



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:

Second 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.



Briefing

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

To Minister of Civil Defence (Hon Peeni Henare)

Date	6/04/2020	Priority	Urgent
Deadline	7/04/2020	Briefing Number	20/35

Purpose


1. 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 is having upon New Zealand. The State of National Emergency expires on Wednesday 8 April at 12.21pm and must be extended before this time if it is to remain in place for a further 7 days.

Recommendations

1. **Agree** to extend the State of National Emergency for a further 7 days from 8 April 2020 and **sign and date** the attached declaration.
Agree/disagree/discuss
2. **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
3. **Agree** that your Office release a media statement once the extension is made.
Agree/disagree/discuss

4. **Forward** a copy of this briefing to the Prime Minister and Deputy Prime Minister and **refer** a copy to the COVID Ministerial Group for noting.

Agree/disagree/discuss

 Sarah Stuart-Black Director CDEM		Hon Peeni Henare Minister of Civil Defence
06/14/2020	/...../.....

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

EXTENSION OF THE STATE OF NATIONAL EMERGENCY FOR COVID-19

Purpose

1. This briefing provides advice on extending the duration of the State of National Emergency in response to the impact of the COVID-19 pandemic on New Zealand. The State of National Emergency expires on Wednesday 8 April at 12.21pm and must be extended before this time if it is to remain in place for a further 7 days.

Overall situation: State of National Emergency for COVID-19

2. On Wednesday 1 April 2020, you extended the State of National Emergency over the whole of New Zealand to Wednesday 8 April 2020 at 12.21pm. Since then, cases of COVID-19 have continued to rise in New Zealand, with 1,039 combined confirmed and probable cases as at 0900 hours on 5 April 2020, and evidence of community transmission.
3. On 29 March 2020, I directed all CDEM Groups to activate their CDEM arrangements to support of the response to COVID-19. Since the State of National Emergency was first declared, CDEM Groups have used CDEM Act powers to direct non-essential businesses to close, direct freedom campers to relocate, requisition a carpark for COVID-19 testing, and close some roads. A table summarising the use of powers by CDEM Groups is attached at Appendix Four for information. This is for illustrative purposes; it does not reflect powers used by the Director, Police constables or others.
4. For further information on powers available under the CDEM 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.

Interplay between the State of National Emergency and Alert Level Four

5. The State of National Emergency and COVID-19 alert levels are two distinct things. The alert levels specify the range of measures that the government is taking against COVID-19, and are informed by public health advice from the Ministry of Health. 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 may require to implement and enforce these measures.
6. The alert levels can be set without a State of National Emergency, and a State of National Emergency can be declared or extended without specific, or any, alert levels being in place.
7. The powers made available by the State of National Emergency support the government to enforce the measures being applied at higher alert levels. A State of National Emergency ensures CDEM staff can carry out critical work during this time, including managing roads, traffic and public places; and providing first aid, food, shelter and accommodation.

8. Control of the required response effort is managed at the national level (rather than at a regional or local level), in support of the regional and local response. This means that our response to COVID-19 can be effectively coordinated.
9. The powers available under the CDEM Act are complementary to the powers available under the Health Act.

Advice on extending the State of National Emergency this week

10. The State of National Emergency expires on Wednesday 8 April at 12.21pm. I recommend an extension to ensure ongoing delivery of the Government approach to managing COVID-19. The continuing and serious nature of the impact of COVID-19 in New Zealand indicates an ongoing need for a State of National Emergency.
11. 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 CDEM Groups whose areas are affected by the emergency.
12. Each week, officials consider a wide range of factors 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 CDEM Act to manage the response; and
 - e) the effectiveness of measures in place to manage and eliminate COVID-19.
13. 9(2)(h)
14. As Director CDEM, I consider extending the State of National Emergency is an appropriate action to take in response to COVID-19. It will enable us to respond as necessary as the situation develops, and ensure we have full access to the resources available to preserve human health, society and the economy. I therefore recommend you agree to extend the State of National Emergency by signing the form attached at Appendix One.
15. 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) Forward copy of this briefing to the Prime Minister and Deputy Prime Minister and refer a copy to the COVID Ministerial Group for noting.

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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 extended at 9.27am on Tuesday 31 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, 8 April 2020 and will expire at 12.21pm on Wednesday, 15 April 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.

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, 8 April 2020 and will expire at 12.21 pm on Wednesday, 15 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 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.

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.

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APPENDIX THREE

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

DATE

Civil Defence

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

“Last week, I declared an extension and today I have declared a further seven day extension as we continue to manage the spread of COVID-19. This is an extension to the State of National Emergency only and does not change the Alert Level 4 lockdown.” Mr Henare said.

“The State of National Emergency was first declared on the 25th of March. A State of National Emergency lasts for only 7 days, unless extended or terminated earlier.”

“On the advice of the Director of 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 remains beyond the capacity of local Civil Defence Emergency Management Groups to respond to on their own. I 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 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”, Mr Henare notes.

The Alert Levels can be applied without a State of National Emergency, and a State of National Emergency can be declared without Alert Levels being used. However, the powers made available by the State of National Emergency support and help us enforce the measures being applied and are complimentary to the powers available under the Health Act.

The powers activated by the State of National Emergency enable civil defence emergency management professionals to carry out critical work during this time including managing roads, traffic and public places; providing first aid, food, shelter and accommodation. Use of these powers have included the requisitioning of a carpark so it can be used as a community-based assessment centre, and to support NZ Police to prevent people from doing non-essential activities.

“As we enter our third week under a State of National Emergency and at Alert Level 4, I would like to thank all New Zealanders who have continued to work tirelessly to support the response to COVID-19 and to support their whanau, friends, neighbours and community through these incredibly challenging times.”

To eliminate the virus and save lives, we must do all we can to fight as hard as we can against this invisible and destructive danger. The current measures in place are the best things we can do to break the chain of transmission and safeguard our families, our health system and our way of life.

As I mentioned last week, “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/>

What is the difference between the Alert Levels and the State of National Emergency?

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.

The Alert Levels can be applied without a State of National Emergency, and a State of National Emergency can be declared without Alert Levels being used.

However, the powers made available by the State of National Emergency do support and help us enforce the measures being applied at higher Alert Levels. The powers have been used a number of times so far, including to stop people doing non-essential activities and to requisition a carpark so it can be used as a community based assessment centre.

These powers are complementary to the powers available under the Health Act.

ENDS

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APPENDIX FOUR

Summary of CDEM Act Powers Used

Powers used	Date used	CDEM 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 CDEM

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 CDEM 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 CDEM Plan), and to work with CDEM 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.
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.
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