



**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:

### **First Extension of the State of National Emergency for COVID-19**

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.

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

- 9(2)(a), to protect the privacy of individuals, and
- 9(2)(h), to maintain legal professional privilege.

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# Briefing

## EXTENSION OF THE STATE OF NATIONAL EMERGENCY FOR COVID-19

To Minister of Civil Defence (Hon Peeni Henare)

<b>Date</b>	30/03/2020	<b>Priority</b>	Urgent
<b>Deadline</b>	31/03/2020	<b>Briefing Number</b>	20/32

### Purpose

- This briefing seeks your agreement and signature to extend the duration of the state of national emergency to manage the magnitude of the impact the COVID-19 pandemic/epidemic is having upon New Zealand. The state of national emergency expires on 1 April at 12.21pm and must be extended before this time to remain in place for a further 7 days.

### Recommendations

- Agree** to extend the state of emergency and **sign and date** the attached form to extend the duration of the state of national emergency

**Agree/disagree/discuss**

- Agree** that your office forward a photo of the declaration and cover memo to the Bills Office immediately after you have signed it so that the House can be immediately informed of this extension.

**Agree/disagree/discuss**

- Agree** that your Office will to release a media statement each time an extension is made, so that the public is given immediate notice of the extension.

**Agree/disagree/discuss**

- Forward** a copy of this briefing to the Prime Minister and Deputy Prime Minister, and refer to the COVID Ministerial Group.

**Agree/disagree/discuss**

 Sarah Stuart-Black <b>Director CDEM</b>		Hon Peeni Henare <b>Minister of Civil Defence</b>
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**Contact for telephone discussion if required:**

Name	Position	Telephone		1st contact
Sarah Stuart-Black	Director CDEM	9(2)(a)	9(2)(a)	
Annabel Ritchie	Acting Corporate Legal Services Manager, DPMC	9(2)(a)	9(2)(a)	✓

**Minister's office comments:**

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- Withdrawn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

Proactively Released

# EXTENSION OF THE STATE OF NATIONAL EMERGENCY FOR COVID-19

## Purpose

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1. This briefing provides advice on whether to extend the duration of the state of national emergency in response to the COVID-19 pandemic/epidemic impact on New Zealand. The state of national emergency expires on 1 April at 12.21pm and must be extended before this time to remain in place for a further 7 days.

## Overall situation: state of national emergency for COVID-19

2. New Zealand is currently at COVID-19 alert level 4. Cases of COVID-19 continue to rise in New Zealand, with 589 confirmed and probable cases as at 0900 hours on 30 March 2020, and evidence of some cases of community transmission. The range of interventions required under alert level 4 may require immediate access to powers made available under the Civil Defence Emergency Management Act (CDEM Act) during a state of national emergency.
3. You made a declaration on Wednesday 25 March 2020 at 12.21pm that a state of national emergency exists over the whole of New Zealand.
4. The effect of the declaration is that the control of the response to COVID-19 is being managed at the national level and supports reducing and managing risk at the local and regional levels, and provides Police powers that are complementary to their Health Act powers. The aim is to ensure the health system capacity is not exceeded, through strengthening public health measures and supporting the enforcement of COVID-19 interventions to reduce and eliminate sustained and intensive transmission of the disease.

## Powers available under the CDEM Act by a declaration of a state of national emergency

5. The powers available in a state of emergency are significant, and must only be used when reasonably necessary. Since the state of national emergency was declared, CDEM Act powers have been used to requisition a car park for COVID-19 testing in Canterbury and to ensure CDEM Groups have their Emergency Operation Centres and welfare structures activated to the appropriate standard. Constables have also had access to the CDEM Act powers to reinforce the Government's self-isolation requirements.
6. As the COVID-19 pandemic continues, the likelihood of needing to use emergency powers increases. For example, the powers may be used to ensure the appropriate management of fuel and food so that communities, particularly vulnerable groups, have what they need. There may also be ongoing and heightened demand and competition for resources at a regional level that require management/intervention at a national level.

7. Ensuring emergency powers are readily available strengthens incentives for the public to follow COVID-19 intervention measures and provides a legislative backstop that complements Health Act powers, and for agencies whose own legislation provides limited direction or powers in the event of an emergency.
8. While it is too early to know definitively what powers will be needed to support the response to COVID-19, NEMA officials are collecting information about how the CDEM Act powers are used, and how they intersect with powers under the Health Act and Epidemic Notice, to best enable the implementation and enforcement of alert level 4. We will be able to provide you with more information about this in subsequent briefings.

### **Relationship between the state of national emergency and COVID-19 alert levels**

9. A state of national emergency is not dependent on a COVID-19 alert level 4 alert being in place (in either a local or national level). The COVID-19 Alert framework was developed to indicate measures and interventions the Government considers are required to address the level of risk to public health. A state of national emergency in this situation *supports* higher alert levels. If the alert levels change, this does not mean the state of national emergency should be terminated.
10. The nuanced relationship between the alert level 4 and the state of national emergency will not likely be clear to New Zealanders. If the state of national emergency is not extended, it will likely cause public confusion and possibly send a signal that the situation is not as serious as it is. This could undermine the Government's response and compromise the outcomes the Government is trying to achieve (i.e. cause people to follow the interventions more loosely, or not follow them). Maintaining a state of national emergency would clearly signal to New Zealanders that there remains a high risk of further sustained and intensive transmission of COVID-19.
11. NEMA is engaging with the all-of-government response to consider how decisions on changing alert levels will align with decisions on extending or terminating the state of national emergency.

### **Process for you to extend the duration of a state of national emergency and required communication**


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12. To extend the state of national emergency, you are required to complete the form attached at Appendix Two.
13. When you have determined that such an extension is required, you may sign the form at any point prior to the expiry of the existing declaration. The extension comes into force immediately before the existing declaration expires.
14. Should a second or subsequent extension be required, we will supply you with the necessary form to complete (that details the time and date of the original declaration and every subsequent extension).
15. We must immediately inform the House of Representatives of this extension. Due to the travel restrictions imposed under level 4, please send a photograph of the signed

declaration to your Private Secretary - Civil Defence, he can refer this photo, together with a cover memo, to the Clerk of the House and the Bills Office, for (remote) presentation to the House. A draft of the Cover memo is attached as Appendix Three, which we will update as required for each subsequent extension.

16. Officials will publish the extension in the Gazette as soon as practicable, and use a variety of mechanisms to immediately inform the public, as required under the CDEM Act, while ensuring links to the wider all-of-government COVID-19 communication strategy.
17. After each extension, your office will need to release a media statement. A draft media statement is attached at Appendix Four. Officials will provide an updated version to your office upon receipt of each signed extension form.
18. The extension will expire 7 days after the time and date on which the declaration of the state of national emergency came into force, unless further extended or terminated at an earlier time. There is no limit as to how many times a state of national emergency may be extended.

### **Advice on extending the state of national emergency this week**

19. The state of national emergency expires on 1 April at 12.21pm and I recommend an extension to ensure ongoing delivery of the Government approach to managing COVID-19. The ongoing and serious nature of the impact of COVID-19 in New Zealand indicates an ongoing need for a state of national emergency to remain in place. Details of powers under the CDEM Act are detailed in Appendix One.
20. An extension to a state of national emergency should only be made if the situation remains an emergency and the emergency is, or is likely to be, of such extent, magnitude, or severity that the civil defence emergency management necessary or desirable in respect of it is, or is likely to be, beyond the resources of Civil Defence Emergency Management Groups whose areas are affected by the emergency.
21. 9(2)(h)  

22. I, as Director Civil Defence Emergency Management, and officials consider extending the state of national 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 ensure we have full access to the resources available to preserve human health, society and the economy.

# APPENDIX ONE

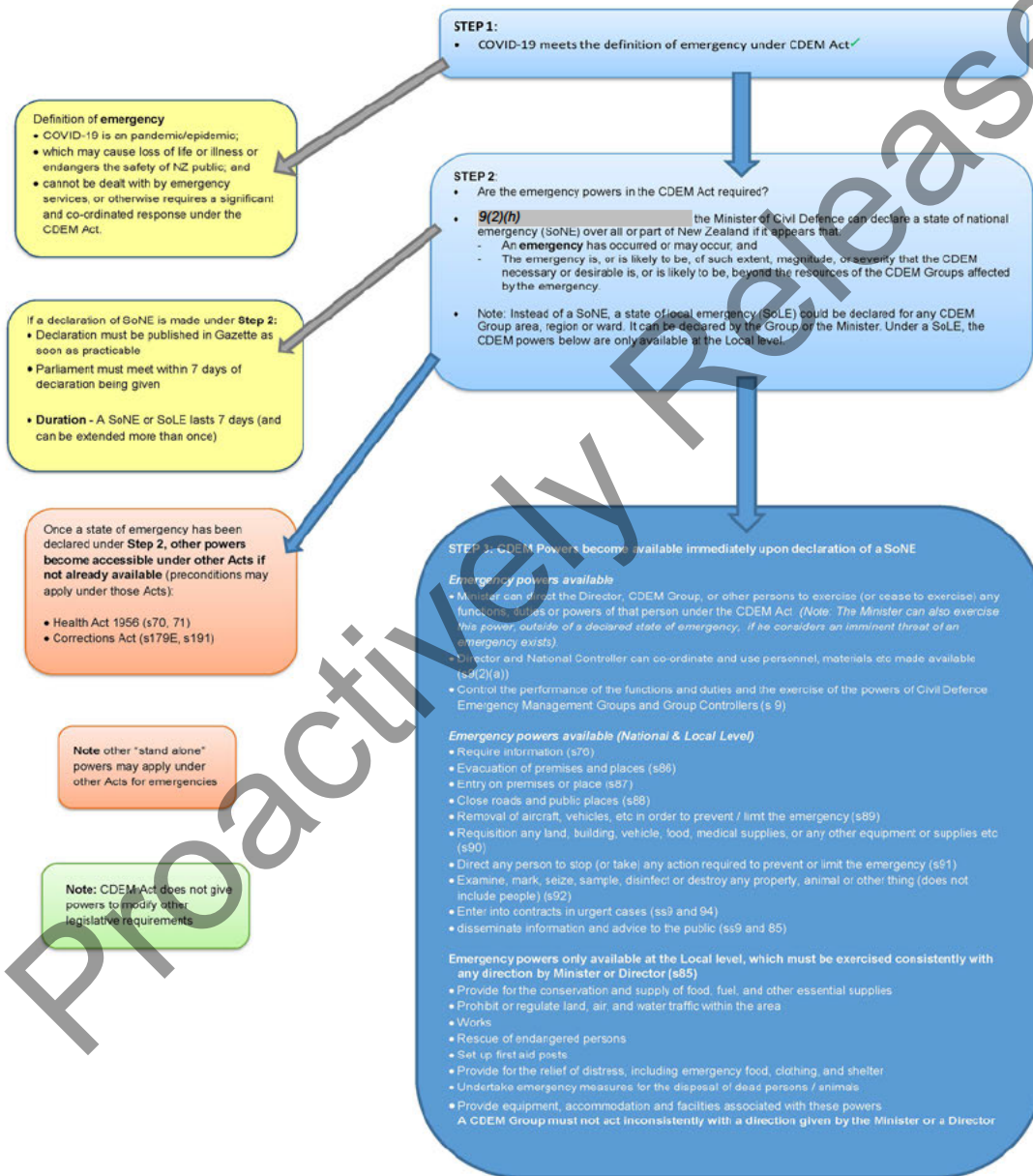
## Flow chart illustrating the access of powers under the CDEM Act during a state of national emergency



~~Legally Privileged~~



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



DPMC:4235790

## APPENDIX TWO

### Declaration form – Extending state of national emergency for COVID-19

#### Declaration by Minister extending state of national emergency

*Section 71, Civil Defence Emergency Management Act 2002*

I, **Peeni Ereataira Gladwyn Henare**, extend the state of national emergency declared at 12.21pm, on Wednesday 25 March 2020, over the whole of New Zealand owing to the impact of COVID-19.

This extension comes into force at 12.21pm on Wednesday, 1 April 2020 and will expire at 12.21pm on Wednesday, 8 April 2020.

Declared by: \_\_\_\_\_  
[signature]

Designation: **Minister of Civil Defence**

Time and date of declaration: \_\_\_\_\_ am/pm on \_\_\_\_\_ 2020

#### 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 the extension of “7 days” for a declaration extending the state of emergency: If the extension came into force at 9.35 am on 1 January, it would expire at 9.35 am on 8 January. If the extension came into force at 9.35 am on a Friday, it would expire at 9.35 am on the following Friday.
4. If this is a second or subsequent extension of a state of emergency, specify the time and date when each previous extension took effect and the time and date when the state of emergency was first declared.



## APPENDIX THREE

### **Memo describing the extension of state of national emergency, to be provided to the House together with a copy of the signed extension form.**

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To: Clerk of the House, and the leader of each political party

CC: Bills Office

From: Hon Peeni Henare, Minister Civil Defence

#### **For immediate presentation to the House**

Please see attached a declaration extending the current state of national emergency (due to COVID-19) signed by Peeni Henare, Minister Civil Defence at TIME/ DATE. This extension comes into force at 12.21 pm on Wednesday, 1 April 2020 and will expire at 12.21 pm on Wednesday, 8 April 2020, unless terminated earlier. There is no limit as to how many times a state of national emergency may be extended.

This extension has been made on the advice of the Director Civil Defence Emergency Management, and after consultation with the Prime Minister and the All-of-Government COVID-19 controller, John Ombler. 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 COVID-19 interventions to reduce and eliminate sustained and intensive transmission of the disease.

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## APPENDIX 4

### Draft Media Statement regarding the extension of a state of national emergency due to COVID-19

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DATE

Civil Defence

Minister of Civil Defence Peeni Henare, today declared that the State of National Emergency will be extended for a further seven days in response to COVID-19.

“The State of National Emergency was first declared on the 25<sup>th</sup> of March and will extend for another seven days as we continue to manage the spread of COVID-19,” Mr Henare said.

“On the advice of the Director and National Controller Civil Defence Emergency Management and after consultation with the Prime Minister, I consider the continued 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.”

“The powers available under a State of National Emergency enable us to ensure all areas have the resources, support and powers they need to keep their communities safe and healthy during this challenging time. We will be constantly reviewing the situation as to whether further extensions of the State of National Emergency are required and if the powers under this function are necessary. For now, they are.”

The powers activated by the State of National Emergency enables civil defence emergency management professionals to carry out critical work during this time including managing roads, traffic and public places, issuing first aid, providing food, shelter and accommodation.

“This is only the second time in New Zealand’s history we have declared a state of emergency and the only time in modern memory that we have dealt with an emergency of this nature,” Mr Henare notes.

“This pandemic requires a significant and coordinated response by and across central and local government in circumstances we have never seen before. It has also called on every New Zealander to make sacrifices in the normal daily lives.”

“We understand these are incredibly challenging times but we urge all New Zealanders to please follow official advice. We have only a limited window of opportunity to stamp this out and we have to be vigilant if we are going to fight this. These measures are the best things we can do to break the chain of transmission and the sacrifices people are making will save lives.”

“I’d like to thank those who are working tirelessly to contain the spread of COVID-19, particularly those in essential services who are away from their homes in order to keep others safe in theirs.”

“Now is the time for us to remain at home and be strong together as a nation - kia kaha Aotearoa.”

This declaration by the Minister of Civil Defence extending the state of national emergency can be found in the Gazette <https://gazette.govt.nz/>

ENDS