]

[Redacted]

101 The Civil Defence Emergency Management Act 2002 is binding on the Crown. As no matters have been identified that would require this position to be reversed for the Bill, I propose that the Emergency Management Bill bind the Crown.

**Financial Implications**

102 The purpose of this paper is to confirm technical policy matters to progress the drafting of a new Emergency Management Bill. Further policy is being developed feeding into this Bill. s9(2)(f)(iv) [Redacted]

[Redacted]

**Impact Analysis**

104 The Regulatory Impact Analysis Team at the Treasury has determined that the proposal to replace the Civil Defence Emergency Management Act 2002 with a new Emergency Management Bill is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has minor impacts on individuals, businesses and not-for-profit entities.

105 A Regulatory Impact Statement for proposals relating to critical infrastructure, iwi and Māori recognition and a new legal framework has been completed and is attached in Appendix Three.

## Treaty of Waitangi Implications

- 106 These reforms look to recognise the role of iwi and Māori as Treaty partners through a range of partnering processes. The policy proposals focus explicitly on ensuring partnerships with Māori across the emergency management system and ensuring decision-making roles in planning for, and responding to, a natural disaster or other emergency. The policy proposals will be tested with a range of iwi and Māori partners and relevant stakeholders to ensure that they can achieve these aims.
- 107 As the reforms are implemented, we can expect to see Māori contributions recognised, resourced and reflected at all levels of the emergency management system. This includes valuing the role Māori communities, marae, hapū, iwi and Māori organisations play.
- 108 These reforms look to enable Māori-specific solutions and remove structural boundaries to enabling Māori leadership and engagement across the emergency management system. I expect through this multi-pronged approach that we will be able to make progress on achieving equity for Māori communities, in the context of emergency management.

## Population Implications

- 109 The population implications are covered in paragraphs 22 to 25.

## Human Rights

- 110 A statement on human rights implications will be completed along with final policy proposals for the totality of the emergency management system reforms, as part of compliance requirements ahead of the Bill's introduction.

## Public Consultation and Communications

### *Targeted engagement*

- 111 s9(2)(f)(iv) [REDACTED]
- 112 Targeted engagement will also inform policy on how the emergency management system can improve how it works for people disproportionately impacted by disasters, including but not limited to Pacific people, disabled people, and ethnic communities.
- 113 As noted at paragraph 111 above, further targeted engagement will also support the final policy development on two remaining critical infrastructure policy matters.

## Consultation

- 114 NEMA has received feedback from the Ministerial Advisory Committee on Emergency Management, the National Iwi Chairs Forum Pou Tangata, and Te Puni Kōkiri.
- 115 The Parliamentary Counsel Office has been consulted on the proposal to revise the existing bid for a Civil Defence Emergency Management Bill on the 2021 Legislation Programme. The Office of the Leader of the House has been consulted on the proposed timeframe for the Bill. The Official's Committee for Domestic and External Security Coordination's (ODESC), and Hazard Risk Board (HRB), have been informed.
- 116 The following Departments and organisations have been consulted: Ministry for the Environment, the Treasury, Earthquake Commission, Ministry of Business, Innovation and Employment, Department of Internal Affairs, Ministry of Transport, Ministry of Culture and Heritage, Ministry for Primary Industries, Ministry of Health, Ministry of Social Development, the Department of the Prime Minister and Cabinet (National Security Group, Policy Advisory Group), Te Kawa Mataaho Public Service Commission, New Zealand Police, New Zealand Defence Force, Te Arawhiti, Te Puni Kōkiri, the Office for Disability Issues, Fire and Emergency New Zealand, Wellington Free Ambulance, and St John.

## Proactive Release

- 117 I intend to proactively release the Cabinet paper in part; however, the agreed priority for the Civil Defence Emergency Management Bill and the proposed priority for the Emergency Management Bill will be withheld. The Regulatory Impact Statement will be withheld until the Bill is Introduced in the House, along with any further Regulatory Impact Statement associated with the Bill.

## Recommendations

- 118 The Minister for Emergency Management recommends that the Committee:

### *A new Emergency Management Bill*

- 1 **Note** that the Civil Defence Emergency Management Act 2002 requires modernising to meet the contemporary needs of emergency management in Aotearoa New Zealand s9(2)(f)(iv)

- 2 **Agree** to revise the bid for a place on the 2021 Legislation Programme to provide for the repeal of the Civil Defence Emergency Management Act 2002 and its replacement with a new Emergency Management Act

- 3 s9(2)(f)(iv)



- 4 s9(2)(f)(iv)
- 6 **Agree** that the Emergency Management Bill bind the Crown
- 7 **Authorise** the Minister for Emergency Management to issue drafting instructions to the Parliamentary Counsel Office to give effect to the policy proposals in this paper with drafting implications
- 8 **Note** that the policy proposals with drafting implications are subject to Parliamentary Counsel's discretion concerning how best to express the policy in legislation
- 9 **Authorise** the Minister for Emergency Management to make decisions on any issues of detail relating to the role of Māori in the system and new emergency management legal framework that may arise during the drafting process without further reference to Cabinet, subject to the decisions being consistent with the policy directions in this paper and invite the Minister for Emergency Management to report back to Cabinet on any such decisions along with final policy proposals.

*Policy proposals for a new legal framework and critical infrastructure*

- 10 **Agree** to the proposed new legal framework proposals to create emergency management rules made by the Chief Executive of NEMA;
- 11 **Note** that potential concerns about the perception of delegation of law-making authority to create emergency management rules can be mitigated by the adoption of a range of safeguards;
- 12 **Agree** to the Critical Infrastructure proposals, including the full criteria for deeming infrastructure as critical set out in Appendix One, to address inconsistencies in the critical infrastructure sector;

*Policy proposals for ensuring recognition and representation for the role iwi and Māori play in emergency management*

- 13 **Agree** to the establishment of the Māori EM Advisory Group with the proposed function of providing advice on:
- a. the establishment of electoral processes to elect iwi and Māori representatives to CDEM Joint Committees and Coordinating Executive Groups
  - b. NEMA's assurance function and how the emergency management system is performing for Māori at all levels
  - c. draft Emergency Management Rules made under the proposed Chief Executive rule-making powers

- d. methods of enabling iwi and Māori participation in Coordinating Executive Groups
  - e. consultation and collaboration with Māori and iwi partners in the development of CDEM Group Plans and strategies.
- 14 **Agree** to the proposed approach to enable iwi and Māori participation in CDEM Group Joint Committees with full voting rights
- 15 **Agree** the proposed legislative change to achieve participation of iwi and Māori in CDEM Group Coordinating Executive Groups
- 16 **Agree** to the proposed approach to centrally fund the membership fees and expenses of iwi and Māori members on Joint Committees from NEMA's existing baseline
- 17 **Agree** to the proposal to amend section 17 of the Act to create an iwi and Māori function in the list of CDEM Group functions
- 18 **Agree** to the proposal to include specific iwi and Māori roles and responsibilities in Part 5 of the National CDEM Plan;
- 19 **Agree** to the proposed approach to ensure iwi and Māori are consulted in the development of planning and strategy documents

*Permanent legislative authority*

- 20 **Note** that indirect reimbursement of iwi and Māori via local authorities is administratively inefficient and inconsistent with the Treaty principle of partnership

**Agree** to include an expansion of the permanent legislative authority in the *Emergency Management Bill* to enable NEMA to directly reimburse iwi and Māori

*Revisions to Tranche One policy approvals from June 2020*

- 21 **Note** that one of the functions of local controllers that was to be specified in the statute was to manage the consequences of emergencies;
- 22 **Agree** that the functions of local controllers are to co-ordinate the response to an emergency and direct personnel in the local area;
- 23 **Note** that changes are required to the legal arrangements for the provision of warnings in order to achieve the policy intent;
- 24 **Agree** that:
- a. the Act refer to “providers of warnings and notifications”;
  - b. the National Emergency Management Agency is specified in the Act as a provider of warnings and notifications;

- c. the term “notifications” is defined along the lines of “including but not limited to advisories, non-threat notifications, and cancellations”; and
- d. the Minister for Emergency Management, in deciding whether to approve an organisation as a provider of warnings and related notifications, must consult the Director of Civil Defence Emergency Management;

*Next steps*

25 s9(2)(f)(iv)

Authorised for lodgement

Hon Kiritapu Allan

Minister for Emergency Management

## Appendix One – full criteria for deeming infrastructure as critical

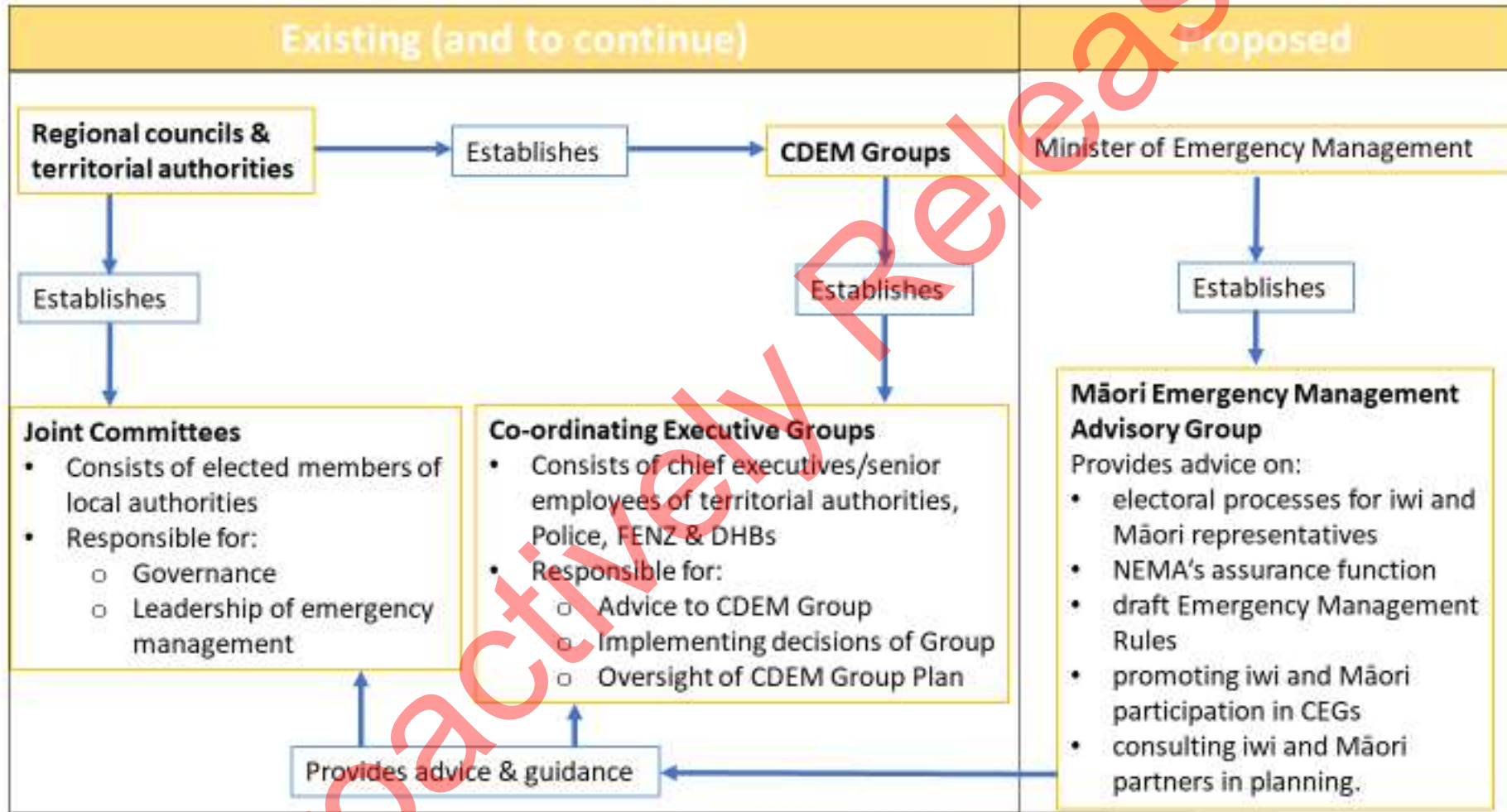
The Minister may declare infrastructure as Critical Infrastructure, if:

- 1 The functioning of such infrastructure is essential for the economy, security, public safety and the provision of basic public and other infrastructure services, and
- 2 The loss, damage, disruption or immobilisation of such infrastructure may severely prejudice:
  - 2.1 Provision of essential services to public, or
  - 2.2 The public interest with regards to safety, security and the maintenance of law and order, or
  - 2.3 The functioning or stability of the nation, or
  - 2.4 National security.

In determining whether the qualifying requirements contemplated in the section above are met, one or more of the following criteria must be applied:

- 3 The infrastructure must be of significant economic, public, social and strategic importance
- 4 The nation's ability to function, deliver basic public services, or maintain law and order may be affected if a service rendered by the infrastructure is interrupted, or if the infrastructure is destroyed, disrupted, degraded or caused to fail
- 5 Interruption of service rendered by the infrastructure, or the destruction, disruption, degradation, or failure of such infrastructure will have a significant effect on the environment, the health or safety of the public or any segment of the public, or any other infrastructure that may negatively affect the functions and functioning of the infrastructure in question
- 6 The declaration as Critical Infrastructure is in pursuance of an obligation under any binding international law or international instrument, and
- 7 Any other criteria which may, from time to time, be determined by the Minister by notice in the Gazette, after consultation with NEMA.

Appendix Two – Civil Defence Emergency Management bodies



## Appendix Three – Regulatory Impact Statement

The Regulatory Impact Statement (RIS) will be proactively released alongside any other RIS, prior to the Introduction of the Bill

Proactively Released



# Cabinet Government Administration and Expenditure Review Committee

## Minute of Decision

*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

### Emergency Management System Reforms

**Portfolio**                      **Emergency Management**

On 11 November 2021, the Cabinet Government Administration and Expenditure Review Committee:

#### A new Emergency Management Bill

1        **noted** that:

1.1      the Civil Defence Emergency Management Act 2002 requires modernising to meet the contemporary needs of emergency management in Aotearoa New Zealand;

1.2      s9(2)(f)(iv)

2        **agreed** to revise the bid for a place on the 2021 Legislation Programme to provide for the repeal of the Civil Defence Emergency Management Act 2002 and its replacement with a new Emergency Management Act;

3        s9(2)(f)(iv)

4        s9(2)(f)(iv)

5        s9(2)(f)(iv)

6        **agreed** that the Emergency Management Bill bind the Crown;

7        **authorised** the Minister for Emergency Management to issue drafting instructions to the Parliamentary Counsel Office to give effect to the policy proposals in the paper under GOV-21-SUB-0043 with drafting implications;

8        **noted** that the policy proposals with drafting implications are subject to Parliamentary Counsel's discretion concerning how best to express the policy in legislation;

- 9 **authorised** the Minister for Emergency Management to make decisions on any issues of detail relating to the role of Māori in the system and new emergency management legal framework that may arise during the drafting process without further reference to Cabinet, subject to the decisions being consistent with the policy directions in the paper under GOV-21-SUB-0043;
- 10 **invited** the Minister for Emergency Management to report back to the Cabinet Government Administration and Expenditure Review Committee (GOV) on any such decisions along with final policy proposals;

### **Policy proposals for a new legal framework and critical infrastructure**

- 11 **agreed** to the proposed new legal framework proposals to create emergency management rules made by the Chief Executive of the National Emergency Management Agency (NEMA);
- 12 **noted** that potential concerns about the perception of delegation of law-making authority to create emergency management rules can be mitigated by the adoption of a range of safeguards;
- 13 **agreed** to the Critical Infrastructure proposals, including the full criteria for deeming infrastructure as critical set out in Appendix One to the paper under GOV-21-SUB-0043, to address inconsistencies in the critical infrastructure sector;

### **Policy proposals for ensuring recognition and representation for the role iwi and Māori play in emergency management**

- 14 **agreed** to the establishment of the Māori Emergency Management (EM) Advisory Group with the proposed function of providing advice on:
- 14.1 the establishment of electoral processes to elect iwi and Māori representatives to Civil Defence Emergency Management (CDEM) Joint Committees and Coordinating Executive Groups;
  - 14.2 NEMA's assurance function and how the emergency management system is performing for Māori at all levels;
  - 14.3 draft Emergency Management Rules made under the proposed Chief executive rule-making powers;
  - 14.4 methods of enabling iwi and Māori participation in Coordinating Executive Groups;
  - 14.5 consultation and collaboration with Māori and iwi partners in the development of CDEM Group Plans and strategies;
- 15 **agreed** to the proposed approach to enable iwi and Māori participation in CDEM Group Joint Committees with full voting rights;
- 16 **agreed** the proposed legislative change to achieve participation of iwi and Māori in CDEM Group Coordinating Executive Groups;
- 17 **agreed** to the proposed approach to centrally fund the membership fees and expenses of iwi and Māori members on Joint Committees from NEMA's existing baseline;
- 18 **agreed** to the proposal to amend section 17 of the Act to create an iwi and Māori function in the list of CDEM Group functions;
- 19 **agreed** to the proposal to include specific iwi and Māori roles and responsibilities in Part 5 of the National CDEM Plan;



- 20 **agreed** to the proposed approach to ensure iwi and Māori are consulted in the development of planning and strategy documents;

### Permanent legislative authority

- 21 **noted** that indirect reimbursement of iwi and Māori via local authorities is administratively inefficient and inconsistent with the Treaty principle of partnership;
- 22 **agreed** to include an expansion of the permanent legislative authority in the Emergency Management Bill to enable NEMA to directly reimburse iwi and Māori, using the same criteria for the reimbursement of welfare services to Territorial Local Authorities;

### Revisions to Tranche One policy approvals from June 2020

- 23 **noted** that one of the functions of local controllers that was to be specified in the statute was to manage the consequences of emergencies;
- 24 **agreed** that the functions of local controllers are to co-ordinate the response to an emergency and direct personnel in the local area;
- 25 **noted** that changes are required to the legal arrangements for the provision of warnings in order to achieve the policy intent;
- 26 **agreed** that:
- 26.1 the Act refer to “providers of warnings and notifications”;
- 26.2 the National Emergency Management Agency is specified in the Act as a provider of warnings and notifications;
- 26.3 the term “notifications” is defined along the lines of “including but not limited to advisories, non-threat notifications, and cancellations”;
- 26.4 the Minister for Emergency Management, in deciding whether to approve an organisation as a provider of warnings and related notifications, must consult the Director of Civil Defence Emergency Management;

### Next steps

- 27 s9(2)(f)(iv)

Rebecca Davies  
Committee Secretary

#### Present:

Hon Grant Robertson (Chair)  
Hon Dr Megan Woods  
Hon Carmel Sepuloni  
Hon David Parker  
Hon Damien O’Connor  
Hon Jan Tinetti  
Hon Michael Wood  
Hon Kiri Allan  
Hon Dr David Clark  
Deborah Russell, MP

#### Officials present from:

Office of the Prime Minister  
Officials Committee for GOV