

## **Lifeline Utilities**

Implications of the Civil Defence Emergency Management Bill

December 2000

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## **INTRODUCTION**

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In November 2000 the Civil Defence Emergency Management Bill was introduced to Parliament. It is expected, following Select Committee consideration, to be enacted in September 2001. This document informs lifeline utilities and other interested parties of the provisions in the Bill which relate to lifeline utilities.

## **LIFELINE UTILITIES ARE ESSENTIAL SERVICES**

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The Civil Defence Emergency Management Bill aims to identify as lifeline utilities:

- Those networks providing the basic necessities of life - power, water, sewerage and the transport of essential supplies
- Networked services essential to limiting the extent of an emergency
- Infrastructure essential to the basic operation of an export led economy.

A community's resilience to a disaster is greatly effected by the continued operation of some essential services. Some of these services contribute to emergency operations, some are linked to the provision of basic needs - food, water, shelter - and others are important for public health. The economic viability of communities and, from an international perspective, of the nation as a whole also depends upon the continued operation of some utilities.

New Zealand has become more vulnerable to the failure of essential services whether the failure arises as a consequence of natural hazards or from technological failure. There has also been an increase in the complexity of the business sectors within which lifeline utilities operate. These factors increase the importance of ensuring that lifeline utilities are resilient to emergencies and of integrating their emergency planning with the wider community's Civil Defence Emergency Management planning. To be effective Civil Defence Emergency Management planning must consider and engage with lifeline utilities.

## **DIFFERENCES BETWEEN THE CIVIL DEFENCE ACT 1983 AND THE CIVIL DEFENCE EMERGENCY MANAGEMENT BILL**

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Involving lifeline utilities in civil defence emergency management continues the practice under the 1983 Civil Defence Act of involving lifeline utilities in planning but it updates the requirements to take account of the modern business environment. All of the sectors from which lifeline utilities are identified have been engaged in the Civil Defence National Plan under the current Civil Defence Act and various businesses have represented their sectors on planning committees under that Act. However, the list of businesses described by the Civil Defence Act or named in the National Plan no longer covers all, or even most, lifeline utilities. Others described under the current Act no longer exist and have been replaced by new businesses.

The Civil Defence Emergency Management Bill proposes that lifeline utilities plan to operate to the fullest possible extent, even though this may be at a reduced level, during and after an emergency. From a civil defence emergency management perspective, identification as a lifeline utility requires business continuity planning and that lifeline utilities share those plans with those responsible for civil defence emergency management planning. The approach in the Bill sets a minimum expectation but leaves considerable freedom for utility operators to decide how best to meet that minimal expectation. A heavily regulative approach is considered unnecessary as continued operation of lifeline utilities is an objective shared by communities, government and the owners and operators of lifeline businesses.

The Civil Defence Emergency Management Bill allows a flexible approach which can take account of structural change among lifeline utility business. Businesses can be added or removed from the list of lifeline utilities as necessary and, where a condition is inappropriate for an individual operator, exemptions can be made.

## **THE AIMS OF THE CIVIL DEFENCE EMERGENCY MANAGEMENT BILL**

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New Zealand has a significant exposure to environmental hazards and an increasing exposure to technological hazards. Since 1983 (when the current Civil Defence Act was passed), the government and economic structures have changed in ways that make the current legislation impractical. At the same time more effective ways to manage hazards through a comprehensive risk management approach are now recognised as 'best practice' but are outside the conceptual and organisational framework of the Civil Defence Act 1983.

When enacted the Bill will:

- Ensure New Zealand has the appropriate structures and expertise to manage disasters at the local and national level
- Ensure New Zealand implements a risk management approach to hazards across the board
- Ensure New Zealand communities actively seek to reduce the risks they are exposed to as well as being prepared to respond effectively to events when they happen
- Provide for greater co-operation and co-ordination amongst local government, national government, emergency services, lifeline utilities and others for emergency management
- Reduce the risk of adverse economic and social impacts from emergencies.

## DEFINITION OF LIFELINE UTILITIES IN THE BILL

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Schedule 1 of the Bill (which is attached as appendix 1 of this document) defines lifeline utilities. The schedule defines lifeline utilities in two ways:

- Specific entities (by name)
- Classes of entity (organisations carrying out certain businesses).

### SPECIFIC ENTITIES

The following organisations are named as lifeline utilities:

- Radio New Zealand Limited
- Television New Zealand Limited
- The companies that operate the international or primary airports in the following locations – Auckland, Bay of Islands, Blenheim, Christchurch, Dunedin, Gisborne, Hamilton, Hokitika, Invercargill, Napier, Nelson, New Plymouth, Palmerston North, Queenstown, Rotorua, Tauranga, Wanganui, Wellington, Westport, Whangarei
- The port company at the following locations – Auckland, Bluff, Port Chalmers, Port Taranaki, Lyttleton, Napier, Picton, Tauranga, Wellington, Westport, Whangarei.

### CLASSES OF ENTITY

Organisations that undertake the following business are also defined as lifeline utilities:

- Production, supply or distribution of manufactured or natural gas
- Generates electricity for distribution through a network or distributes electricity through a network
- Supplies or distributes water to the inhabitants of a city, district or other place
- Provides a waste water or sewerage network or disposes of sewerage
- Provides a road network (including state highways)
- Produces, processes, or distributes petroleum products to retail outlets and bulk customers.

The Bill also makes provision for the Governor-General, on the recommendation of the Minister of Civil Defence, to alter the description of classes of lifeline utility (see clause 58 of the Bill in appendix 2 of this document).

## WHAT DOES THE BILL MEAN FOR LIFELINE UTILITIES?

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Clauses 57 – 59 of the Bill outline ‘Duties of lifeline utilities’. These clauses are included as appendix 2 of this document.

The most important is clause 57, which requires each lifeline utility to:

- Ensure that it is able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency
- Make available to the Director of Civil Defence Emergency Management its plan for functioning during and after an emergency, if requested. (In practice this means the lifeline utility will need to provide enough information to the Director to show that it is able to meet its statutory requirements for functioning during and after an emergency. This will include any arrangements it has with external agencies on which it is dependent for the continuance of its service.)
- Participate in the development of the National Civil Defence Emergency Management Strategy, the National Civil Defence Emergency Management Plan, and civil defence emergency management plans developed at the local level\*
- Provide, free of charge, any technical advice to any Civil Defence Emergency Management Group or the Director of Civil Defence Emergency Management, as long as the request for that advice is reasonable.

### EXEMPTIONS FROM REQUIREMENTS

Clause 59 of the Bill allows the Minister of Civil Defence to make any organisation which falls within the definition of ‘lifeline utility’ exempt from the above provisions (clause 57), if the Minister is satisfied that the application of those provisions is not appropriate for that organisation.

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\* Civil Defence Emergency Management Groups which will operate at the local level are described later in this document

## FURTHER INFORMATION

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### CIVIL DEFENCE EMERGENCY MANAGEMENT GROUPS

#### **CDEM Group – Elected Members**

Civil Defence Emergency Management Groups are consortia of local authorities (regional and territorial) within a regional council boundary, working together for civil defence emergency management.

The Group will be established as a joint standing or joint special committee under the Local Government Act 1974. An elected representative from each local authority will form the decision-making body for the Group, to provide governance and clear political accountability. It will establish policy and funding for CDEM functions, and will approve the Group Plan.

#### **Co-ordinating and Advisory Group**

The co-ordinating and advisory group (CAG) is made up of:

- The chief executive officer of each local authority or a person acting on their behalf
- A senior member of each of the New Zealand Police and the New Zealand Fire Service
- The chief executive officer of the hospital and health services operating in the area or a person acting on their behalf
- Any other person that may be co-opted by the Group.

The functions of the CAG are:

- Providing advice to the CDEM Group (elected members)
- Implementing the decisions of the CDEM Group
- Overseeing the implementation, development, maintenance, monitoring, and evaluation of the CDEM Group Plan.

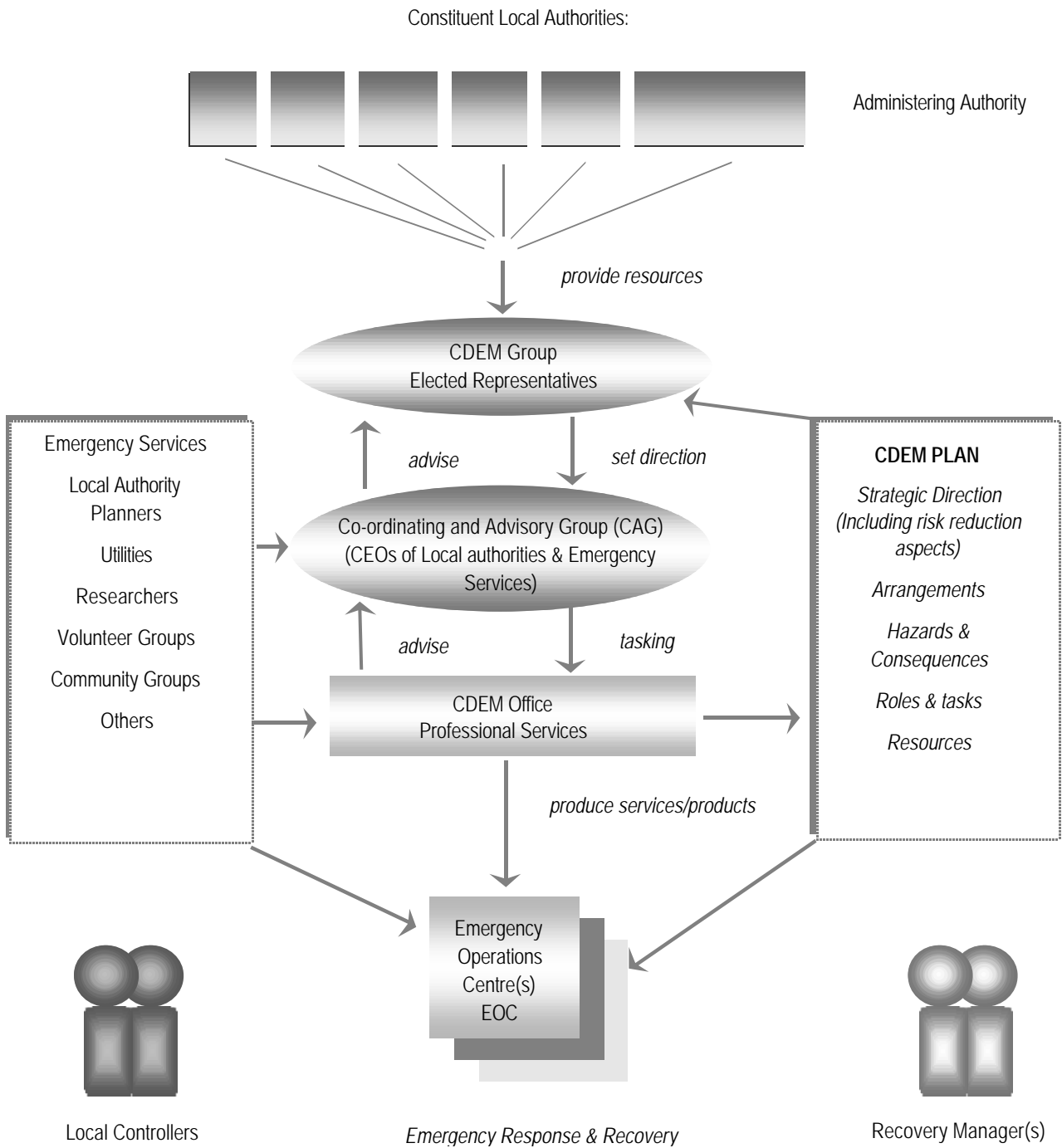
The Bill does not include a requirement for lifeline utilities to be formally represented on the CAG. However, it would be possible to co-opt a representative of a lifeline utility if the CDEM Group and the lifeline utility considered it appropriate. Whether or not a lifeline utility were represented on the CAG, it is likely that those developing the civil defence emergency management group plan will be liaising with various lifeline utilities. In addition, lifeline utilities will be able to make submissions on proposed plans.

The figure overleaf outlines the likely structure of CDEM Groups under the Bill\*.

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\* For further information see 'The formation of Civil Defence Emergency Management Groups: Information for Local Government', available from the Ministry for Emergency Management

**FIGURE 1: PROPOSED CDEM GROUP STRUCTURE**



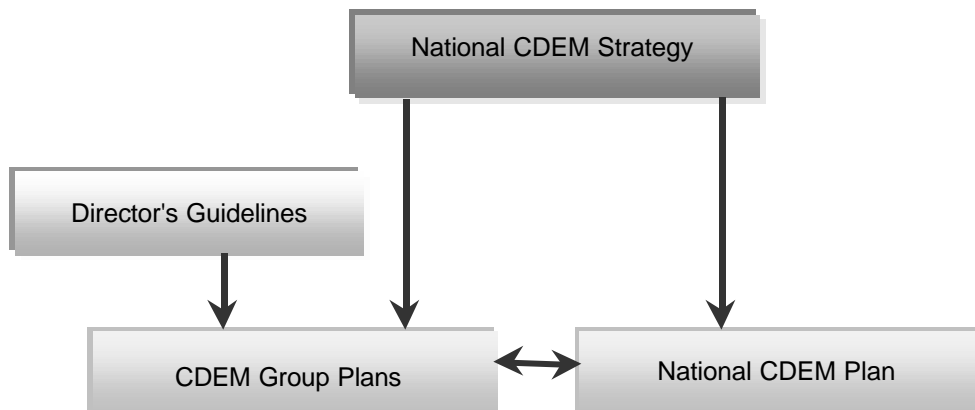
## CIVIL DEFENCE EMERGENCY MANAGEMENT PLANS

The Bill includes a planning process different from that under the Civil Defence Act 1983. The key elements are:

- A National Civil Defence Emergency Management Strategy
- A National Civil Defence Emergency Management Plan
- CDEM Group Plans.

These elements, as well as the Director's Guidelines (a document which will help inform the way CDEM Group Plans are developed) are shown in the following figure.

**FIGURE 2: PLANNING HIERARCHY UNDER BILL**



The Bill includes a requirement that CDEM Group Plans be reviewed every 5 years, although provisions for earlier review or amendment are included.

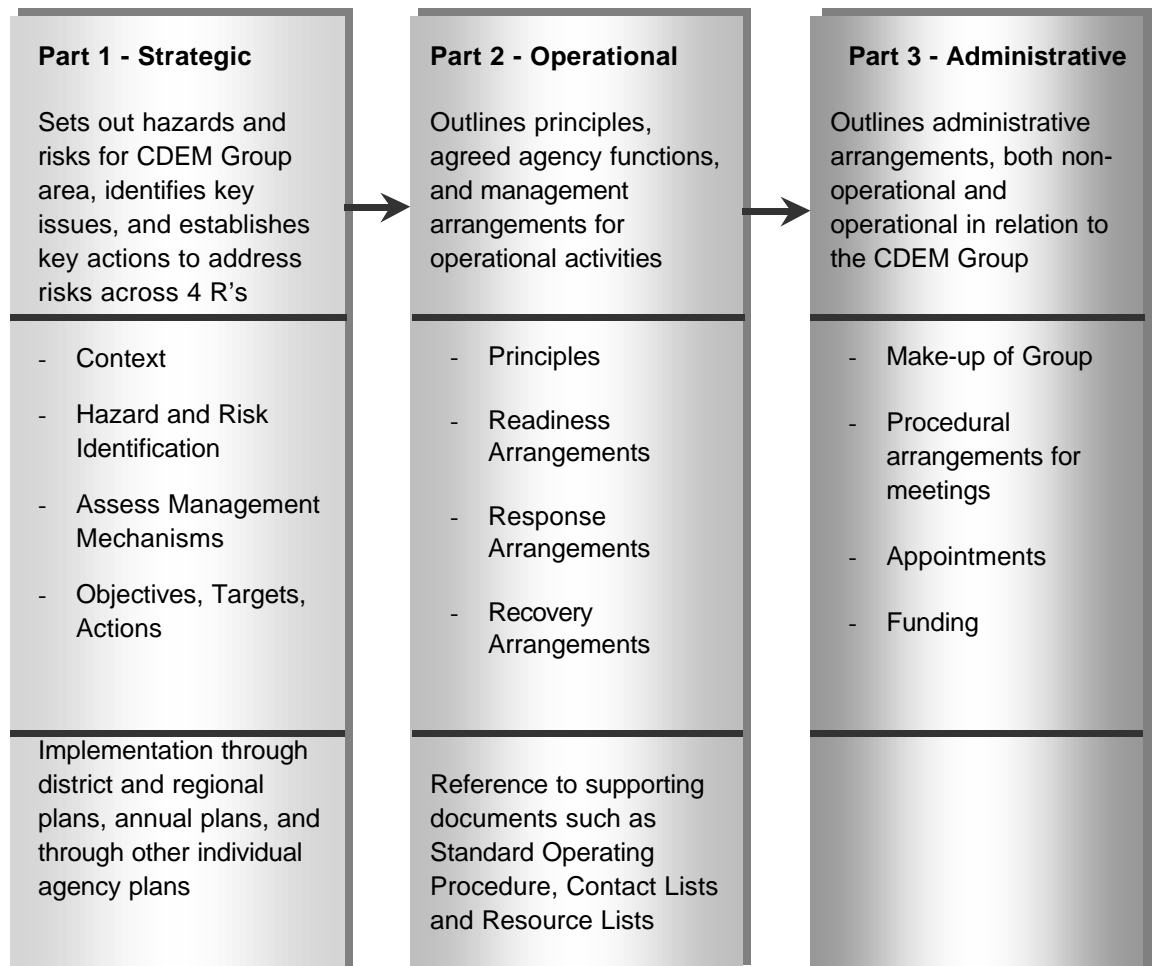
### Content of CDEM Group Plans

As well as stating arrangements in place for the administration and funding of the CDEM Group, the Bill includes a requirement for CDEM Group Plans to address:

- The hazards and risks to be managed by the Group
- The civil defence emergency management necessary to manage the hazards and risks
- The objectives of the plan and the relationship of each objective to the national civil defence emergency management strategy
- The arrangements for declaring a state of emergency in the area of the Group.

A suggested structure for CDEM Group Plans is outlined in the following figure\*

**FIGURE 3: SUGGESTED APPROACH TO STRUCTURING CDEM GROUP PLANS**



\* For further information see 'Civil Defence Emergency Management Planning: Information for Local Government' available from the Ministry for Emergency Management

## CONSULTATION PROCESSES FOR CDEM GROUP PLANS

The Bill includes requirements for CDEM Groups to undertake a consultative process similar to that outlined in section 716A of the Local Government Act 1974. This means that the CDEM Group will be required to:

- Give public notice of the proposed CDEM Group Plan
- Specify a period within which those interested may make submissions (between 1 and 3 months)
- Give those that make written submissions a reasonable chance to be heard by the CDEM Group
- Unless there is a legal reason not to, make the written submissions available to the public
- Make the final decision on the proposed plan at a meeting of the CDEM Group.

This submission process encourages the community to take ownership of the hazards and risks in their area.

The information in a plan will be quite general (i.e. there should not be commercially sensitive information relating to a lifeline utility's operations). The plan focuses on identifying hazards and risks in the area, and the objectives, targets and actions to address them. The targets and actions in the plan must be agreed by the various parties they relate to (possibly including lifeline utilities).

## TIMELINES

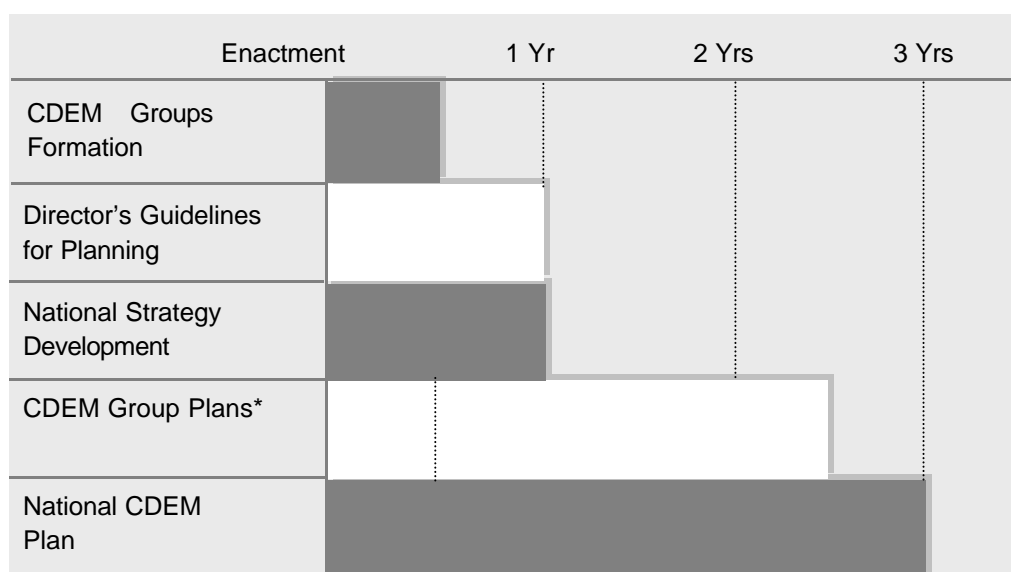
### **Progress of the Bill**

Normal processes, including Select Committee consideration of the Bill, will be followed. This is likely to result in an enactment date of September 2001.

### **Transitional Provisions Following Enactment**

The figure overleaf shows the transitional periods allowed for in the Bill. Note that these are maximum timeframes – for instance a particular CDEM Group could develop and approve its plan ahead of this timeframe. Until a Group Plan is approved the current Civil Defence Plans for the region and each of the local authorities in the area will remain operative. Similarly, until the National Civil Defence Emergency Management Plan is approved under the new legislation, the current National Civil Defence Plan will remain operative.

**FIGURE 4: TRANSITIONAL TIMELINES IN BILL**



## WHERE TO FROM HERE?

The Bill will be considered by the Government Administration Select Committee. Submissions close on 28 February 2001, and should be sent to:

Government Administration Select Committee Secretariat  
Parliament Buildings  
Wellington

A report on making submissions to Select Committee's is available at the following website:

<http://www.clerk.parliament.govt.nz/publications/MakeSubE.pdf>

Following consideration of the submissions the Committee is due to report back to Parliament by 12 June 2001. Enactment of the legislation is therefore expected around September 2001.

Leading up to enactment of the legislation, and in the year following, the Ministry intends to work with lifeline utilities and CDEM Groups to produce a best practice guide to resolve any outstanding issues. This best practice guide will cover issues such as how to ensure the utility sector can meaningfully interact with CDEM Groups, and the future role of Lifeline Groups within the new arrangements. It will outline the expected range of behaviours of lifeline utilities under the Bill, and propose solutions to any problem areas.

\* Clause 51 of the Bill should read 2 years after formation of a Group (not 3 years as it does). This error is likely to be changed during the legislative processes.

## CONTACT INFORMATION AND RELATED DOCUMENTS

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For more information, Ministry for Emergency Management staff are available for advice and support.

Ministry staff may be contacted at:

### **Wellington**

PO Box 5010

Wellington

Ph (04) 473 7363

Fax (04) 473 7369

### **Auckland**

PO Box 76247

Manukau City

Ph (09) 262 7830

Fax (09) 262 7831

### **Christchurch**

PO Box 13766

Christchurch

Ph (03) 379 5224 / 0294

Fax (03) 379 5223

### **Ministry Website**

<http://www.mem.govt.nz>

Earlier this year, the Ministry distributed two information documents:

- *The Formation of Civil Defence Emergency Management Groups: Information for Local Government;* and
- *Civil Defence Emergency Management Planning: Information for Local Government.*

These documents are intended to inform and support local authorities wishing to move towards the new civil defence emergency management arrangements prior to enactment of the Bill.

If you would like a copy of these documents, please contact the Ministry or visit its website (contact details above).

**Schedule 1**  
**Lifeline Utilities**

**Part A**  
**Specific Entities**

- 1 Radio New Zealand Limited and Television New Zealand Limited.
- 2 The company (as defined in section 2 of the Auckland Airport Act 1987) that operates Auckland international airport.
- 3 The company (as defined in section 2 of the Wellington Airport Act 1990) that operates Wellington international airport.
- 4 The airport company (as defined in section 2 of the Airport Authorities Act 1966) that operates Christchurch international airport.
- 5 The entity (being an airport authority as defined in section 2 of the Airport Authorities Act 1966, whether or not it is also an airport company as defined in that section) that operates the primary airport at Bay of Islands, Blenheim, Dunedin, Gisborne, Hamilton, Hokitika, Invercargill, Napier, Nelson, New Plymouth, Palmerston North, Queenstown, Rotorua, Tauranga, Wanganui, Westport, Whakatane, or Whangarei.
- 6 The port company (as defined in section 2(1) of the Port Companies Act 1988) that carries out port related commercial activities at Auckland, Bluff, Port Chalmers, Port Taranaki, Lyttleton, Napier, Picton, Tauranga, Wellington, Westport, or Whangarei.

**Part B**  
**Entities carrying on certain businesses**

- 1 An entity that produces, supplies, or distributes manufactured gas or natural gas (whether it is supplied or distributed through a network or in bottles).
- 2 An entity that generates electricity for distribution through a network or distributes electricity through a network.
- 3 An entity that supplies or distributes water to the inhabitants of a city, district, or other place.
- 4 An entity that provides a waste water or sewerage network or

that disposes of sewage.

- 5 An entity that provides a telecommunications network (within the meaning of the Telecommunications Act 1987).
  - 6 An entity that provides a road network (including state highways).
  - 7 An entity that produces, processes, or distributes to retail outlets and bulk customers and petroleum products used as an energy source or an essential lubricant or additive for motors for machinery.
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## APPENDIX 2: CLAUSES RELATING TO LIFELINE UTILITIES

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### *Duties of lifeline utilities*

#### **57 Duties of lifeline utilities**

Every lifeline utility must-

- (a) ensure that it is able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency;
- (b) make available to the Director in writing, on request, its plan for functioning during and after an emergency;
- (c) participate in the development of the national civil defence emergency management strategy and civil defence emergency management plans
- (d) provide, free of charge, any technical advice to any Civil Defence Emergency Management Group or the Director that may be reasonably required by that Group or the Director.

#### **58 Schedule 1 may be amended by Order in Council**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister,-
  - (a) add the name of any entity or description of an entity to **Part A of Schedule 1**; or
  - (b) omit the name of any entity or description of an entity from **Part A of Schedule 1**; or
  - (c) amend the name of an entity or the description of an entity in **Part A of Schedule 1**; or
  - (d) add a description of a class of business to **Part B of Schedule 1**; or
  - (e) omit a description of a class of business in **Part B of Schedule 1**; or
  - (f) amend the description of a class of business in **Part B of Schedule 1**; or
  - (g) otherwise amend **Schedule 1** or revoke **Schedule 1** or a part of the schedule, and substitute a new schedule or a new part, as the case may require.
- (2) The Minister must not recommend the addition of the name of an entity or description of an entity to **Part A of Schedule 1** unless the Minister is satisfied that the entity operates a service or system the reduced availability, or non-availability, of which would constitute a hazard.
- (3) The Minister must not recommend the addition of a description of

a class of business to **Part A of Schedule 1** unless the Minister is satisfied that the business provides a service or system the reduced availability, or non-availability, of which would constitute a hazard.

**59 Minister may exempt lifeline utility**

The Minister may, by notice in the *Gazette*, on any conditions that the Minister thinks fit, exempt a particular entity described in, or carrying on a business described in, **Schedule 1** in whole or in part from the provisions of this Act relating to lifeline utilities if the Minister is satisfied that the application of the provisions is not appropriate in the case of that entity.