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Christchurch City Council submission on the Emergency Management Bill

1. Christchurch City Council (the Council) thanks the Committee for the opportunity to provide comment on the Emergency Management Bill. The Council does not wish to appear before the Select Committee in relation to its submission.
2. Council staff have also been involved in the preparation of the Regional Civil Defence and Emergency Management Group submission. This submission supports that Regional Group submission. We also support the submissions of our neighbouring councils.
3. As a district, we have experienced numerous emergencies, notably flooding, the Canterbury earthquake sequence, Port Hills fire and the Mosque attacks. Many of our communities are vulnerable to flooding and sea level rise and our coastal areas are also at risk of tsunamis. Being prepared for responding to these events and looking after our communities is a high priority for our Council.
4. We also note that the timeframe given by the Committee at the same time the Government is consulting on other natural hazard and climate-related legislation and documents, including the Inquiry into the North Island Severe Weather Events and Climate Adaptation, has provided some challenges.
5. While the Council supports a review of the current legislation, the updated legal and regulatory framework needs to go further than just making limited practical improvements. We have provided feedback – both from the Council’s Civil Defence team and the Regional Group - through reviews of the emergency management system and various after-action reports, however the proposed Bill does not appear to have incorporated much of that feedback. It is important that New Zealand has clear and effective emergency management legislation in place, especially as the climate is changing and we will face more frequent and more extreme weather events. We suggest that further discussions are undertaken with Civil Defence and Emergency Management Groups, including councils and iwi to ensure we have legislation that is fit for purpose. The ‘enabling equitable outcomes’ sections should have a stronger reference to climate change as we anticipate that communities that are disproportionately affected by emergencies will be affected more so as climate impacts increase.
6. The below submissions are some of the key issues that we consider need addressing in the legislation:

Māori participation in emergency management

7. We are pleased to see that Māori are being recognised for the valuable contribution they make in emergency management. Mana whenua already contribute significantly to emergency preparedness and support in emergency responses.
8. Māori representatives on committees should have full voting rights and get paid.
9. We support the inclusion of iwi in (regional) Emergency Management Committees and Emergency Management Executive Groups and the ability for iwi to be reimbursed for response costs. However, we suggest that this should be further developed, particularly recognising that the role of Māori goes well beyond an advisory role.

10. References to Māori and iwi in the Bill should be replaced with mana whenua.

Increasing the resilience of critical infrastructure

11. The sections on ‘increasing the resilience of critical infrastructure’ seems to suggest that infrastructure that is ‘critical’ now will remain so into the future. In reality, ‘criticality’ will in part be determined by where populations are located, and over time retreat from hazards will require communities to move away from marginal and risky locations meaning that critical infrastructure will also have to move. Therefore, we suggest a stronger reference to the review of what is ‘critical’, and that the Bill notes that what is critical can change.

Lack of adequate provision for regional level of emergency response management

12. We support the proposed improved recognition and articulation of the three-layer model of emergency management governance, management, and operational coordination. But it is unclear why the Bill retains the two-level approach to declared states of emergency and transition periods as “local” and “national” respectively.
13. A third tier of “regional” state of emergency for more than one local authority or unitary authority within a “regional emergency management area” would enable regional emergency management controllers and local emergency management controllers to carry out the mutually supportive roles more effectively.
14. We also recommend that each local emergency management area, in most cases a local authority or local/community board or partnership of these, should be required to develop their own local emergency management plan, as a component of the respective regional emergency management plan. These plans should be developed using a consistent national framework, audited for compliance and functionality, and made available for public and other stakeholders' consumption.
15. The organisations comprising a local emergency management area should be required to collectively provide the (physical and human) resources necessary to establish and maintain a resilient local all-hazards multi-agency emergency operations centre (EOC) capability, and at least one alternative centre, reporting to and sharing a nationally consistent common operating picture, including using a nationally consistent emergency management platform with the respective emergency coordination centre (ECC).

Consistent terminology for geographic scales

16. We recommend that there is consistency around geographic scales to avoid confusion. The term “area” is used by NZ Police for a geographic scale of command. The suggested use of “area” in the Bill is the inverse of that used by Police.

Emergency management plans

17. Changing regional emergency management plans to “emergency management committee plans” implies the focus is on the committee, rather than the communities, economy, environment, and wider stakeholders of the geographic area being planned for. We recommend that reference to “emergency management committee plan” in the Bill be amended to “regional emergency management plan” and “local emergency management plan”, consistent with the geographic level of reference involved. This would also be more inclusive for individuals, groups and organisations who are not part of the committee, including iwi, critical infrastructure entities and central government agencies.
18. We also recommend that reference to “Area Controller” and “Area Recovery Manager” be clarified and geographically relevant to “Regional Controller” and “Regional Recovery Manager” respectively.

Lack of statutory mandate for the Coordinated Incident Management System (CIMS)

19. In previous reviews the lack of consistent application of the Coordinated Incident Management System (CIMS) has been highlighted as a significant issue. We are concerned that the Bill does not address this, and it is unclear why the earlier feedback to mandate this has not been incorporated.
20. We strongly recommend that a new clause (i) be added to the Purpose:

provide an enabling environment for the Coordinated Incident Management System (CIMS) to be adopted, implemented, and constantly improved by all organisations involved in emergency response and recovery management.

21. We also suggest that CIMS is added as a possible regulation-making power i.e., prescribing CIMS by regulation, which provides a bit more flexibility to adapt/change as required.

Narrow approach to all-agencies emergencies management

22. The terminology used in clause 3(g) is inconsistent with the definition of “emergency management” in clause 5 of the Bill (which has not changed from the definition of “Civil Defence Emergency Management” in section 4 of the 2002 Act). Emergency management is not only about preventing or managing emergencies. The Bill should reflect the more inclusive comprehensive contemporary definition of “emergency management”.
23. We recommend that clause 3(g) of the Purpose be made more explicit and we suggest the following wording:

“the co-ordination of emergency management, planning, and related activities among the wide range of agencies and organisations [involved in understanding, communicating, reducing,] preventing[, readying for, responding to, and recovering from hazards, associated risks,] and emergencies under this Act and the Acts listed in clause 3 of Schedule 2.

Emergency Powers not conferred automatically to Controllers

24. The Bill (and the 2002 Act) is unique in the New Zealand emergency legislative context as emergency powers are conferred on Emergency Management Committees and Recovery Managers (sub-part 3, section 100 of the Bill), but not to suitably trained and experienced Controllers appointed by the Committees under section 42 or 43 of the Bill. Despite this, it is Controllers who actually exercise the powers (sections 101 to 107). However, under the same sections, any constable is automatically delegated the full suite of emergency and transitional powers.
25. Ensuring that the levels and potential multiple local authority responses to actual or potential emergencies are enabled, and to avoid the confusion when some involved believe that only primary appointed Controllers can exercise emergency powers, it would be beneficial for Controller(s) to be empowered by the Bill to exercise the powers concurrently.
26. We recommend that clause 100 of the Bill be amended to:

100 Emergency powers of [Controllers] and Recovery Managers

Who may exercise power

- (1) *If a state of emergency is in force, [Controllers appointed by the respective Emergency Management Committee or otherwise empowered by this Bill] may exercise the powers set out in **subsection (3)**.*

Thank you for the opportunity to provide this submission. We look forward to working with the National Emergency Management Agency and Civil Defence agencies to discuss the way forward with this legislation. For any clarification on points within this submission please contact Brenden Winder, Manager Civil Defence and Emergency Management at Brenden.Winder@ccc.govt.nz.

Yours faithfully

Phil Mauger
Mayor of Christchurch