



## **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:

### **Fifth 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.

This Extension of the State of National Emergency was approved by Minister Henare on 28 April 2020.

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

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



# Briefing

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

To Minister of Civil Defence (Hon Peeni Henare)

<b>Date</b>	27/04/2020	<b>Priority</b>	Urgent
<b>Deadline</b>	28/04/2020	<b>Briefing Number</b>	20/44

### Purpose

1. This briefing seeks your agreement and signature to further extend the duration of the State of National Emergency to manage the impact of the COVID-19 pandemic on New Zealand. The State of National Emergency expires on Wednesday 29 April at 12.21pm and must be extended before this time if it is to remain in place for a further 7 days.
2. This paper provides advice as to how the state of national emergency may support the implementation of Alert Level 3 from 11.59pm Monday 27 April.

### Recommendations

1. **Note** <sup>9(2)(h)</sup>

NEMA Policy and the AOG leadership team support this position.

2. **Agree** to extend the State of National Emergency for a further 7 days from 29 April 2020 and **sign and date** the attached declaration.

**Agree/disagree/discuss**

3. **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**

4. **Agree** that your Office release the attached media statement once the extension is made.


**Agree/disagree/discuss**

5. **Refer** a copy of this briefing to the Cabinet Social Wellbeing Committee and the Prime Minister's Office.

**Agree/disagree/discuss**

6. **Agree** to proactively release a copy of this briefing on the covid19.govt.nz website, with appropriate redactions.

**Agree/disagree/discuss**

 Sarah Stuart-Black <b>Deputy Chief Executive,                  NEMA and Director Civil                  Defence Emergency                  Management</b>		Hon Peeni Henare <b>Minister of Civil Defence</b>
27/4/2020		...../4/2020

**Contact for telephone discussion if required:**

Name	Position	Telephone		1st contact
Sarah Stuart-Black	Deputy Chief Executive, NEMA and Director, Civil Defence Emergency Management	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

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

## Overall situation: State of National Emergency for COVID-19

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1. On Wednesday 25 March 2020, you declared a State of National Emergency over all of New Zealand to curtail the spread of COVID-19. You extended the State of National Emergency at 9.27am on Tuesday 31 March 2020, at 9.25am on Tuesday 7 April 2020, at 9.37am on Tuesday 14 April 2020 and again at 9.35am Tuesday 21 April 2020. The current declaration expires on Wednesday 29 April 2020 at 12.21pm unless extended prior.
2. Between 19 and 25 April, the combined number of confirmed and probable cases rose from 1,431 to 1,461, while the number of deceased increased from 12 to 18. The number of new confirmed and probable cases detected over the past week continues to slow and decline. This, along with the growing number of people recovering from COVID-19, suggests that the curve is flattening.

### *Use of powers*

3. Police constables are able to employ powers under the Civil Defence Emergency Management Act in a State of National Emergency. In the previous briefing we told you that as at 16 April 2020, there had been 473 breaches by members of the public under the Civil Defence Emergency Management Act, which resulted in 38 prosecutions, 418 warnings and 17 youth referrals. As at 24 April 2020, there have been an additional 65 warnings given and 1 further prosecution.
4. One Civil Defence Emergency Management Group has used CDEM Act powers in the last seven days. A table summarising the use of powers by Civil Defence Emergency Management Groups since 25 March is attached at Appendix Four for your information.

## Advice on extending the State of National Emergency this week


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5. The State of National Emergency expires on Wednesday 29 April at 12.21pm. 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.
6. Each week, officials consider a wide range of factors and data when formulating advice on whether it is necessary to extend the State of National Emergency. These are:
  - a) whether the statutory tests have been met;
  - b) the severity and impact/consequences of the current situation/emergency;
  - c) the degree of complexity of the necessary response (including the need for coordination at the national level);

- d) the potential need for powers under the Civil Defence Emergency Management Act to manage the response; and
  - e) the effectiveness of measures in place to manage and eliminate COVID-19 and the ability to enforce these measures.
7. The public health risk posed by COVID-19 remains an emergency as defined by the CDEM Act, to which we must respond. Whilst the number of new confirmed and probable COVID-19 cases is continuing to slow and decline, the Ministry of Health assesses that the overall public health risk for New Zealand remains 'high' and the World Health Organisation risk assessment of the global situation remains at 'very high'.
8. In addition, the restrictions required to reduce the spread of COVID-19 are resulting in significant and complex consequences across a range of sectors. Managing these consequences requires careful national coordination and application of CDEM knowledge, measures and practices to help guard against, prevent and reduce any harms or loss that may be associated with COVID-19, and which are at a level beyond that of individual CDEM Groups to manage.
9. Maintaining a State of National Emergency will enable and support national coordination, the use of national CDEM planning and resources, and the implementation of required CDEM knowledge, measures and practices. The powers made available by the State of National Emergency continue to be used by CDEM Groups and Police constables to enforce measures required to limit the spread of COVID-19.
10. 9(2)(h) [REDACTED] The National Emergency Management Agency Policy function supports this position.
11. As Director, Civil Defence Emergency Management, I consider extending the State of National Emergency is an appropriate action in response to the ongoing and serious impact of COVID-19.
12. I therefore recommend you agree to extend the State of National Emergency by signing the form attached at Appendix One.
13. For further information on powers made available under the Civil Defence Emergency Management Act by a declaration of a State of National Emergency, and the overall process to extend a State of National Emergency, please refer to Briefing 20/32.

### **Retaining the State of National Emergency as we move to Alert Level 3**

14. If you agree to extend the state of national emergency, this extension shall come into force on Wednesday, 29 April 2020, when New Zealand will no longer be at Alert Level 4. The Government has decided that New Zealand shall move from Alert Level 4 to 3 at 11.59pm Monday 27 April.

15. The State of National Emergency and COVID-19 alert levels are two distinct things. Alert Level 3 is designed to impose restrictions on activities, including at workplaces and socially, to address a high risk of COVID transmission within New Zealand. The restrictions associated with Alert Level 3 will continue to require the support of the powers available under the Health Act, Civil Defence Emergency Management Act and Epidemic Preparedness Act.
16. For further information on the Alert Level 3 restrictions which are relevant to the Civil Defence Emergency Management Act powers please refer to Briefing 20/43.
17. 9(2)(h)  NEMA Policy and the AOG leadership team support this position.
18. From 11.59pm 27 April 2020, the country will hold at Alert Level 3 for a minimum of two weeks. Cabinet will review the situation on 11 May 2020 and determine whether New Zealand is to remain at Alert level 3 for a further period or if the Alert Level should be changed (and how any change is to be implemented).
19. As Briefing 20/43 noted, National Emergency Management Agency Policy is developing advice for you as to how the CDEM Act could continue to provide support for Alert Levels 1- 3. The development of this advice will be informed by the ongoing discussions occurring across government which NEMA is contributing to regarding future alert level changes and the powers needed to support them.

## Next Steps

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### *State of Emergency Declaration*

20. Once you have signed the extension form, the next steps are to:
  - a) ask your Office to forward a photo of the declaration and the cover memo (attached at Appendix Two) to the Bills Office so that the House can be immediately informed of the extension;
  - b) release a media statement informing the public of the extension (attached at Appendix Three); and
  - c) refer a copy of this briefing to the Cabinet Social Wellbeing Committee and the Prime Minister's Office.

## APPENDIX ONE

### Declaration by Minister extending State of National Emergency

*Section 71, Civil Defence Emergency Management Act 2002*

I, **Peeni Ereataa Gladwyn Henare**, further extend the State of National Emergency declared at 12.21pm, on Wednesday 25 March 2020, which I previously extended at:

- 9.27am on Tuesday 31 March 2020,
- 9.25am on Tuesday 7 April 2020,
- 9.37am on 14 April 2020 and
- 9.35am on 21 April 2020,

over the whole of New Zealand owing to the impact of COVID-19.

This extension comes into force at 12.21pm on Wednesday, 29 April 2020 and will expire at 12.21pm on Wednesday, 6 May 2020.

Declared by: \_\_\_\_\_  
signature

Designation: **Minister of Civil Defence**

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

### **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 Hon Peeni Henare, Minister Civil Defence, at **TIME/ DATE**. This extension comes into force at 12.21 pm on Wednesday, 29 April 2020 and will expire at 12.21 pm on Wednesday, 6 May 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 of Civil Defence Emergency Management, and after consultation with the Prime Minister. 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, whilst managing the impact of these interventions.

The State of National Emergency and the COVID-19 alert levels are two distinct and separate things. The alert levels specify the range of measures that we are taking against COVID-19. A State of National Emergency provides the people managing the response in an emergency, in this case COVID-19, access to powers they would not normally have, but require now to implement and enforce these measures.

## APPENDIX THREE

### Draft Media Statement regarding the extension of a State of National Emergency due to COVID-19

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#### State of National Emergency extended

The State of National Emergency to support the COVID-19 response will be extended a fifth time, for a further seven days.

The initial declaration was made on March 25, and the seven-day declaration can be extended as many times as necessary. It does not change the COVID-19 Alert Level.

“On the advice of the Director of Civil Defence Emergency Management and after consultation with the Prime Minister, I consider the State of National Emergency should remain in place to support the COVID-19 response,” Minister of Civil Defence Peeni Henare said.

“It is important that we continue to have the powers and support enabled by the State of National Emergency available as we transition to Alert Level 3 to help maintain the level of success we have seen to date in stopping the spread of COVID-19 in our communities.

“The powers activated by the State of National Emergency enable critical work to be carried out during this time including managing roads, traffic and public places; providing first aid, food, shelter and accommodation.

“Use of these powers has included authorising local councils to restrict vehicle access to roads or streets to support social distancing, directing freedom campers to relocate, requisitioning a carpark for COVID-19 testing, stopping people from lighting outdoor fires to reduce the risk of fire related emergencies, and allowing necessary maintenance to happen at a waste water treatment plant.

“Since we went into lockdown most New Zealanders have done the right thing by following the rules and staying home. Getting this far has required a collective effort and we should be enormously proud of what we have achieved.

“So we do not lose the gains we have made, it is vital that everyone complies with all Alert Level 3 restrictions to support all New Zealanders to stay strong and help finish what we started – kia kaha Aotearoa.”

The State of National Emergency and the COVID-19 Alert Levels are two distinct and separate things. The Alert Levels specify the range of measures that we are taking against COVID-19.

A State of National Emergency provides the people managing the response in an emergency, in this case COVID-19, access to powers they would not normally have, but might require now to implement and enforce these measures.

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

## APPENDIX FOUR: SUMMARY OF CIVIL DEFENCE EMERGENCY MANAGEMENT ACT POWERS USED

Powers used	Date used	Civil Defence Emergency Management Group / Local Authority	Description of power used	Describe the issue and outcome achieved
s90(2)(a)	26-Mar-20	Canterbury	Requisition Church Corner Mall carpark from Christchurch City Council and place it under the direction and control of a person authorised by the Controller (Canterbury District Health Board (CDHB))  (necessary for the preservation of human life)	The CDHB required a Community Based Assessment Centre (CBAC) but was not able to direct activities on Council owned property. The property was requisitioned and placed under the control of the CDHB to establish the CBAC (enabling resources, including containers /Portacoms to be located on the site).
s88	26-Mar-20	Hawkes Bay	Road closure  (to prevent or limit the extent of the emergency)	Close rural road leading to forest park to hunters – to prevent hunters accessing the area (and also reducing risks of requiring emergency assistance). Outcome is no further traffic to the area.
s91	26-Mar-20	Taranaki	Direct a business trading non-essential products to stop trading.  (stop an activity which may substantially contribute to the emergency (COVID-19))	To cease members of the public making non-essential trips by closing a non-essential activity. Therefore, minimised risk of infection of others / community outbreak.
s85	27-Mar-20	Taranaki	Provide food to vulnerable people (through the Rapid Relief Team)	To ensure a reliable source/availability of food packs for the provision of vulnerable people by Civil Defence Emergency Management
s91	27-Mar-20	Taranaki	Direct a business trading non-essential products to stop trading.  (stop an activity which may substantially contribute to the emergency (COVID-19))	To cease members of the public making non-essential trips by closing a non-essential activity (reducing risk of store staff working in close proximity). Therefore, minimised risk of infection of others / community outbreak.
s91	27-Mar-20	Taranaki	Direct a group of freedom campers at a designated freedom camping site at Lake Rotomanu in New Plymouth to move to a pre-arranged, secure campsite  (stop an activity which may substantially contribute to the emergency (COVID-19))	To move the freedom campers to a controlled environment which will reduce the risk of community transmission.
s91	28-Mar-20	Taranaki	Direct freedom campers at Tarata Domain in New Plymouth to move to a pre-arranged, secure campsite  (stop an activity which may substantially contribute to the emergency (COVID-19))	To move the freedom campers to a controlled environment which will reduce the risk of community transmission
s91	28-Mar-20	Nelson-Tasman	Direct a campground facility and its management to make its facilities available as required by the Nelson Tasman Civil Defence Emergency Management Group  (stop an activity which may substantially contribute to the emergency (COVID-19))	The campground was directed to make its facilities available (in accordance with the Nelson Tasman Civil Defence Emergency Management Plan), and to work with Civil Defence Emergency Management Group staff.  This enabled a place for freedom campers to self-isolate
s91(1)(a)	31-Mar-20	Nelson-Tasman	Direct persons in the Nelson-Tasman region not to light outdoor fires (on either public or private land) for the duration of the emergency) without prior approval from Fire and Emergency New Zealand  (stop an activity which may substantially contribute to the emergency (COVID-19))	Following a request from FENZ and noting a high regional fire risk, this decision was taken to: reduce the number of responses required to fire related emergencies and thus reduce the risk of infection spread, especially in relation to emergency services and their families
s91	1-Apr-20	Taranaki	Authorised District Council Environmental Health Officers to direct businesses trading non-essential products to stop trading.  (stop an activity which may substantially contribute to the emergency (COVID-19))	To cease members of the public making non-essential trips by closing a non-essential activity. Therefore, minimised risk of infection of others / community outbreak.

Powers used	Date used	Civil Defence Emergency Management Group / Local Authority	Description of power used	Describe the issue and outcome achieved
s88	1-Apr-20	Taranaki	Road closure (to prevent or limit the extent of the emergency)	To close or install gates or barriers to prevent access to the roads leading to Dawson Falls and Stratford Plateau/Mountain House. This removes access to hard to patrol freedom camping spots. Activities stopped that might result in the need for rescue activity, putting strain on emergency services and place emergency services personnel at risk. Ensures people are compliant with national direction on isolation.
S88	1-Apr-20	Canterbury	Road closure (to prevent or limit the extent of the emergency)	Vehicular access to roads inhibited to prevent people accessing the back country to the north of Hanmer Springs and the potential for the need to rescue them if they became lost or injured.
S91	6-Apr-20	Taranaki	Authorise noise control officers (from Local Authority) to issue directions to persons. (to direct any person to stop any activity that may cause or substantially contribute to an emergency)	Noise Control Officers able to respond to noise complaints in order to maintain law and order and ensure that there is compliance with national Alert Level 4 measures (physical distancing/isolation) during State of National Emergency.
S85	8-Apr-20	Taranaki	Designate a local manufacturer as an essential service to enable the provision of essential supplies. (to enter into arrangements to enable the supply of essential supplies)	Enabled a local manufacturer to operate as an essential service, therefore helping to ensure the availability of hospital scrubs for Taranaki District Health Board for safe, appropriate health service delivery.
S85	8-Apr-20	Taranaki	Designate named contractors as an essential service to undertake works associated with Civil Defence Emergency Management.	Designating specified contractors as essential services enabled them to undertake necessary maintenance on the New Plymouth Waste Water Treatment Plant (WWTP) and the Thermal Drying Facility (TDF).
85(1)(d), 86(b) and 91	17 – Apr-20	Canterbury	Require a person to stop camping in a public park and to move to a local motor camp for emergency shelter	To move a person to a controlled environment to reduce the risk of community transmission and to provide that person with suitable shelter to enable the person to self-isolate (noting the forecast weather conditions).