



Modernising the Emergency Management Framework

Local Government New Zealand's submission on NEMA's targeted engagement with regional and local authorities about modernising the Emergency Management Framework

February 2022

We are. LGNZ.

Local Government New Zealand (LGNZ) provides the vision and voice for local democracy in Aotearoa, in pursuit of the most active and inclusive local democracy in the world. LGNZ supports and advocates for our member councils across New Zealand, ensuring the needs and priorities of their communities are heard at the highest levels of central government. We also promote the good governance of councils and communities, as well as providing business support, advice and training to our members.

Introduction

Local Government New Zealand (LGNZ) thanks the National Emergency Management Agency (NEMA) for the opportunity to be part of this targeted engagement with people working in local and regional emergency management, to inform the Emergency Management Regulatory Framework Review (Trifecta) programme.

We understand the Programme brings together three projects:

- A new Emergency Management Bill;
- Review of the National Civil Defence Emergency Management Plan (CDEM Plan) and accompanying Guide; and
- A Roadmap for the National Disaster Resilience Strategy.

LGNZ notes this focused engagement is intended to inform further policy development on the Trifecta programme, and in particular the new Emergency Management Bill. Our submission responds to areas and questions raised in NEMA's discussion document, along with general comments and feedback to inform other projects in the Trifecta programme.

Engagement with local government and timeframes for feedback

Local government and its communities are at the heart of Aotearoa New Zealand's planning for and delivery of civil defence and emergency management.

While we support the intent behind the Trifecta Programme, our members are expressing strong concern over the extremely short timeframe for providing feedback on the Programme and the proposed Emergency Management Bill. The short timeframe for providing feedback leaves councils with little time to provide meaningful input and has become even more challenging as emergency management functions are being readied to respond to the Omicron outbreak.

Because local government is such a critical player in civil defence and emergency management responses, their input on this work is vital. It's critical that councils have enough time to consider the full implications and costs of the proposed changes for them and their communities. We encourage the Government to undertake considerably more, and meaningful, engagement with local government and its communities as this work progresses.

As well as the speed of this consultation, the sector also has serious concerns with the proposed timing of the Bill. We understand it is intended to go through Select Committee in September. This coincides with local body elections, which will make it difficult for mayors, council officers and CDEM groups to engage meaningfully on the new Bill.

We have heard from councils that these timeframes, constituting a lack of meaningful engagement with local government, seem at odds with the partnership established through the Heads of Agreement between the Crown and LGNZ. We are at a critical point in building trust between our spheres of government, on the basis of that agreement. These stringent timeframes on something so important to the sector puts pressure on developing that trust.

A stronger relationship with local government and CDEM groups is needed to progress the Trifecta programme. As critical emergency managers, local government is perfectly placed, through collaborative processes with central government and iwi and hapū, to ensure the successful delivery of the outcomes the Government is seeking through the Trifecta programme.

We urge the Government to reconsider the way in which it is engaging with local government on the Trifecta programme.

Purpose of the reform programme and problem definition

While we acknowledge that there are some shortcomings with the existing emergency management system, we are not clear from the engagement materials what the Government's problem definition is and why it believes a wholesale reform of the existing emergency management system is warranted.

New Zealand's emergency management system has been able to effectively respond to a number of significant emergency events, at the local level, including the Christchurch mosque shooting, the Covid-19 pandemic, and multiple extreme weather events. As this submission is penned, multiple emergency management groups from across the county are mobilising to head to the West Coast to assist with responding to forecast flooding events. This is not mandated in legislation, but demonstrates the innate understanding, awareness and comradery that underlies and drives local government emergency management responses. Local government has an array of resources and relationships which allow quick mobilisation and multi-function support.

LGNZ is concerned that the lack of a clear problem definition demonstrates that the Government has little understanding of the scale, scope and intricacies of local emergency management provision and interdependencies within the broader system of local government.

LGNZ has several other concerns, including:

- There is insufficient information (including an indication of the pros and cons of each option, and which one is preferred) to support local authorities and CDEM Groups to provide a considered response. The lack of information makes it difficult to properly understand the implications of the changes proposed – including who will be expected to make changes to current practice to deliver the Trifecta programme, and the associated costs of those changes.

- There doesn't appear to have been careful consideration of the full implications and costs of the proposed changes for local government and its communities, against any perceived benefits. This is critical at a time when the affordability of changing legislative frameworks, asset ownership, operating models and increasing regulation is placing considerable pressure on councils and their communities.
- Our members cannot yet clearly see how wholesale reform of the emergency management system is fitting into the broader Future for Local Government Review, nor the Three Waters Reform, and the interdependencies between them all.

For meaningful engagement to occur, much more information is needed so that it can be properly understood and tested by local government.

This remainder of this submission responds to the matters and questions presented in the Targeted Engagement - Modernising the Emergency Management Framework document.

Modernising emergency management

LGNZ agrees that some reform of existing civil defence legislation is required, and we agree a consistent, coordinated, and accessible approach is desirable.

We strongly agree that mana whenua need to be brought into the emergency management framework, given the critical role that many mana whenua and Māori groups already play in supporting emergency management responses.

We also support aligning the National Resilience Strategy with the emergency management framework.

However, some of the identified shortcomings with the existing system, and outcomes the Government is seeking, could be achieved without such significant overall change to the current system.

We are not convinced that there is any need to strip risk assessment and planning responsibilities from local authorities or shift to a nationally controlled, regional approach to the four Rs of emergency management (reduction, readiness, response and recovery). Local authorities are closely connected to their communities and so are well-placed to undertake risk assessments, develop emergency plans and activate delivery in ways that suit local circumstances and communities' needs, whatever the emergency.

Roles and responsibilities

While LGNZ agrees there could be some clarification of the roles and responsibilities of local authorities and CDEM groups, we do not believe that there is a fundamental misunderstanding of roles, lack of coordination or clear hierarchy between the individual duties of local authorities and collective functions of CDEM Groups.

Clarification of roles and responsibilities could easily be achieved through the production of a simple wiring diagram, which could build on the CDEM Takatū¹ training material.

Civil Defence Emergency Management (CDEM) Groups

LGNZ strongly supports the Government's proposal that CDEM group membership be updated to include local authority members and iwi/Māori representatives. We also strongly support participation of iwi/Māori representatives in CDEM groups being centrally funded, given the Crown's role as Treaty partner.

While local authorities are committed to working with iwi/Māori, and often do in the context of emergency management and civil defence responses, we can foresee practical challenges in situations where some mana whenua groups lack the ability to resource CDEM groups – particularly during an emergency, given significant capacity constraints.

Clarity is needed around who will be responsible for engaging with iwi/Māori to get them involved in CDEM groups (central or local government), and what the timeframes for confirming their involvement will be. This detail should be clarified following further engagement with iwi/Māori and local authorities.

We also encourage the definition of membership be widened to recognise and include community volunteers. The proposed legislative prescription runs the risk of eliminating volunteers from emergency management responses. Smaller councils' responses rely heavily on established relationships with trained community volunteers with local knowledge and experience.

The consultation materials refer to members of the same CDEM Group having different obligations. This is something we would like to discuss in further detail with NEMA.

Iwi/Māori participation

We support the Government's commitment to providing a greater role for iwi/Māori in the emergency management system, including:

- Establishing a new national body - Māori Emergency Management Advisory Group - in legislation;
- Including roles for iwi/Māori entities in the National CDEM Plan;
- Providing for centrally funded iwi/Māori representation on joint committees; and
- Involvement in the development of CDEM Group Plans.

¹ Takatū is the training and developing system managed through NEMA, delivered through regional coordinators.

We agree that iwi/Māori must be able to identify the contributions they can make to managing an emergency event and that this information should be communicated to the wider CDEM Group and its communities. LGNZ assumes this would be done through the development of and consultation on the Group Plan. The Government needs to provide further information on whether this requirement will be mandated in legislation, or outlined in group Plan development guidance.

Given the Government's very limited engagement to date with local government on its proposals, we have concerns that there has likely been a similar lack of meaningful engagement with iwi/Māori. We strongly encourage the Government to engage in more meaningful conversations with iwi/Māori before progressing with these reforms at pace. This will help the Government to ensure that iwi/Māori have the capacity, and desire, to participate in the new system in the manner that is envisaged.

Legal Status

We support clarifying the legal status of CDEM Groups involving multiple local authorities in the proposed Bill. However, we recommend avoiding creating new structures, particularly pending the review into the Future for Local Government and other reforms.

Accessibility of CDEM Group Plans

We support the aim of improving consistency of CDEM Group Plans. We also broadly support the aim of making plans more accessible and supporting communities to understand the risks they face.

However, prescriptive legislative requirements that CDEM Plans must comply with, and mandating their availability, are unlikely on their own to sufficiently educate communities or reduce the impacts of emergencies – including on people, the economy and environment.

Changing the CDEM approach to understand a community's capability and capacity to respond in an emergency is the most critical thing to increasing community resilience.

Much broader, ongoing grassroots engagement with communities by CDEM Groups and local authorities is also critical to growing their understanding of risks and potential impacts, rather than a top down "educate the community on the risks" approach.

Further thought should be given to how CDEM Groups and local authorities can be supported to undertake this important community engagement and education mahi. This should involve thinking about how the CDEM approach can change to understand and utilise communities and volunteer groups.

Undeclared Emergencies

While LGNZ could support new response thresholds for the coordination of undeclared emergencies, we need more detail to understand the extent of what is proposed and the potential implications.

In an emergency, the basic difference between declaring and not declaring an event is scale. However, when an event is declared, funding, powers for controllers and indemnity are realised.

LGNZ supports “retaining the current approach and practices to undeclared events but introduce measures for protection from liability for personnel outside of a state of emergency or transitional period.”

Concurrent Emergencies

When setting requirements around the coordination of responses, we encourage the Government to not lose sight of the importance of allowing adaptability and improvisation in roles and responsibilities of CDEM Group members or matters to be taken into account when coordinating the response. Agile, flexible and sustainable responses are often part of the success of working in an emergency. Too much prescription runs the risk of curbing effective responses that suit the particular circumstances.

We recommend introducing greater clarity, through guidelines or rules, not through the Bill, about the management of concurrent emergencies at a local, regional, and national level.

Lead Agencies

It should be noted that Lead Agencies only come into being when an event is declared an emergency. We support the proposal to include clear statutory definitions for lead and support agencies across the emergency management system, including clarification of roles and responsibilities across all 4Rs as per the National CDEM Plan definition. This should include agencies such as NZ Police, FENZ, and contractors that act as support agencies.

Disproportionately impacted people

LGNZ recognises the importance of enabling, empowering, and supporting community resilience. As such we support CDEM Groups engaging to identify the needs of disproportionately impacted communities within their CDEM region across the 4 Rs and developing plans to address these needs. However, this should take into account the considerable work that has gone into Group Welfare Plans already. The Government must also work closely with CDEM Groups to identify a reasonable timeframe for developing these plans and working through the issue of who will fund their development.

The definition of ‘disproportionately impacted communities’ needs to be clearly defined. Currently, we’re unclear whether that includes, for example, people without access to transport, disabled peoples, or hospitality and events sectors significantly impacted by Covid-19 lockdowns.

Critical infrastructure

We are generally supportive of the proposals in respect of critical infrastructure, but make the following points:

- We disagree with the statement, ‘there are no criteria for the categorisation of Critical Infrastructure or entities’. While there are no criteria in the Act itself, critical infrastructure is well-understood across all lifeline asset managers, whether public or private. The globally-acclaimed industry bible, the IIMM (International Infrastructure Management Manual) outlines the process for identifying and managing critical assets. This process is reflected in council, and other entities, asset management plans. LGNZ recommend the criteria in the proposed Bill is consistent with the IIMM approach, and consistent with accepted asset management practice.
- Nationally, regionally and locally significant infrastructure are also required to be identified and listed in relevant resource management plans. Therefore it’s important that the proposed Bill aligns with the approach under the Resource Management Act (and the new legislation it will be replaced with). This will help avoid duplication, misalignment and confusion.

Reporting, monitoring, and evaluation

Greater transparency of Lifeline Utilities’ preparation, planning, and activity is desirable for providing assurance to the public and emergency management sector.

However, LGNZ does not support the proposed approach of prescribed/mandated service levels for during and after an event.

Levels of service are a statement of outcomes and outputs to be delivered from a service or activities. All Lifeline Utilities have existing service levels and performance measures, including emergency service provision statements, that they report against annually. Local government entities are also required by the Local Government Act to report against service levels, which must be reported in annual, long-term and asset management plans.

These measures and trends are reported to councils, boards, industry regulators and Audit New Zealand. In many cases they are also reflected in Group Plans. The Trifecta Programme proposals around reporting and increased audit requirements will duplicate existing process and requirements.

We recommend:

- NEMA continues to work with the NZ Lifelines Council and local government to progress a mutually acceptable approach to emergency service level provision and reporting requirements (including referencing DIA’s Non-Financial Performance Measures Rules (2013); and
- Avoiding further duplication in existing reporting, including that the ‘responsible agency’ be an existing industry regulator and/or Audit NZ.

Information sharing

The CDEM Act currently requires CDEM Groups to prepare response and recovery plans. Some CDEM Groups have developed partnership approaches with Lifeline Utilities agencies, but others experience difficulties getting engagement and support from public and private sector Lifeline Utilities. This can lead to a lack of information sharing to support planning.

LGNZ broadly supports the need for specific policy, regulatory or non-regulatory options to agree roles and responsibilities for information sharing between Lifeline Utilities and CDEM Groups. This will help to support strong multi-agency planning. However, any options for supporting information sharing should recognise existing local capacity, networks and relationships.

Summary

LGNZ supports the objective of an accessible, inclusive, modern, fit-for-purpose, well-coordinated, high-performing emergency management system that communities have trust and confidence in. Working with, and not around, local authorities (who are at the heart of Aotearoa New Zealand's approach to civil defence and emergency management) will help the Government to better understand the issues with the existing system, identify the priority changes that should be made to the existing system, find solutions that will work for councils and their communities and achieve the objectives both tiers of government want for Aotearoa New Zealand's emergency management system.

We believe a stronger, more transparent relationship with local government, CDEM Groups and iwi/Māori, is needed to progress the Trifecta work package. That includes providing much more time for local government to consider the proposed changes, contribute to the development of a fit for purpose Bill before it progresses through Select Committee, and work through how the costs of implementing the proposed changes will be met.

LGNZ looks forward to continuing to work with the Government to refine and contribute to the wider Trifecta programme.