



**National Emergency
Management Agency**
Te Rākau Whakamarumarū



**DEPARTMENT OF THE
PRIME MINISTER AND CABINET**
TE TARI O TE PIRIMIA ME TE KOMITI MATUA

Proactive Release

The following briefing has been proactively released by the Department of the Prime Minister and Cabinet (DPMC), and National Emergency Management Agency, on behalf of Hon Peeni Henare, Minister of Civil Defence:

Declaring a National State of Emergency

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. Where information has been withheld in accordance with section 9(2)(h) of the Act, the redacted information relates to legal advice being sought and given by DPMC Legal and/or Crown Law.

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Briefing

DECLARING A NATIONAL STATE OF EMERGENCY

To Minister of Civil Defence (Hon Peeni Henare)			
Date	24/03/2020	Priority	Urgent
Deadline	24/03/2020	Briefing Number	20/29

Purpose

This briefing seeks your signature to declare a National State of Emergency to manage the magnitude of the impact the COVID-19 pandemic is having upon New Zealand.

Recommendations

- Note** that Director CDEM advice is for you to declare a National State of Emergency.
agree/disagree/discuss
- Sign and date** the attached form to declare a National State of Emergency
agree/disagree/discuss
- Note** on making the declaration, you must give immediate notice to the public of the declaration by any means of communication that is reasonably practicable in the circumstances. The Prime Minister could do this on your behalf.
agree/disagree/discuss
- Forward** a copy of this briefing, to the Prime Minister and Deputy Prime Minister.
agree/disagree/discuss



Sarah Stuart-Black
Director CDEM

24/3/2020

Hon Peeni Henare
Minister of Civil Defence

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Contact for telephone discussion if required:

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Minister's office comments:

- Noted
- Seen
- Approved
- Needs change
- Withdrawn
- Not seen by Minister
- Overtaken by events
- Referred to

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DECLARING A NATIONAL STATE OF EMERGENCY

Purpose

1. This briefing provides advice on whether to declare a National State of Emergency in response to the COVID-19 pandemic impact on New Zealand.

Declaring a National State of Emergency

2. Declarations are made by the Minister of Civil Defence who may declare that a National State of Emergency exists over the whole of New Zealand or any particular areas or districts where an emergency has occurred or may occur.¹
3. The effect of the declaration is that the control of the response to COVID-19 will be managed at the national level and will ensure local and regional level compliance with instructions issued. The aim is to ensure the health system capacity is not exceeded through strengthening public health measures and supporting the enforcement of COVID19 interventions to reduce and eliminate sustained and intensive transmission of the disease.
4. For a National State of Emergency to be declared, the situation must be an emergency under the CDEM Act and meet three legal tests. An emergency situation is:
 - i) a result of any emergency happening, whether natural or otherwise (including epidemic/pandemic) and
 - ii) causes or may cause loss of life, injury, illness or distress or in any way endangers the safety of the public; and
 - iii) cannot be dealt with by emergency services, or otherwise requires a significant and coordinated response under the CDEM Act.
5. I, as Director Civil Defence Emergency Management, advise that the emergency is, or is likely to be, of such extent, magnitude, or severity that the civil defence emergency management necessity or desirable in respect of it is, or is likely to be, beyond the resources of the Civil Defence Emergency Management Groups whose areas may be affected by COVID-19.
6. 9(2)(h) 
7. On 23 March 2020, the Prime Minister announced the New Zealand threat level for COVID-19 is now level 3, and will move to Level 4 at 11.59pm on Wednesday 25 March.

¹ Such as when a State of National Emergency was declared as a result of the Christchurch Earthquakes in 2011.

8. A COVID-19 Level 4 threat level includes a range of interventions that require powers made available under the Civil Defence Emergency Management Act (CDEM Act) during a National State of Emergency.
9. A COVID-19 Level 4 threat level means, the best advice we have at the moment is that, it is likely that the disease is not contained and there is sustained and intensive transmission in New Zealand. I, as Director Civil Defence Emergency Management, and my officials consider declaring a National State of Emergency is an appropriate action to take in response to COVID-19. It will enable us to respond by all means necessary as the situation develops and have full access to the resources available to preserve human health, society and the economy.
10. The CDEM Act also contains provisions to enable the enforcement of powers to ensure compliance, further ensuring the spread of the virus is inhibited.

Previous Example of a National State of Emergency

11. This is only the second time in New Zealand history that a State of National Emergency has been declared.
12. A State of National Emergency for the Christchurch City was declared on 23 February 2011 in response to the February 22 Christchurch earthquake. A copy of the Statement to the House issued at the time is attached as Appendix 4.
13. The National State of Emergency was declared for Christchurch City as resources from across the country were required in order to assist response and early recovery efforts and lasted from 23 February 2011 until 30 March 2011 (66 days)
14. Any declared National State of Emergency for COVID- 19 will be the first time such a declaration will be made for the whole of New Zealand

Powers released in a National State of Emergency

15. Appendix A outlines the powers which are released (and to who) upon the declaration of a National State of Emergency.
16. I, as Director Civil Defence Emergency Management, and my officials are working to determine and clarify how any potential COVID-19 intervention measure, enabled by the CDEM Act, may be enforced and the penalties that may be imposed for non-compliance. Cabinet has also discussed the use of the Epidemic Preparedness Act and the Health Act to enable the implementation and enforcement of a variety of measures required across Level 3 and Level 4 COVID-19 alerts.
17. The CDEM Act can be used in conjunction with these other Acts and officials are working to clarify which piece of legislation is most appropriate for each potential COVID-19 intervention measure.

**Dates in paragraph 13 should read "23 February 2011 until 30 April 2011"*

Process for you to declare a National State of Emergency and required communication

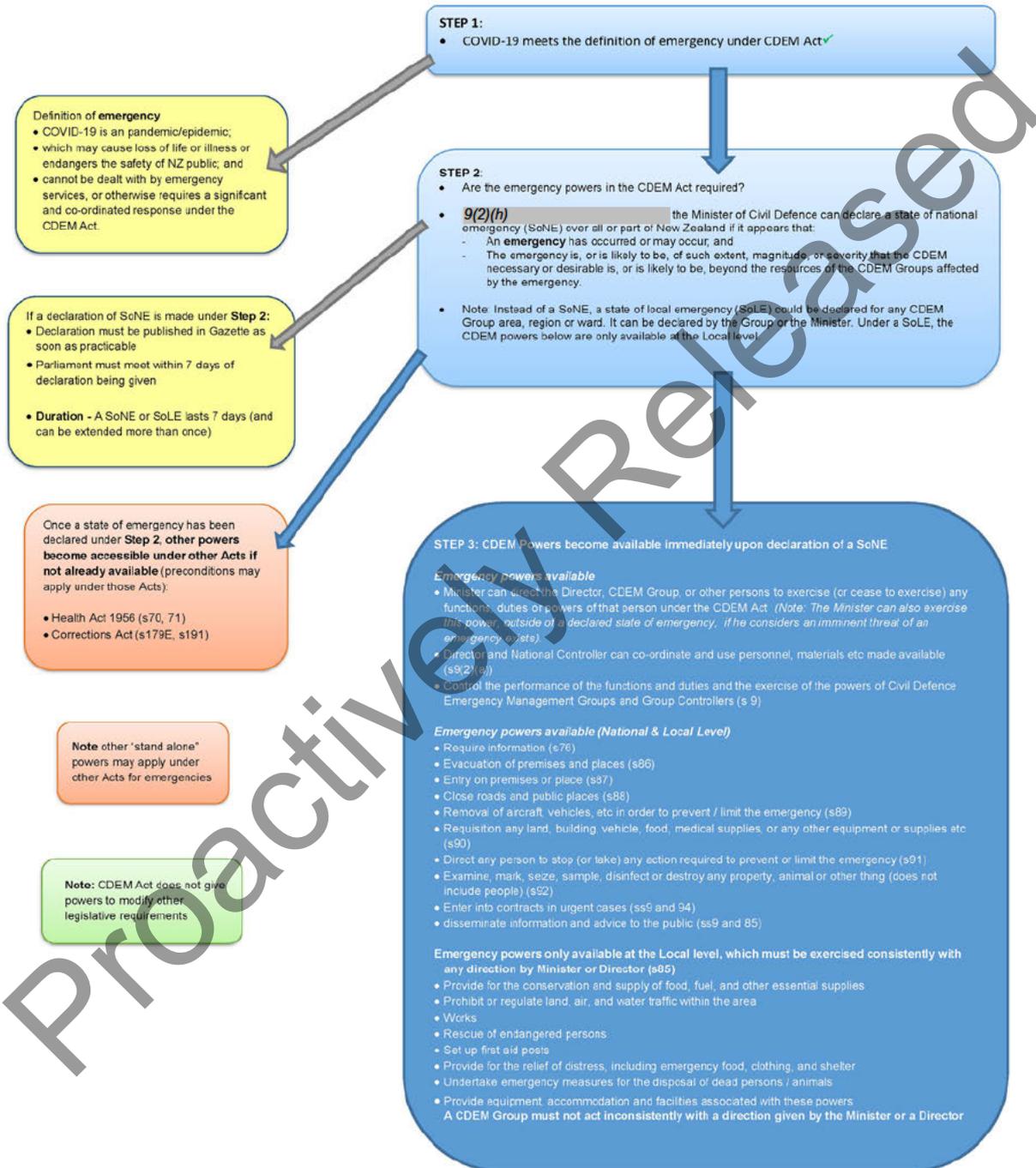
18. You legally will need to complete a form to declare a National State of Emergency. This form is attached in Appendix Two. You may wish to discuss with your colleagues the exact time and date the COVID-19 Cabinet Committee wish the declaration to be made.
19. A National State of Emergency will immediately come into force upon your signing of the declaration and stay in place for exactly 7 days.
20. Parliament must meet once a State of National Emergency is declared. I (as Director Civil Defence Emergency Management) recommend that you declare the morning of Wednesday 25 March 2020, before Parliament meets, so that they can then be informed before the House rises.
21. You, as Minister of Civil Defence, or the Prime Minister should you be unavailable given the impact of COVID-19, together with me, will then need to immediately give notice to the public by any means of communication reasonably practicable in the circumstances. You will also need to advise the media and CDEM Groups of this decision, either by you remotely or preferably, by the Prime Minister
22. Officials have prepared a draft Statement to the House attached at Appendix Three. The words that must be spoken in the House are indicated in bold. I recommend that your Private Secretary works with the Prime Minister's Office to ensure the final statement is correct.
23. A National State of Emergency will expire 7 days after the time and date on which it comes into force, unless extended or terminated at an earlier time. It is anticipated the declaration will need to be extended. We will provide you with further advice about extending the period of this declaration. You may wish to discuss the COVID-19 situation and response with your colleagues prior to making your decision.
24. I, as Director Civil Defence Emergency Management, and officials are preparing extension forms for you and will advise you as to their use and associated processes later in the week. Once the declaration has been made, we will publish the declaration in the Gazette as soon as practicable, as required under the CDEM Act.

APPENDIX ONE

Flow chart illustrating the access of powers under the CDEM Act during a national state of emergency

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ACCESSING POWERS UNDER THE CDEM ACT 2002: NATIONAL STATE OF EMERGENCY



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APPENDIX TWO

Declaration form – National State of Emergency for COVID-19

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Declaration by Minister of state of national emergency

Section 66, Civil Defence Emergency Management Act 2002

I, **Peeni Ereataa Gladwyn Henare**, declare that a state of national emergency exists **over the whole of New Zealand** owing to the impact of COVID-19.

The state of national emergency comes into force immediately on the making of this declaration, and expires 7 days after the time and date on which it comes into force (unless extended or terminated at an earlier time).

Declared by: _____
[signature]

Designation: [select one]

Minister of Civil Defence

Time and date of declaration: _____

Notes

1. The Minister must advise the House of Representatives as soon as practicable of the making of this declaration.
2. This declaration must also be—
 - a) notified to the public immediately by any means of communication that are reasonably practicable in the circumstances; and
 - b) published in the Gazette as soon as practicable. It is recommended that publication in the Gazette occur within 20 working days after the state of emergency is terminated.
3. Calculating “7 days after the time and date on which the state of emergency comes into force”: If the state of emergency came into force at 9.35 am on 1 January, it would expire at 9.35 am on 8 January. If the state of emergency came into force at 9.35 am on a Friday, it would expire at 9.35 am on the following Friday.

APPENDIX THREE

Draft Statement to the House regarding National State of Emergency due to COVID-19

DRAFT House speech – State of Emergency

- The bold is the required wording for first speaker, to document that this event meets the tests for an emergency under the Act
- To meet standing orders, a copy of the statement should be provided to all party leaders before it is made

Mr Speaker

I wish to make a Ministerial Statement under Standing Order 347 in relation to the recent declaration of a state of national emergency [by my colleague Hon Peeni Henare, Minister of Civil Defence].

Having considered the advice of the Director of Civil Defence Emergency Management, [and in consultation with the Prime Minister] I [the Minister of Civil Defence] declared a State of National Emergency for the whole of New Zealand under section 66 of the Civil Defence Emergency Management Act 2002

on [date declaration issues]

at [time declaration issued].

This was to manage the spread of the COVID-19 epidemic within New Zealand.

I [The Minister of Civil Defence] took this step because of the unprecedented nature of this global pandemic, and because I [he] considered the response required to combat Covid-19 is of such a degree that it will be beyond the capacity of local Civil Defence Emergency Management Groups to respond to on their own. This pandemic also requires a significant and coordinated response by and across central and local government.

This is the second time in New Zealand's history that a state of national emergency has been declared.

The first was on February the 23rd 2011.

It followed the 6.3 magnitude earthquake in Christchurch. It followed the death of many New Zealanders, the total destruction of much infrastructure and the crippling of essential services.

It was declared to allow the greatest possible coordination of local, national, and international resources to work on rescue and recovery.

Today we put in place our country's second state of national emergency as we fight a global pandemic, as we fight to save New Zealanders' lives. To prevent the very worst that we've seen in other countries around the world from happening here. To protect our essential health services. To cushion the economic impacts of Covid-19.

A state of national emergency to preserve our way of life.

At 11.59pm tonight, we move to the highest Alert Level of 4, and we go into lockdown.

The trigger: early evidence of community transmission of Covid-19 in New Zealand. But unlike so many other gravely inundated countries, we have a window of opportunity to break the chain of transmission of a silent killer.

We move to lockdown ahead of any potential widespread community transmission, ahead of any potential over-run of our hospitals, and ahead of any deaths on New Zealand soil.

This means we will go about life very differently to help slow down the spread of covid-19. We all have a role to play.

Only those in essential services work. All others stay home and stop interactions with those outside the home.

Non-essential business premises close.

Events and gatherings are cancelled.

Schools close.

Public transport is reserved for those undertaking essential services and transport of freight.

Domestic air travel is very limited.

New Zealanders entering at our borders undergo strict measures to isolate or quarantine.

From midnight tonight, we bunker down for four weeks.

I am fully aware that we have moved with huge speed. No other country in the world has moved to these measures with no death and so few infections.

Shutting down your economy takes planning, that is what we did. We signalled it, asked people to prepare, and then moved decisively.

These moves will be enforced.

And we will be the enforcer.

Failure of anyone to play their part in coming days will put the lives of others at risk, and there will be no tolerance for that. We will not hesitate to use our enforcement powers if needed.

Through the early and hard measures we've taken at the border, the signing of epidemic notices, under the Public Health Act and now, being in a state of national emergency, we have all of the legislative means possible, all the enforcement powers, all the tools we need, at our disposal to combat the spread of Covid-19.

Under the Civil Defence Emergency Management Act 2002, today's state of national emergency declaration means the Director of Civil Defence Emergency Management may control the exercise and performance of functions, duties, and powers of Civil Defence Emergency Management Groups and Group Controllers across the country.

While in force, it will allow national and local controllers to provide for the

- conservation and supply of food, fuel and other essential supplies
- regulate land, water and air traffic
- to close roads and public places
- to evacuate any premises, including any public place,
- And if necessary to exclude people or vehicles from any premises or place.

This declaration helps us limit our exposure, and the exposure of the most vulnerable members of our community, to Covid-19. In short, it will help save lives.

The restrictions in place on New Zealanders' movements are the most significant in our modern history. I do not underestimate the gravity of what is being asked of you. But we have a limited window of opportunity and we must use every weapon we have.

We will enforce in the national interest.

New Zealanders want to see that these measures are being complied with but in a way that we're used to seeing as New Zealanders.

As Police Commissioner Mike Bush said, the Police and the Military will be working together and there is assistance at the ready as required.

Of course, New Zealanders rally.

The full extent of these measures I don't expect will be used but as with everything we have done in response to covid-19 – we plan, we prepare, we have in place everything we need to get through.

I repeat now:

- If we don't unite we will be in lockdown for longer
- Every person needs to play their part
- Staying home and limiting contact will save lives
- We will be enforcing all measures
- It is as simple as that

We are pulling out all the stops to protect the health of New Zealanders and the health of our economy.

At this time, I say to everyone, go home, protect our health service, save lives.

And while we enforce, the job of New Zealanders is to support others.

For four weeks our interactions are limited. The joy of physically visiting other family, children, grandchildren, friends, neighbours is on hold.

But it is this joy we endeavour to preserve, to ensure it remains there for you to experience once again, and again, and again, once we get through Covid-19.

APPENDIX 4

Statement to House, National State of Emergency, Christchurch City 2011

I wish to make a ministerial statement under Standing Order 347 in relation to the declaration of a state of national emergency. On the advice of the Director of Civil Defence Emergency Management, and in consultation with the Prime Minister and the Mayor of Christchurch, at 10.30 a.m. I declared a state of national emergency for Christchurch City, under section 66 of the Civil Defence Emergency Management Act 2002. That step was taken as a result of the magnitude 6.3 earthquake that occurred in Christchurch yesterday at 12.51 p.m., and the continuing aftershocks.

This is the first time in New Zealand's history that a state of national emergency has been declared as a result of a civil defence emergency event. I took this step because I considered the emergency to be of such a degree that the required civil defence emergency management would be beyond the capacity of local civil defence emergency people to respond to on their own. Under the Civil Defence Emergency Management Act this declaration means that the Director of Civil Defence Emergency Management may control the exercise and performance of the functions, duties, and powers of the civil defence emergency management groups and group controllers. There is no other difference between the powers under a state of local emergency and a state of national emergency. The declaration of a state of national emergency will ensure the maximum possible coordination and cooperation between central and local resources and international assistance. It also demonstrates the Government's commitment to help people in Canterbury to respond to this disaster.

Like the Deputy Prime Minister, I wish to pay tribute to those personnel who work in civil defence in Canterbury, and in all the agencies that are working with them. As has already been said, often they are working to help other people while they are dealing with personal issues in relation to their own circumstances. I also pay tribute to the Australian search and rescue parties who are already on the ground in Christchurch. Teams from the United States, Singapore, the United Kingdom, Japan, and Taiwan will be deployed as soon as they get here. Offers of earthquake and rescue specialists have also been received from Belgium, Israel, the European Union, Greece, Malaysia, Argentina, and France. The United Nations Office for the Coordination of Humanitarian Affairs has offered assistance, and International Search and Rescue Advisory Group teams have been mobilised. An offer of assistance has been received from the United Nations Economic and Social Commission for Asia and the Pacific.

As we consider this statement our thoughts are with the people in Canterbury, particularly with those who have lost loved ones and with loved ones still missing.