



Proactive Release

The following documents have been proactively released by the Department of the Prime Minister and Cabinet (DPMC), and National Emergency Management Agency (NEMA), on behalf of the Minister for Emergency Management, Hon Kieran McAnulty:

State of National Emergency for Cyclone Gabrielle briefings

The following documents have been included in this release:

Title of paper: 14022023 Declaring a State of National Emergency Cyclone Gabrielle

Title of paper: 14022023 Tararua District - Declaration of State of National Emergency for Cyclone Gabrielle

Title of paper: 19022023 Extension of the States of National Emergency for Cyclone Gabrielle

Title of paper: 26022023 Second extension of the States of National Emergency for Cyclone Gabrielle

Title of paper: 28022023 Giving Notice of a National Transition Period for areas affected by Cyclone Gabrielle

Title of paper: 04032023 Third Extension of the State of National Emergency for Cyclone Gabrielle

Title of paper: 06032023 Giving Notice of a National Transition Period for Wairarapa Districts

Title of paper: 09032023 Cyclone Gabrielle - Giving Notice of a National Transition Period for Hawke's Bay and Tairāwhiti

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.

Key to redaction codes:

- Section 9(2)(a), to protect the privacy of individuals;
- Section 9(2)(ba)(i), to protect the supply of similar information in the future;
- Section 9(2)(g)(i), to maintain the effective conduct of public affairs through the free and frank expression of opinion; and
- Section 9(2)(h), to maintain legal professional privilege.



National Emergency Management Agency
Te Rākau Whakamarumarū

Briefing

DECLARING A STATE OF NATIONAL EMERGENCY CYCLONE GABRIELLE

To Minister for Emergency Management (Hon Kieran McAnulty)			
Date	14/02/2023	Priority	Urgent
Deadline	14/02/2023	Briefing Number	23/16

Purpose

This briefing seeks your signature to declare a State of National Emergency to manage the magnitude of the impact Cyclone Gabrielle is having across the North Island.

Recommendations

1. **Note** that Director CDEM advice is for you to declare a State of National Emergency over the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti, Hawkes Bay Civil Defence Emergency Management Group areas owing to the impacts of Cyclone Gabrielle.

2. s9(2)(h)



3. **Sign and date** the attached form to declare a State of National Emergency over the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti, Hawkes Bay Civil Defence Emergency Management Group areas.


Agree/disagree/discuss


4. **Note** that NEMA will prepare a draft Statement to the House, which you will need to read to the House of Representatives when it meets today.

5. **Note** that under the Standing Orders, you should try and provide a copy of the Statement to the House to the leader of each political party before the statement is made.

6. **Forward** a copy of this briefing, to the Prime Minister and Deputy Prime Minister.

Agree/disagree/discuss


 Roger Ball
 Director, Civil Defence Emergency Management, NEMA
 14/02/2023


 Hon Kieran McAnulty
 Minister for Emergency Management
 14/02/2023

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Roger Ball	Director of Civil Defence Emergency Management, NEMA	s9(2)(a)	✓
Annabel Ritchie	Chief Legal Advisor - Corporate, DPMC		
Tamzin Linnell	Acting Manager, Policy, NEMA		

Minister's office comments:

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

DECLARING A STATE OF NATIONAL EMERGENCY – CYCLONE GABRIELLE

Purpose

1. This briefing seeks your agreement to declare a State of National Emergency over the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti, Hawkes Bay Civil Defence Emergency Management Group areas owing to the impacts of Cyclone Gabrielle.

Declaring a State of National Emergency

2. Declarations are made by the Minister for Emergency Management who may declare that a State of National Emergency exists over the whole of New Zealand or any particular areas or districts where an emergency has occurred or may occur.¹
3. The effect of the declaration is that the control and coordination of the response to Cyclone Gabrielle will be managed at the national level, in support of the regional and local responses. It would also require local- and regional-level compliance with priorities for the use of resources that have been determined by the Director or National Controller.
4. For a National State of Emergency to be declared, the situation must be an emergency under the CDEM Act and meet three legal tests. Under the CDEM Act 2002, 'emergency' is defined as a situation that:
 - a a result of any happening, whether natural or otherwise (which may include a flood, storm, cyclone or land movement); and
 - b causes or may cause loss of life, injury, illness or distress or in any way endangers the safety of the public or property; and
 - c cannot be dealt with by emergency services, or otherwise requires a significant and coordinated response under the CDEM Act

s9(2)(h)

5. [REDACTED]
6. I, as Director Civil Defence Emergency Management, advise that the emergency is likely to be of such extent, magnitude, or severity that the civil defence emergency management necessity or desirable in respect of Cyclone Gabrielle is, or is likely to be, beyond the resources of the Civil Defence Emergency Management Group affected by Cyclone Gabrielle. I recommend that you make a declaration of State of National Emergency.

¹ Such as when a State of National Emergency was declared over Christchurch city as a result of the Christchurch Earthquakes in 2011, or over the whole of New Zealand owing to the impacts of COVID-19 pandemic in 2020.

7. s9(2)(h)

Previous Example of a State of National Emergency

8. This is only the third time in New Zealand history that a State of National Emergency has been declared.
9. Previous states of national emergency include:
 - a. Christchurch City: A state of national emergency for the Christchurch City was declared on 23 February 2011 in response to the February 22 Christchurch earthquake. The state of national emergency was declared for Christchurch City as resources from across the country were required in to assist response and early recovery efforts and was in force for 66 days.
 - b. Whole of New Zealand: A state of national emergency for the whole of New Zealand was declared on 25 March 2020 owing to the impact of COVID-19 on New Zealand and was in force for 49 days. The then Minister of Civil Defence took this step because of the unprecedented nature of the global pandemic, and because he considered the response required to combat COVID-19 was of such a degree that it would be beyond the capacity of local CDEM Groups to respond to on their own. The pandemic required a significant and coordinated response by and across central and local government.

Powers released in a State of National Emergency

10. **Appendix One** outlines the powers which are released (and to whom) upon the declaration of a State of National Emergency. These powers include the ability to:
 - a) Close roads and public places
 - b) Evacuate premises and places
 - c) Requisition property, land and equipment
 - d) Direct any person to stop (or take) any action required to prevent or limit the emergency
11. The Civil Defence Emergency Management Act can be used in conjunction with these other Acts and officials are working with relevant agencies to respond to the impacts of the cyclone.

Process for you to declare a State of National Emergency and required communication

12. You legally will need to complete a form to declare a State of National Emergency. This form is attached in **Appendix Two**. You may wish to discuss with your colleagues the exact time and date the declaration is to be made.

The published notice of this declaration is available on the Gazette website: <https://gazette.govt.nz/notice/id/2023-go545>

13. A State of National Emergency will immediately come into force upon your signing of the declaration and stay in place for exactly 7 days, unless extended or terminated early.
14. Parliament must meet within seven days of a State of National Emergency being declared.
15. You are required to give immediate notice to the public by any means of communication reasonably practicable in the circumstances (for example, media stand-up or press release). My officials will work with your office on the logistics of communications.
16. I have consulted the impacted CDEM Groups on whether a declaration is warranted. Auckland CDEM Group is supportive. Waikato CDEM Group felt they still had capacity to respond without a national declaration. Bay of Plenty, Northland did not indicate a position either way. We were not able to contact Hawkes Bay and Tairāwhiti. I will update them if you decide to make a declaration.
17. You are also required to give a ministerial statement in the House. Officials are preparing a draft for your consideration.
18. The Standing Orders state that you should try to deliver a copy of the statement to the leader of each party prior to the Statement being made (Standing Order 364(2)), and will need to be prepared to answer questions in the House, following making the Statement, and then you have a right of reply (Standing Orders 365(1)(b) and (2)). The time limit for Ministerial Statements is five (5) minutes, and two (2) minutes in reply (Standing Orders, Appendix A, page 133).
19. Once the declaration has been made, my officials shall publish the declaration in the Gazette as soon as practicable, as required under the CDEM Act.

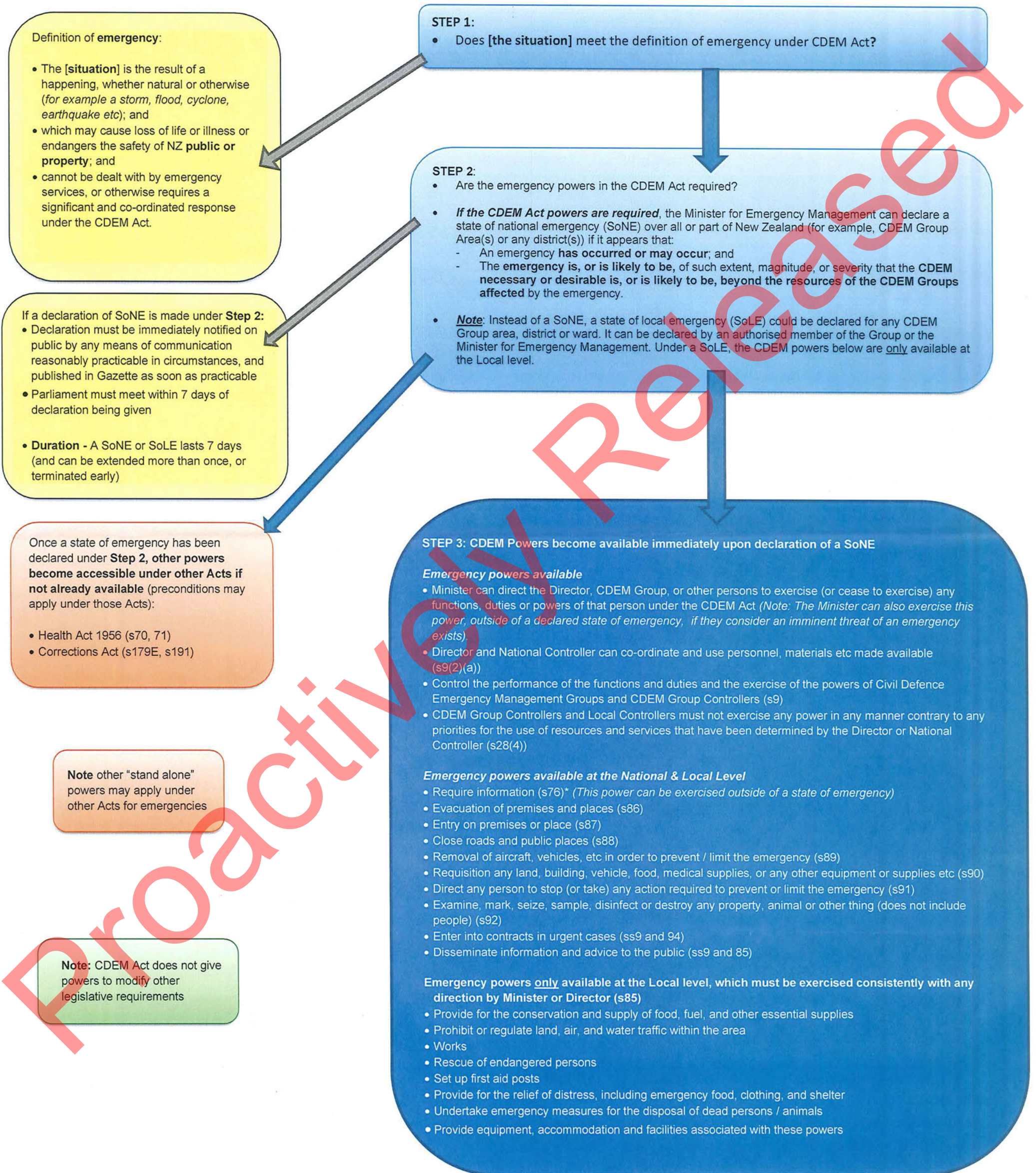
APPENDIX ONE

Flow chart illustrating the access of powers under the CDEM Act during a State of National Emergency

See attached.

Proactively Released

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





Briefing

TARARUA DISTRICT: DECLARATION OF STATE OF NATIONAL EMERGENCY FOR CYCLONE GABRIELLE

To Minister for Emergency Management (Hon Kieran McAnulty)			
Date	14/02/2023	Priority	Urgent
Deadline	14/02/2023	Briefing Number	23/12

Purpose

This briefing seeks your signature to declare a state of national emergency for the Tararua District to manage the magnitude of the impact of Cyclone Gabrielle.

Recommendations

- Note** that at 0843 hrs on 14 February 2023, you declared a state of national emergency over the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti, Hawkes Bay Civil Defence Emergency Management Group areas owing to the impacts of Cyclone Gabrielle [refer briefing 23/16].
- Note** that a declaration of state of local emergency has been given for the Tararua District.
- Note** my advice, as Director of Civil Defence Emergency Management, is for you to declare a state of national emergency over the Tararua District to enable nationally consistent control and co-ordination of the local responses to Cyclone Gabrielle.

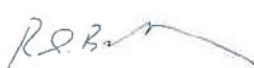
4. s9(2)(h)


- Sign and date** the attached form to declare a state of national emergency over the Tararua District.

Agree/disagree/discuss

- Note** that on making the declaration, you must give immediate notice to the public of the declaration by any means of communication that is reasonably practicable in the circumstances (for example by a media stand-up or press release).

- 7. **Note** that NEMA is preparing a draft Statement to the House of Representatives for your consideration which will refer to the state of national emergency signed earlier today and the declaration for Tararua District.
- 8. **Forward** a copy of this briefing to the Prime Minister and Deputy Prime Minister.
Agree/disagree/discuss


Roger Ball
Director, Civil Defence Emergency Management, NEMA
14/02/2023


Hon Kieran McNulty
Minister for Emergency Management
14/02/2023

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Roger Ball	Director of Civil Defence Emergency Management, NEMA	s9(2)(a)	✓
Annabel Ritchie	Chief Legal Advisor - Corporate, DPMC		
Tamzin Linnell	Acting Manager, Policy, NEMA		

Minister's office comments:

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

Page 3 is blank and has therefore been removed

TARARUA DISTRICT: DECLARATION OF STATE OF NATIONAL EMERGENCY FOR CYCLONE GABRIELLE

Purpose

1. This briefing seeks your agreement to declare a state of national emergency over the Tararua District owing to the impacts of Cyclone Gabrielle.

Declaring a State of National Emergency

2. A state of national emergency is in force for the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti, Hawkes Bay Civil Defence Emergency Management Group areas owing to the impacts of Cyclone Gabrielle.
3. A state of local emergency was declared for the Tararua District at 0849hrs on 14 February 2023.
4. For a National State of Emergency to be declared, the situation must be an emergency under the CDEM Act and meet three legal tests. Under the CDEM Act 2002, 'emergency' is defined as a situation that:
 - a) a result of any happening, whether natural or otherwise (which may include a flood, storm, cyclone or land movement); and
 - b) causes or may cause loss of life, injury, illness or distress or in any way endangers the safety of the public or property; and
 - c) cannot be dealt with by emergency services, or otherwise requires a significant and coordinated response under the CDEM Act

5. s9(2)(h)

6. I, as Director Civil Defence Emergency Management, advise that 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 Cyclone Gabrielle is, or is likely to be, beyond the resources of the Manawātū-Whanganui Civil Defence Emergency Management Group. I therefore recommend that you make a declaration of state of national emergency.

7. In making my decision, I have consulted the Manawātū-Whanganui CDEM Group Controller and the Mayor of Tararua District on whether a national declaration is warranted. They are supportive of the Tararua District also being subject to a national declaration. I will update them if you decide to make a declaration.

8. s9(2)(h)

9. Declaring a state of national emergency for Tararua has the effect of including Tararua within the nationally consistent control and co-ordination of the local responses to Cyclone Gabrielle. It also enables the Director and National Controller to prioritise resources across all areas significantly impacted by the emergency.
10. You legally will need to complete a form to declare a state of national emergency. This form is attached in **Appendix One**. You may wish to discuss with your colleagues the exact time and date the declaration is to be made. The published notice of this declaration is available on the Gazette website: <https://gazette.govt.nz/notice/id/2023-go573>
11. Once a declaration is made, you need to give immediate notice to the public by any means of communication reasonably practicable in the circumstances (for example, media stand-up or press release). My officials will work with your office on the logistics of communications.
12. The process for giving notice to the House is outlined in *Briefing 23/16*. My officials are preparing a draft address to the House for your consideration.

Other impacted regions are not anticipating local or regional declarations at this time, though this may change

13. Officials have engaged with the Wellington Region CDEM Group office, who have advised that while they are actively monitoring the effects of the cyclone on the region, at this stage it is unlikely a declaration will be warranted.
14. The Group Controller for Manawatū-Whanganui CDEM Group (which the Tararua District is part of) has advised that they are actively monitoring the rain forecast and impacts on the flow of the Rangitikei River, however at this stage are not anticipating a wider Group declaration.
15. The Marlborough CDEM Group office has advised that it is monitoring the forecast and at this stage does not consider a local declaration is required.
16. The Chatham Islands CDEM Group office has advised that it is too soon to tell whether a declaration will be made, however they are currently not considering making a declaration.
17. Officials will monitor this situation. It is noted that if further states of national emergency are required, Parliament is required to meet within seven days of the declaration being given (and you will be required to give a further statement to the House advising of the declaration).



Briefing

Extension of the states of national emergency for Cyclone Gabrielle

To Minister for Emergency Management (Hon Kieran McAnulty)			
Date	19/02/2023	Priority	Urgent
Deadline	20/02/2023	Briefing Number	23 / 22

Purpose

This briefing seeks your agreement and signature to extend the duration of the states of national emergency declared to manage the impact of Cyclone Gabrielle, over:

- a. the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti, and Hawke's Bay Civil Defence Emergency Management Group areas, and
- b. the Tararua District.

These states of national emergency expire on **Tuesday 21 February 2023** at 0843 hrs and 1317 hrs respectively and must be extended before this time to remain in place for a further seven days.

Recommendations

1. **Note** that you, as Minister for Emergency Management, declared a state of national emergency over the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti and Hawke's Bay Civil Defence Emergency Management Group areas at 0843 hrs on Tuesday 14 February and later declared a state of national emergency over the Tararua District at 1317 hrs on Tuesday 14 February.
2. **Note** my advice, as Director of Civil Defence Emergency Management, is for you to extend the duration of the states of national emergency to enable nationally consistent control and co-ordination of the local responses to Cyclone Gabrielle.

3. s9(2)(h)



4. **Sign and date** the form attached as Appendix One at any time before 8.43 am, Tuesday 21 February to extend the states of national emergency over the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti, and Hawke's Bay Civil Defence Emergency Management Group areas and the Tararua District.


Agree / disagree / discuss


5. **Note** that in making the extension, you must give immediate notice to the public of the declaration by any means of communication that is reasonably practicable in the circumstances (for example by a media stand-up or press release).

6. **Note** you are also required to advise the House of the extension as soon as practicable and that while a Ministerial Statement is not required, this was the practice during the extensions of states of national emergency during the initial response to COVID-19.

7. **Forward** a copy of this briefing to the Prime Minister and Deputy Prime Minister for their information.

Agree / disagree / discuss


Stefan Weir
Acting Director of Civil Defence
Emergency Management, NEMA
19 / 2 / 2023


Hon Kieran McAnulty
Minister for Emergency Management
20 / 02 / 23
..... / /

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Stefan Weir	Acting Director of Civil Defence Emergency Management, NEMA	s9(2)(a)	✓
Annabel Ritchie	Chief Legal Advisor - Corporate, DPMC		
Tamzin Linnell	Acting Manager, Policy, NEMA		

Minister's office comments:

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


Extension of the states of national emergency for Cyclone Gabrielle

Overall situation: states of national emergency for Cyclone Gabrielle

1. Cyclone Gabrielle has caused widespread damage to the northern and eastern parts of the North Island, displacing thousands of households and impacting critical infrastructure. Access to necessities such as food, fuel and fresh water remains significantly constrained in some areas, and some isolated communities are still unable to be contacted.
2. The range of interventions required over the next seven days may require immediate access to powers made available during a state of national emergency under the Civil Defence Emergency Management Act 2002 (CDEM Act).
3. At 0843 hrs on 14 February 2023, you declared a state of national emergency over the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti and Hawke's Bay CDEM Group areas owing to the impacts of Cyclone Gabrielle [briefing 23/16 refers]. Later that day, at 1317 hrs, you also declared a state of national emergency over the Tararua District [Briefing 23/12 refers]. The current declarations expire on Tuesday 21 February at 0843 and 1317 hrs respectively unless extended or terminated earlier.
4. The effect of the declarations is that control of the response to Cyclone Gabrielle is being managed at the national level, supporting the reduction and management of risk at the local and regional levels. The declarations also provide the Director of Civil Defence Emergency Management (the Director) and National Controller authority to direct and control the response under the CDEM Act. The aim is to support the areas specified under the states of national emergency by coordinating across the regions and setting priorities for the response at the national level.

I recommend that the states of national emergency be extended

5. 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 the CDEM Groups whose areas may be affected by the emergency.
6. Each week, officials will consider several factors when formulating advice on whether it is necessary to extend the states of national emergency. These are:
 - a. whether the statutory tests (in paragraph 5 above) 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.
7. The powers available in a state of emergency are significant and must only be used when reasonably necessary. Since the states of national emergency were declared, CDEM Act powers have been used for a range of purposes, including closing and clearing roads and other public places, ordering evacuations, removing or disposing of materials, and directing resources.
8. The response to Cyclone Gabrielle is still evolving and uncertainties remain. Some communities remain isolated due to damage to communications infrastructure and roads. It is likely that we will need to continue to make decisions, coordinate resources and use CDEM Act powers for at least the next seven days. There may also be heightened demand and competition for resources at the regional level that requires national prioritisation and coordination.
9. As part of the ongoing response, NEMA has been in contact with affected CDEM Group Managers to understand their continued need for CDEM Act powers. We understand that you have also informed the CDEM Joint Committee Chairs of your intention to extend the state of national emergency and that they were supportive.
10. Bay of Plenty CDEM Group has advised that it does not anticipate that it will require CDEM Act emergency powers to manage the response in its area. However, they recommend that they remain under the state of national emergency as resources and services within their area may be required to support the response in other areas impacted by the cyclone.
11. An extension of the state of national emergency would not prevent individual areas from undertaking recovery planning.
12. ^{s9(2)(h)} 
13. I, as Director of Civil Defence Emergency Management, advise that 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 Cyclone Gabrielle is, or is likely to be, beyond the resources of the Northland, Auckland, Waikato, Tairāwhiti, Bay of Plenty, Hawke's Bay Civil Defence Emergency Management Group areas and the Tararua District. **I therefore recommend that you make a declaration to extend the state of national emergency over all areas under the current states of national emergency.**

Process to extend the states of national emergency and required communication

14. To extend the states of national emergency, you are legally required to complete the form attached at Appendix 1. The published notice of this declaration is available on the Gazette website: <https://gazette.govt.nz/notice/id/2023-gs664>
15. If you determine that the extensions are required, you may sign the form at any point prior to the expiry of the first declaration. The extensions come into force immediately before the existing declarations expire.
16. Should a second or subsequent extension be required, we will supply you with the necessary form to complete.
17. Under the CDEM Act, you must advise the House as soon as is practicable following the extension of the states of national emergency. A draft memo to the Clerk of the House and party leaders is attached as Appendix Two. The extensions do not require a Ministerial statement. However, given the significance of this event, you may wish to make a statement. This was the practice with the extensions of the national state of emergency made during the initial response to COVID-19. We will provide a draft statement to your office separately.
18. Officials will publish the extension notice in the *Gazette* as soon as practicable. Once the extensions are made, you need to give immediate notice to the public by any means of communication reasonably practicable in the circumstances (for example, media stand-up or media release). A draft media release is attached as Appendix Three. The State of National Emergency Extension release is located on the Beehive website: <https://www.beehive.govt.nz/release/state-national-emergency-extended-7>
19. If you agree to the extension on Monday, it may be appropriate to make the announcement as part of the post-Cabinet press conference. NEMA will work with your office on the logistics of these communications.

Advice on future extensions, transition period and recovery function

20. The extensions will expire seven days after the time and date on which each extension comes into force, unless further extended or terminated at an earlier time.
21. Over the next week, the Director will assess whether a further extension (or a termination) is warranted and provide a recommendation to you before the first state of emergency expires at 0843 hrs on 28 February 2023. There is no limit as to how many times a state of national emergency may be extended if the statutory tests continue to be met.
22. We will provide you additional advice on appropriate mechanisms for the transition to recovery. NEMA is also working with the DPMC and the Public Service Commission to develop potential options for future recovery functions to coordinate national activities and use recovery powers.

Appendix Two

Draft memo describing the extensions to the states of 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 Kieran Michael McAnulty, Minister for Emergency Management

For immediate presentation to the House

Please see attached a declaration extending the current states of national emergency (due to Cyclone Gabrielle) signed by Hon Kieran Michael McAnulty, Minister for Emergency Management at **TIME and DATE**.

The extension to the state of national emergency over the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti, and Hawke's Bay Civil Defence Emergency Management Group areas comes into force at 8.43 am on Tuesday, 21 February 2023 and will expire at 8.43 am on Tuesday, 28 February 2023.

The extension to the state of national emergency over the Tararua District comes into force at 1.17 pm on Tuesday, 21 February 2023 and will expire at 1.17 pm on Tuesday, 28 February 2023.

The extensions have been made on the advice of the Director of Civil Defence Emergency Management and discussed with the Prime Minister. There is no limit to how many times a state of national emergency may be extended.

The effect of the declaration is that control of the response to Cyclone Gabrielle is being managed at the national level, supporting the reduction and management of risk at the local and regional levels.

It provides the Director of Civil Defence and Emergency Management and National Controller authority to direct and control the response under the Civil Defence Emergency Management Act 2002. The aim is to support the areas specified under the states of national emergency by coordinating across the regions and setting priorities for the response at the national level.



Briefing

Second extension of the states of national emergency for Cyclone Gabrielle

To Minister for Emergency Management (Hon Kieran McAnulty)			
Date	26/02/2023	Priority	Urgent
Deadline	27/02/2023	Briefing Number	23/26

Purpose

This briefing seeks your agreement and signature to extend the duration of the states of national emergency declared to manage the impact of Cyclone Gabrielle, over:

- a. the Northland, Auckland, Waikato, Tairāwhiti, and Hawke's Bay Civil Defence Emergency Management (CDEM) Group areas (allowing the declaration, as it relates to the Bay of Plenty, to expire), and
- b. the Tararua District.

These states of national emergency expire on **Tuesday 28 February 2023** at 8.43am and 1.17pm (respectively) and must be extended before this time to remain in place for a further seven days.

Recommendations

1. **Note** that you, as Minister for Emergency Management, declared a state of national emergency over the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti and Hawke's Bay CDEM Group areas at 8.43am on Tuesday 14 February and later declared a state of national emergency over the Tararua District at 1.17pm on Tuesday 14 February.
2. **Note** that on Monday 20 February, you extended these states of national emergency for seven days.
3. **Note** my advice as Director of Civil Defence Emergency Management is for you to further extend the duration of the states of national emergency, for all but one area, to enable

nationally consistent control and co-ordination of the local responses to Cyclone Gabrielle. A summary assessment of the ongoing need in each area is attached as **Annex One**.

- Note** that I recommend that the extension to these states of national emergency should not include the Bay of Plenty CDEM Group area, as the Group office advises that it does not require nationally coordinated resources, or the powers provided through a state of emergency or a transition period (either local or national).

- s9(2)(h)



- Sign and date** the form attached as **Annex Two** at any time before 8.43am, Tuesday 28 February to extend the states of national emergency over the Northland, Auckland, Waikato, Tairāwhiti, and Hawke's Bay CDEM Group areas and the Tararua District for a further seven days; allowing the state of national emergency over the Bay of Plenty to expire at 8.43am on Tuesday 28 February 2023.


Agree / disagree / discuss


- Note** that in making the extension, you must give immediate notice to the public of the declaration by any means of communication that is reasonably practicable in the circumstances (for example by a media stand-up or press release). A draft press release is attached as **Annex Three**.

- Note** you are also required to advise the House of the extension as soon as practicable. A draft memo to the Clerk of the House and party leaders is attached as **Annex Four**.

- Forward** a copy of this briefing to the Prime Minister and Deputy Prime Minister for their information.

Agree / disagree / discuss


Roger Ball
Acting Director of Civil Defence
Emergency Management, NEMA
26 / 2 / 2023


Hon Kieran McAnulty
Minister for Emergency Management
27 / 2 / 23

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Roger Ball	Acting Director of Civil Defence Emergency Management, NEMA	s9(2)(a)	✓
Annabel Ritchie	Chief Legal Advisor - Corporate, DPMC		
Rima Khorshid	Acting Team Leader, Policy Unit, NEMA		

Minister's office comments:

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

Extension of the states of national emergency for Cyclone Gabrielle

Overall situation: states of national emergency for Cyclone Gabrielle

1. Cyclone Gabrielle caused widespread damage to the northern and eastern parts of the North Island, displacing thousands of households and impacting critical infrastructure. While the situation is improving, access to necessities such as food, fuel and fresh water remains significantly constrained in some areas, and subsequent severe weather has led to further evacuations and road closures.
2. At 8.43am on 14 February 2023, you declared a state of national emergency over the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti and Hawke's Bay Civil Defence Emergency Management (CDEM) Group areas owing to the impacts of Cyclone Gabrielle [briefing 23/16 refers]. Later that day, at 1.17pm, you also declared a state of national emergency over the Tararua District [briefing 23/12 refers].
3. On Monday 20 February 2023, you extended the states of national emergency over the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti and Hawke's Bay CDEM Group areas and the Tararua District [briefing 23/22 refers]. The current declarations expire on Tuesday 28 February at 8.43am and 1.17pm respectively, unless extended or terminated before that time.
4. The effect of the declarations is that control of the response to Cyclone Gabrielle is being managed at the national level, supporting the reduction and management of risk at the local and regional levels.
5. Under the CDEM Act, the declarations also provide the Director of Civil Defence Emergency Management (the Director) and National Controller with authority to direct and control the response. The intent is to support the areas specified under the states of national emergency by providing coordination across the regions and setting priorities for the response at the national level.
6. The range of response interventions required over the next seven days may require immediate access to powers made available during a state of national emergency under the CDEM Act.
7. The powers available in a state of emergency are significant and must only be used when reasonably necessary. Since the states of national emergency were declared, CDEM Act powers have been used for a range of purposes, including closing and clearing roads and other public places, ordering evacuations, removing or disposing of materials, and directing resources.

I recommend that the states of national emergency be extended

8. 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 the CDEM Groups whose areas may be affected by the emergency.
9. Officials have considered several factors when formulating advice on whether it is necessary to extend the states of national emergency. These are:
 - a. whether the statutory tests in paragraph 8 above have been met **[required]**
 - 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 available under the CDEM Act during a state of emergency (state of emergency powers) to manage the response
 - e. the potential need for powers available under the CDEM Act during a transition period (transition period powers) to manage the response.
10. The response to Cyclone Gabrielle is still evolving and uncertainties remain. It is likely that the need to make decisions, coordinate resources, and use CDEM Act powers will continue for at least the next seven days. There may also still be heightened demand and competition for resources at the regional level that requires national prioritisation and coordination.

Some CDEM Groups indicate that they are ready to move out of a response posture...

11. NEMA has been in contact with representatives from affected CDEM Groups' offices to understand their continued need for CDEM Act powers and if any of these powers have been exercised in the previous seven days.

s9(2)(ba)(i)



s9(2)(ba)(i)



12. At the national level, state of emergency powers have been used in the period since the last extension to:
- use personnel and resources provided by agencies to relieve distress and suffering and enable the accommodation, feeding, care and protection of people (for example, by using the HMNZS Canterbury and other New Zealand Defence Force assets to provide essential goods), and
 - require the Hawke's Bay CDEM Group to include the Controller (or their delegate) in any significant communications or decisions by the Group Controller, Joint Committee and/or Coordinating Executive Groups.

... but I consider that a second extension to the state of national emergency is still warranted for most areas

13. The areas currently under states of national emergency are at different stages in their response to, and recovery from, Cyclone Gabrielle. NEMA has assessed each area against the statutory test and other factors outlined in paragraph 9, summarised in **Annex One**.
14. My view is that while there are concurrent response and recovery activities requiring the use of CDEM Act powers across multiple regions, the emergency remains of such a magnitude that the civil defence emergency management that is necessary or desirable requires national-level coordination and is beyond the resources of the individual CDEM Groups.
15. It is therefore appropriate to extend the states of national emergency for all areas except for the Bay of Plenty CDEM Group area, where CDEM Act powers are no longer required. Bay of Plenty is intending to manage its recovery within its 'business as usual' council operations, and considers that the state of national emergency is no longer required to enable its support to the response in other regions.
16. I consider that an extension is still warranted in all other areas to:
 - enable the Director and National Controller to coordinate and prioritise resources nationally, and
 - continue providing CDEM Groups with access to emergency powers in regions where they are still needed for either response or recovery activities.
17. Additionally, given that the Government is still developing the national approach to recovery from Cyclone Gabrielle, I consider that it would be desirable to ensure a clear and coordinated transition from the state of national emergency to the recovery approach being developed.
18. NEMA understands that all of the areas for which a continued state of national emergency is recommended are intending to use, or considering using, the recovery powers available under a transition period. An extension of the state of national emergency would not prevent individual areas from undertaking recovery planning, and all transition powers are also available under a state of national emergency.

19. s9(2)(h)

20. I, as Director of Civil Defence Emergency Management, advise that 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 Cyclone Gabrielle is, or is likely to be, beyond the resources of the Northland, Auckland, Waikato, Tairāwhiti, and Hawke's Bay Civil Defence Emergency Management Group areas and the Tararua District. **I therefore recommend that you make a declaration to extend the states of national emergency over these areas.**

Process to extend the states of national emergency and required communication

21. To extend the states of national emergency, you are legally required to complete the form attached at **Annex Two**.
22. If you determine that the extensions are required, you may sign the form at any point prior to the expiry of the existing declaration. The extensions come into force immediately before the existing declarations expire.
23. Should subsequent extensions be required, we will supply you with the necessary form to complete.
24. Officials will publish the extension notice in the *Gazette* as soon as practicable. Once the extensions are made, you need to give immediate notice to the public by any means of communication reasonably practicable in the circumstances (for example, media stand-up or media release). A draft media release is attached as **Annex Three**.
25. If you agree to the extension on Monday, it may be appropriate to make the announcement as part of the post-Cabinet press conference. NEMA will work with your office on the logistics of these communications.
26. Under the CDEM Act, you must also advise the House as soon as is practicable following the extension of the states of national emergency. A draft memo to the Clerk of the House and party leaders is attached as **Annex Four**. This extension does not require a Ministerial statement, but NEMA can work with your office to prepare a Ministerial statement if you wish to make one.

Advice on future extensions and transition periods

27. The extensions will expire seven days after the time and date on which each extension comes 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 if the statutory tests continue to be met.

28. Should you agree to declare the extension, over the next week the Director will assess whether a further extension (or a termination) is warranted and provide a recommendation to you before the first state of national emergency expires at 8.43am on 7 March 2023.
29. NEMA will provide you additional advice on appropriate mechanisms for the transition to recovery. Transition periods are subject to different legal tests than states of emergency, including the assessment of whether invoking the powers to manage, coordinate, or direct recovery activities is in the public interest and necessary or desirable to ensure a timely and effective recovery [briefing 23/13 refers].
30. To support our assessment of whether a national transition period is warranted and meets the legal thresholds, NEMA is considering the following factors and their impact on a timely or effective recovery:
- the degree of complexity (including extent and nature) of the consequences of the emergency
 - whether there are multiple recoveries across a local area/region/country
 - the indirect regional or national consequences including impacts to national assets
 - whether resources from across the country are required to assist recovery efforts
 - the capacity and capability to manage and/or coordinate recovery activities
 - The need for a nationally consistent approach to recovery in different regions (as was required for COVID-19)
 - the risk of not having a transition period in force
 - the degree of significant risk or uncertainty.
31. NEMA is engaging with the affected CDEM Groups regarding their arrangements for transition to recovery and the anticipated recovery activity. It is expected that the timeframe, complexity, and scale of recovery will vary significantly across the regions, and it is likely that the degree of national-level support required will also differ. The significant overlap in activities spanning response and recovery will inform our advice about transition mechanisms, including which option ensures public confidence and clarity as the transition to recovery occurs.

A national recovery framework for Cyclone Gabrielle is being considered to coordinate national-level support

32. In assessing the need for powers enabled under a national transition period, we will also consider the other mechanisms available to enable national level support and coordination. NEMA is working with DPMC, the Public Service Commission and other central government agencies to establish a national recovery framework for Cyclone Gabrielle. This framework is likely to reflect the principle of locally led, nationally supported recovery.

33. In addition to the existing National Recovery Coordination Group, an interim all-of-government Extreme Weather Event Recovery Policy group has also been established to enable coordination of cross-portfolio policy for recovery.

Next steps

34. If you agree to extend the states of national emergency for all areas except Bay of Plenty, sign and date the form attached as **Annex Two**. Once you have completed the form, the states of national emergency over the:
- Northland, Auckland, Waikato, Tairāwhiti, and Hawke's Bay CDEM Group areas will be extended by seven days to expire at 8.43am on 7 March 2023, and
 - Tararua District will be extended by seven days to expire at 1.17pm on 7 March 2023, and
 - Bay of Plenty CDEM Group area will expire at 8.43am on 28 February 2023.
35. NEMA will work with your office to provide immediate notice to the public on the extension. A draft media release is attached as **Annex Three**.
36. You must also advise the House as soon as is practicable. A draft memo to the Clerk of the House and party leaders is attached as **Annex Four**.
37. The Director will provide advice on the need for any further extension before the states of national emergency expire on 7 March 2023.

Annexes

Annex One: Assessment of areas against factors for extending the states of national emergency

Annex Two: Declaration form – extending states of national emergency for Cyclone Gabrielle

The published notice of this declaration is available on the Gazette website: <https://gazette.govt.nz/notice/id/2023-go795>

Annex Three: Draft media release

The State of National Emergency Extension release is located on the Beehive website: <https://www.beehive.govt.nz/release/states-national-emergency-extended>

Annex Four: Draft memo describing the extensions to the states of emergency, to be provided to the House together with a copy of the signed extension form

Annex One: Assessment of areas against factors for extending the states of national emergency

As of 2.00pm, 26 February 2023

Area	a. Statutory test met? (required)	b. Current severity/impact?	c. National coordination of resources?	d. Currently need state of emergency powers?	e. Need transition period powers?
Northland	Yes	-	-	Yes	Yes
Auckland	Yes	-	Yes	Yes	Yes
Waikato	Yes	-	-	-	Yes
Bay of Plenty	-	-	-	-	-
Tairāwhiti	Yes	Yes	Yes	Yes	Yes
Hawke's Bay	Yes	Yes	Yes	Yes	Yes
Tararua District	Yes	-	-	-	Yes

Annex Four: Draft memo describing the extensions to the states of 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 Kieran Michael McAnulty, Minister for Emergency Management

For immediate presentation to the House

Please see attached a declaration extending the current states of national emergency (due to Cyclone Gabrielle) signed by Hon Kieran Michael McAnulty, Minister for Emergency Management at **TIME and DATE**.

The extension to the state of national emergency over the Northland, Auckland, Waikato, Tairāwhiti, and Hawke's Bay Civil Defence Emergency Management Group areas comes into force at 8.43 am on Tuesday, 28 February 2023 and will expire at 8.43 am on Tuesday, 7 March 2023.

The extension to the state of national emergency over the Tararua District comes into force at 1.17 pm on Tuesday, 28 February 2023 and will expire at 1.17 pm on Tuesday, 7 March 2023.

I have decided not to extend the state of national emergency over the Bay of Plenty Civil Defence Emergency Management Group area. This means that the state of national emergency The termination of the state of national emergency takes effect from 0800hrs hrs on 2 March 2023.

The extensions have been made on the advice of the Director of Civil Defence Emergency Management and discussed with the Prime Minister. There is no limit to how many times a state of national emergency may be extended.

The effect of the declaration is that control of the response to Cyclone Gabrielle is being managed at the national level, supporting the reduction and management of risk at the local and regional levels.

It provides the Director of Civil Defence and Emergency Management and National Controller authority to direct and control the response under the Civil Defence Emergency Management Act 2002. The aim is to support the areas specified under the states of national emergency by coordinating across the regions and setting priorities for the response at the national level.



Briefing

Giving notice of a national transition period for areas affected by Cyclone Gabrielle

To Minister for Emergency Management (Hon Kieran McAnulty)			
Date	28/02/23	Priority	High
Deadline	1/03/23	Briefing Number	23/28

Purpose

This briefing seeks your agreement to terminate the existing states of national emergency insofar as they are in effect over the Northland, Auckland, and Waikato Civil Defence Emergency (CDEM) Group areas and the Tararua District, and to give notice of a national transition period over those areas.

A state of national emergency will remain in place over the Tairāwhiti and Hawke's Bay CDEM Group areas until expiration at 8:43am on 7 March (unless further extended or terminated early).

Recommendations

- Note** that you, as Minister for Emergency Management, declared a state of national emergency over the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti and Hawke's Bay CDEM Group areas at 8.43am on Tuesday 14 February and later declared a state of national emergency over the Tararua District at 1.17pm on Tuesday 14 February.
- Note** that on Monday 27 February, you extended, for a second time, these states of national emergency for a further seven days.
- Note** that my advice as Director of Civil Defence Emergency Management is for you to give notice of a national transition period for the Northland, Auckland and Waikato Civil Defence Emergency Management Group areas and the Tararua District, to ensure a timely and effective recovery from the impact of Cyclone Gabrielle.
- Note** that to give notice of a national transition period over these areas, you would be required to terminate the current states of national emergency, as they apply to these areas, early.

5. s9(2)(h)

- 6. **Agree** to give notice of a national transition period over the Northland, Auckland, Waikato CDEM Group areas and the Tararua District.

Agree / Disagree / Discuss

- 7. **Sign and date** the form attached as **Annex One** at any time before 8am, Thursday 2 March 2023 to terminate the state of national emergency over Northland, Auckland and Waikato CDEM Group areas and the Tararua District.

Agree / disagree / discuss

- 8. **Sign and date** the form attached as **Annex Two** at any time before 8am, Thursday 2 March 2023 to give notice of a national transition period over the Northland, Auckland and Waikato CDEM Group areas and the Tararua District.

Agree / disagree / discuss

- 9. **Note** that after terminating a state of emergency, you must immediately inform the public of the termination by any means of communication that is reasonably practicable in the circumstances (for example by a media stand-up or press release). A draft press release is attached as **Annex Three**.


- 10. **Note** you are also required to advise the House of the declaration and notice as soon as practicable. A draft memo to the Clerk of the House and party leaders is attached as **Annex Four**.

- 11. **Forward** a copy of this briefing to the Prime Minister and Deputy Prime Minister for their information.

Agree / disagree / discuss

- 12. **Note** that the Masterton, Carterton and South Wairarapa Districts have advised NEMA that they need more time to discuss inclusion in the national transition period, and that NEMA will review their inclusion at a later date.




Roger Ball
Acting Director of Civil
Defence Emergency
Management, NEMA
28/02/2023


Hon Kieran McNulty
Minister for Emergency
Management
1...2...23

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Roger Ball	Director of Civil Defence, NEMA	s9(2)(a)	✓
Annabel Ritchie	Chief Legal Advisor, Corporate, DPMC		
Tamzin Linnell	Manager, Policy		

Minister's office comments:

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

Giving notice of a national transition period for areas affected by Cyclone Gabrielle

Current situation: states of national emergency for Cyclone Gabrielle

1. At 0843 hrs on 14 February 2023, you declared a state of national emergency over the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti and Hawke's Bay Civil Defence Emergency Management Group areas owing to the impacts of Cyclone Gabrielle [refer briefing 23/16]. Later that day at 1317 hrs you also declared a state of national emergency over the Tararua District [briefing 23/12 refers].
2. On Monday 27 February 2023, you extended the states of national emergency for a second time over the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti and Hawke's Bay CDEM Group areas and the Tararua District [briefing 23/22 refers]. On Monday 27 February, you further extended the states of national emergency for these areas, except Bay of Plenty, for a further seven days.
3. The effect of the declarations is that control and coordination of the response to Cyclone Gabrielle is being managed at the national level, supporting the reduction and management of risk at the local and regional levels. It also requires local- and regional-level compliance with priorities for the use of resources and services that have been determined by the Director and National Controller.

Moving to a national transition period

4. The Civil Defence Emergency Management Act 2002 (CDEM Act) contains provisions to assist with recovery from an emergency. A transition period enables access to recovery powers to support a seamless transition from the end of the response, into recovery in the short, medium and long term. Notifications of transition periods may be local (given persons authorised by CDEM Groups and/or Mayors) or national (given by you, as Minister for Emergency Management).
5. Similar to the powers able to be exercised by Controllers during a state of emergency, transition periods provide Recovery Managers access to special powers to manage, coordinate and direct recovery activities during transition periods. Recovery Managers may be appointed at the national, Group and local level.

6. The powers available in a transition period are similar to those available under a state of emergency, though slightly more limited. For example, there is no power to requisition land, buildings, equipment etc, or to prohibit or regulate land, air, and water traffic.¹
7. Transition period powers may be exercised by Group and Local Recovery Managers.² During a national transition period, the powers may also be exercised by the National Recovery Manager.
8. Additionally, during a national transition period, powers of direction, control, and prioritisation are also available to you, as the Minister for Emergency Management, the Director and National Recovery Manager. This enables national-level coordination of recovery activities and prioritisation of resources.

You may give notice of a national transition period

9. As with a state of national emergency, the authority to give notice of a national transition period sits with you, as the Minister for Emergency Management. A national transition period can be given over the whole of New Zealand, or any Group areas or districts as required.
10. However, each recovery is still locally-led and a national transition period does not mean that accountability for the implementation of recovery in affected regions shifts to NEMA or you, as Minister for Emergency Management.
11. A national transition period lasts for 90 days and can be extended more than once or terminated early.
12. There have only been two previous national transition periods:
 - a. Kaikōura/Hurunui/Marlborough districts following the 2016 Hurunui/Kaikōura earthquake and tsunami events: a national transition period was given for the Kaikōura/Hurunui/Marlborough districts **to enable management of cross-regional recovery issues like the re-instatement of the State Highway and rail network** (national assets) and the restoration of the Kaikōura Harbour (both severely impacted by landslides and uplift of the seabed) it lasted 180 days; and

¹ There are separate powers to close roads and public places in a transition period.

² And in some instances, constables

- b. for the whole of New Zealand owing to the 2020 COVID-19 pandemic: to support a nationally coordinated approach to recovery, and to ensure there were sufficient powers available to support the recovery whilst bespoke legislation (COVID-19 Public Health Response Act 2020) embedded. The national transition period lasted 27 days.

Legal threshold to give notice of a national transition period

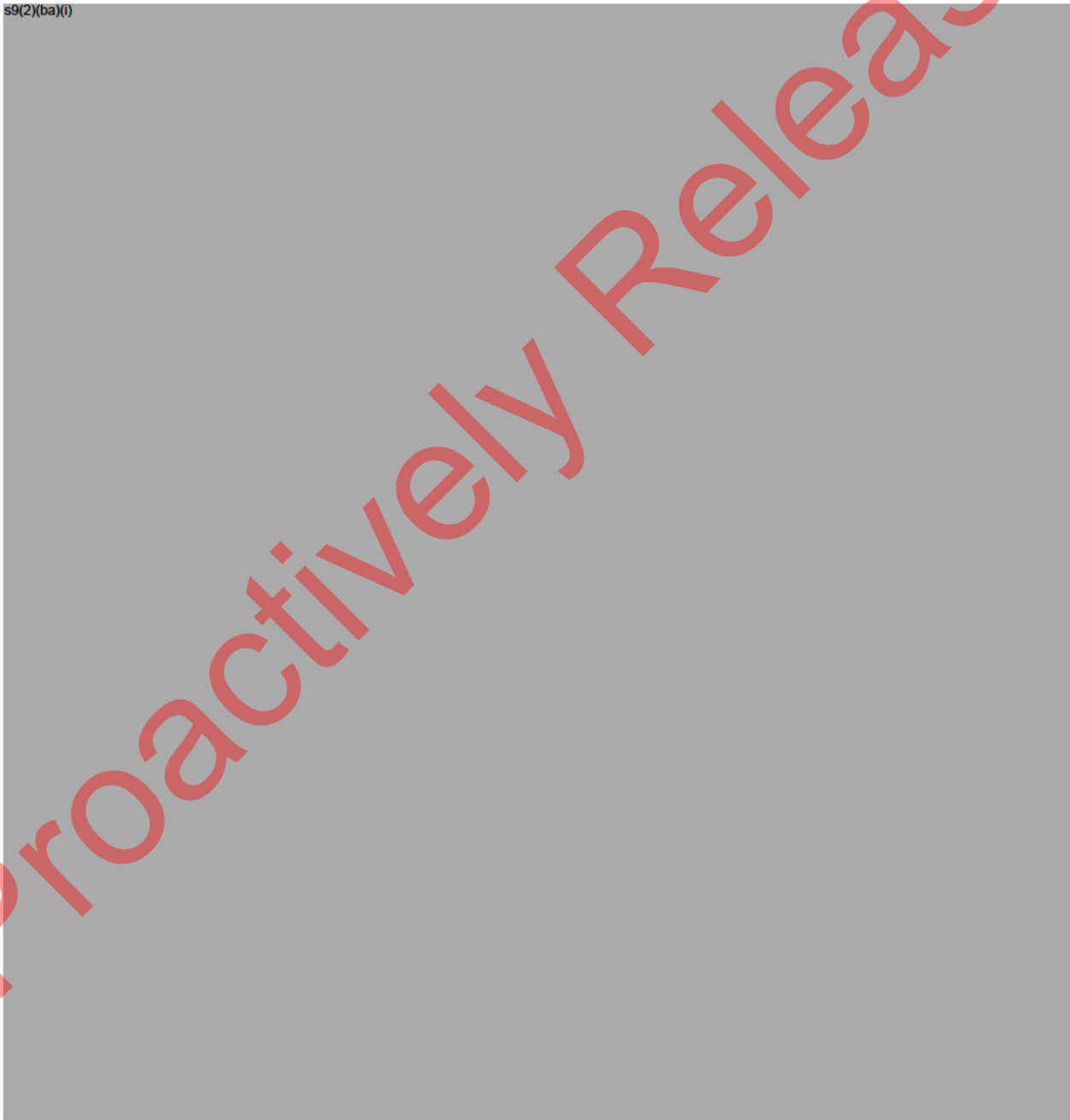
- 13. Section 94A of the CDEM Act sets out a number of requirements before you can give notice of a national transition period. Transition periods are subject to different legal tests than states of emergency. In deciding to give notice of a national transition period, you must consider a national transition period is required.
- 14. Before you can give notice of a national transition period, you must be satisfied that invoking the powers to manage, co-ordinate, or direct recovery activities is –
 - a. in the public interest; and
 - b. necessary or desirable to ensure a timely and effective recovery.
- 15. You must also “have regard” to:
 - a. the areas or districts affected by the emergency;
 - b. whether the focus of activities is moving from response to recovery, including whether a state of emergency is about to expire or be terminated; and
 - c. the capacity of any Civil Defence Emergency Management Group and any local authority in any area or district affected by the emergency to carry out recovery activities.
- 16. To meet the “have regard to” tests above, you must give those matters genuine attention and thought, but the matters are not necessarily determinative of your decision. It is up to you as the decision-maker to decide what weight attaches to the relevant factors to which you must have regard (unless the weighting is clearly unfair or unreasonable).

I recommend that you give notice of a national transition period

- 17. Officials have considered several factors when formulating advice on whether it is appropriate to give notice of a national transition period. These are whether:
 - a. the statutory tests in paragraph 14-15 above have been met [required]

- b. there is a high degree of complexity (including extent and nature) of the consequences of the emergency, including indirect or national consequences (e.g., national economic impacts or impact on significant national assets),
- c. resources from across the country are required to assist recovery efforts,
- d. capacity and capability to manage and/or coordinate recovery activities is low or uncertain, and
- e. there is a need for a nationally consistent approach to recovery in different regions.

s9(2)(ba)(i)



s9(2)(ba)(i)



I consider a national *transition period* is warranted for those areas poised to move from response to recovery

19. The areas currently under states of national emergency are at different stages in their response to, and recovery from, Cyclone Gabrielle. NEMA has assessed each area against the statutory test and other factors outlined in paragraph 19.
20. My view is that the recovery from Cyclone Gabrielle will be of such a scale and complexity that national-level coordination is necessary and desirable to ensure a timely and effective recovery. The activities required in some areas will be beyond the capacity of the affected CDEM Groups. Invoking the powers to manage, co-ordinate, or direct recovery activities is, in my view, in the public interest.
21. I therefore recommend that you give notice of a national transition period for the Northland, Auckland, and Waikato Civil Defence Emergency (CDEM) Group areas and the Tararua, District. Both Tairāwhiti and Hawke's Bay consider themselves to still be in a state of response and state of emergency powers continue to be required.
22. A national transition period is warranted in the specified areas to:
 - a. enable the Director and National Recovery Manager to coordinate and prioritise resources nationally, and
 - b. continue providing CDEM Groups with access to emergency powers in areas where they are needed for recovery activities.
23. To give effect to the notice of a transition period, the states of national emergency insofar as they apply to the specified areas would need to be terminated early.

24. s9(2)(h)



25. I note that although Group offices consider that the current situation meets the criteria for transitioning to recovery, there is a need to ensure that iwi and Māori communities continue to feel supported as they manage the immediate and ongoing impacts.
26. We have heard from many iwi and community leaders that they have a particular interest in being involved in the recovery phase for this event. Determining how they are included in conversations will vary based on the local relationships between council and iwi so best to be managed at that level. However, direction from the national level will ensure that this is being considered.
27. I, as Director of Civil Defence Emergency Management, advise that invoking the powers to manage, co-ordinate, or direct recovery activities is in the public interest and is necessary or desirable to ensure a timely and effective recovery from the impact of Cyclone Gabrielle in the Northland, Auckland and the Waikato Civil Defence Emergency Management Group areas and the Tararua District. I therefore recommend that you give notice of a national transition period over these areas.

Process for you to give notice to a national transition Period and required communication

28. If you wish to give notice of a national transition period for the suggested areas, you must:
- Sign the declaration terminating the states of national emergency insofar as they cover the Northland, Auckland, and Waikato CDEM Group areas and the Tararua District (**Annex One**), and The published notice of this declaration is available on the Gazette website: <https://gazette.govt.nz/notice/id/2023-go844>
 - Give notice of a national transition period (**Annex Two**). I recommend that the national transition Period comes into force when the states of national emergency are terminated. The published notice is available on the Gazette website: <https://gazette.govt.nz/notice/id/2023-go845>
29. I have recommended that transition from state of national emergency to national transition period occurs at 0800hrs on Thursday 2 March 2023.
30. Once the state of national emergency is terminated, you must give notice to the public, by any means of communication that is reasonably practicable in the circumstances, e.g., via media release or media stand up.
31. Once the notice is given, you must advise the House of Representatives as soon as is practical. A draft notification to the House is attached in Annex Four.

32. A national transition period lasts for 90 days unless you terminate it earlier. NEMA will continue to monitor the situation and provide advice on the need to extend, terminate or otherwise modify the national transition Period, as appropriate.
33. Officials will ensure that notice of the national transition Period is published in the Gazette, and in relevant newspapers and on the internet as soon as practicable, as required by the CDEM Act.

Proactively Released



Briefing

Third extension of the state of national emergency for Cyclone Gabrielle

To Minister for Emergency Management (Hon Kieran McAnulty)			
Date	4/03/2023	Priority	High
Deadline	6/03/2023	Briefing Number	23/34

Purpose

This briefing seeks your agreement and signature to extend the duration of the state of national emergency declared over the Tairāwhiti and Hawke's Bay Civil Defence Emergency Management (CDEM) Group areas to manage the impacts of Cyclone Gabrielle.

The state of national emergency expires on **Tuesday 7 March 2023** at 8.43am and must be extended before this time to remain in place for a further seven days.

Recommendations

- Note** that you, as Minister for Emergency Management, declared a state of national emergency over the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti and Hawke's Bay CDEM Group areas at 8.43am on Tuesday 14 February and later declared a state of national emergency over the Tararua District at 1.17pm on Tuesday 14 February.
- Note** that on Monday 20 February, you extended these states of national emergency for seven days.
- Note** that on Monday 27 February, you further extended these states of national emergency for seven days over the Northland, Auckland, Waikato, Tairāwhiti, and Hawke's Bay Civil CDEM Group areas and the Tararua District, allowing the declaration, as it relates to the Bay of Plenty, to expire at 8.43am on Tuesday 28 February 2023.
- Note** that on Friday 3 March 2023 you:
 - terminated the states of national emergency insofar as they related to the Northland, Auckland and Waikato CDEM Group areas and the Tararua District; and

(b) gave a notice of national transition period over Northland, Auckland and Waikato CDEM Group areas and the Tararua District.

5. **Note** my advice as Director of Civil Defence Emergency Management is for you to further extend the duration of the state of national emergency for the Tairāwhiti and Hawke's Bay CDEM Group areas, to enable nationally consistent control and co-ordination of the local responses to Cyclone Gabrielle.

6. s9(2)(h) [Redacted]

7. **Sign and date** the form attached as **Annex One** at any time before 8.43am, Tuesday 7 March to extend the state of national emergency over the Tairāwhiti and Hawke's Bay CDEM Group areas to 14 March 2023.


Agree / disagree / discuss


8. **Note** that in making the extension, you must give immediate notice to the public of the declaration by any means of communication that is reasonably practicable in the circumstances (for example by a media stand-up or press release). A draft press release is attached as **Annex Two**.

9. **Note** you are also required to advise the House of the extension as soon as practicable. A draft memo to the Clerk of the House and party leaders is attached as **Annex Three**.

10. **Forward** a copy of this briefing to the Prime Minister and Deputy Prime Minister for their information.

Agree / disagree / discuss


Roger Ball
**Acting Director of Civil Defence
Emergency Management, NEMA**
4 / 3 / 2023


Hon Kieran McAnulty
Minister for Emergency Management
6 . 3 . 23

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Roger Ball	Acting Director of Civil Defence Emergency Management, NEMA	s9(2)(a)	✓
Annabel Ritchie	Chief Legal Advisor - Corporate, DPMC		
Rima Khorshid	Acting Team Leader, Policy Unit, NEMA		

Minister's office comments:

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

Third extension of the state of national emergency for Cyclone Gabrielle

Overall situation: states of national emergency and national transition period

1. Cyclone Gabrielle caused widespread damage to the northern and eastern parts of the North Island, displacing thousands of households and impacting critical infrastructure. While the response in Tairāwhiti and the Hawke's Bay has stabilised, access to necessities such as food, fuel and fresh water remains significantly constrained in parts of both regions.

Previous decisions relating to the states of national emergency

2. At 8.43am on 14 February 2023, you declared a state of national emergency over the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti and Hawke's Bay Civil Defence Emergency Management (CDEM) Group areas owing to the impacts of Cyclone Gabrielle [briefing 23/16 refers]. Later that day, at 1.17pm, you also declared a state of national emergency over the Tararua District [briefing 23/12 refers].
3. On Monday 20 February 2023, you extended the states of national emergency over the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti and Hawke's Bay CDEM Group areas and the Tararua District [briefing 23/22 refers].
4. On Monday 27 February 2023, you further extended the states of national emergency over the Northland, Auckland, Waikato, Tairāwhiti, and Hawke's Bay CDEM Group areas and the Tararua District, allowing the state of national emergency over the Bay of Plenty to expire at 8.43am on Tuesday 28 February 2023. [briefing 23/26 refers].
5. On Friday 3 March 2023, you terminated the states of national emergency over the Northland, Auckland, and Waikato Civil Defence Emergency Management Group areas and the Tararua District [briefing 23/28 refers].
6. You also gave notice of a national transition period over the Northland, Auckland and Waikato Civil Defence Emergency Management Group areas and the Tararua District [briefing 23/28 refers]. The national transition period came into force at 7.56am on Friday 3 March 2023.

The state of emergency over Tairāwhiti and the Hawke's Bay expires on 7 March 2023

7. A state of national emergency remains in force over the Tairāwhiti and Hawke's Bay CDEM Group areas, and is set to expire at 8.43am on Tuesday, 7 March 2023. Both regions remain in response, and the range of response interventions required over the next seven days may

require immediate access to powers made available during a state of national emergency under the CDEM Act 2002.

8. Under the CDEM Act, the declaration provides the Director of Civil Defence Emergency Management (the Director) and National Controller with authority to direct and control the response. The intent is to support the areas specified under the states of national emergency by providing coordination across the regions and setting priorities for the response at the national level.
9. The powers available in a state of emergency are significant and must only be used when reasonably necessary. Since the states of national emergency were declared, CDEM Act powers have been used for a range of purposes, including closing and clearing roads and other public places, ordering evacuations, removing or disposing of materials, and directing resources.

I recommend that the state of national emergency over Tairāwhiti and Hawke's Bay be extended

10. 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 the CDEM Groups whose areas may be affected by the emergency.
11. NEMA officials have considered several factors when formulating advice on whether it is necessary to extend the states of national emergency in the Tairāwhiti and Hawke's Bay CDEM Group areas. These are:
 - a. whether the statutory tests in paragraph 10 above have been met **[required]**
 - 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 available under the CDEM Act during a state of emergency (state of emergency powers) to manage the response
 - e. the potential need for powers available under the CDEM Act during a transition period (transition period powers) to manage the response.
12. The response to Cyclone Gabrielle is ongoing and uncertainties remain. It is likely that the need to make decisions, coordinate resources, and use CDEM Act powers will continue in the

Tairāwhiti and Hawke's Bay CDEM Group areas for at least the next seven days. There is also likely to be a continued need for prioritisation and coordination at the national level.

13. NEMA has been in contact with representatives from the Tairāwhiti and Hawke's Bay CDEM Group offices to understand their continued need for CDEM Act powers and if any of these powers have been exercised in the previous seven days.
14. The Tairāwhiti and Hawke's Bay CDEM Group areas were both heavily affected by Cyclone Gabrielle and the primary focus of their activities remains on response. The CDEM Group offices report that various state of emergency powers have been used in the period since the last extension of the state of national emergency, and continue to be required to:
 - close roads (in both regions)
 - relieve distress by providing food and other essential goods to isolated communities (in both regions)
 - coordinate resources at a CDEM Group level (in both regions)
 - requisition the Hawke's Bay Showgrounds for use as a distribution centre.
15. The Tairāwhiti and Hawke's Bay CDEM Groups are in the process of establishing their recovery structures and plans. Local recovery leaders are still being confirmed and are not yet ready to assume their roles. It is extremely likely that transition period powers will be required in both regions once the state of national emergency has ceased.
16. At the national level, state of emergency powers have been used in the period since the last extension to:
 - use personnel and resources provided by agencies to relieve distress and suffering and enable the feeding and care of people in Tairāwhiti and Hawke's Bay (for example, using New Zealand Defence Force assets to fly essential goods to isolated communities)
 - prioritise where Bailey bridges are being deployed, based on greatest need
 - require the Hawke's Bay CDEM Group to include the National Controller (or their delegate) in any significant communications or decisions by the Group Controller, Joint Committee and/or Coordinating Executive Groups.

17. s9(2)(h)

18. I, as Director of Civil Defence Emergency Management, advise that the emergency continues to be of such extent, magnitude, or severity that the civil defence emergency management necessary or desirable in respect of Cyclone Gabrielle is, or is likely to be, beyond the resources of the Tairāwhiti and Hawke's Bay CDEM Groups. **I therefore recommend that you make a declaration to extend the state of national emergency over these areas.**

Process to extend the state of national emergency and required communication

19. To extend the state of national emergency, you are legally required to complete the form attached at **Annex One**.
20. If you determine that the extension is required, you may sign the form at any point prior to the expiry of the existing declaration. The extension will come into force immediately before the existing declarations expire.
21. Should subsequent extensions be required, we will supply you with the necessary form to complete.
22. Officials will publish the extension notice in the *Gazette* as soon as practicable. Once the extension is made, you need to give immediate notice to the public by any means of communication reasonably practicable in the circumstances (for example, media stand-up or media release). A draft media release is attached as **Annex Two**. NEMA will work with your office on the logistics of these communications.
23. Under the CDEM Act, you must also advise the House as soon as is practicable following the extension of the states of national emergency. A draft memo to the Clerk of the House and party leaders is attached as **Annex Three**. This extension does not require a Ministerial statement, but NEMA can work with your office to prepare a Ministerial statement if you wish to make one.

Advice on future extensions and transition periods

24. The extension will expire seven days after the time and date on which it comes 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 if the statutory tests continue to be met.
25. Should you agree to declare the extension, over the next week the Director will assess whether a further extension (or a termination, or entry into a national transition period) is warranted and provide a recommendation to you before the state of national emergency expires at 8.43am on 14 March 2023.

Next steps

26. If you agree to extend the states of national emergency for the Tairāwhiti and Hawke's Bay CDEM Group areas, sign and date the form attached as **Annex One**. Once you have completed the form, the state of national emergency over the Tairāwhiti and Hawke's Bay CDEM Group areas will be extended by seven days to expire at 8.43am on 14 March 2023.
27. NEMA will work with your office to provide immediate notice to the public on the extension. A draft media release is attached as **Annex Two**.
28. You must also advise the House as soon as is practicable. A draft memo to the Clerk of the House and party leaders is attached as **Annex Three**.
29. The Director will provide advice on the need for any further extension – or entering the Tairāwhiti and Hawke's Bay CDEM Group areas into a national transition period – before the state of national emergency expires on 14 March 2023.

Upcoming advice on including affected Wairarapa districts in a national transition period

30. The Masterton, Carterton, and South Wairarapa Districts were affected by Cyclone Gabrielle, but were not covered by a state of emergency (local or national).
31. The Wellington Regional Emergency Management Office has advised NEMA that the affected Wairarapa districts are meeting on Monday, 6 March to discuss regional recovery arrangements, including whether they consider that entering the national transition period would be warranted.
32. On Monday, following that meeting, the Director will advise you whether or not it is recommended to include the Masterton, Carterton, and South Wairarapa Districts in the national transition period.

Annexes

Annex One: Declaration form – extending the state of national emergency for Cyclone Gabrielle

Annex Two: Draft media release

The State of National Emergency Extension for Tairāwhiti and Hawke's Bay release is located on the Beehive website: <https://www.beehive.govt.nz/release/state-national-emergency-extended-tair%C4%81whiti-and-hawke%E2%80%99s-bay>

The published notice of this declaration is available on the Gazette website: <https://gazette.govt.nz/notice/id/2023-go892>

Annex Three: Draft memo describing the extension to the state of emergency, to be provided to the House together with a copy of the signed extension form

Annex Three: Draft memo describing the extension to the state of emergency, to be provided to the House together with a copy of the signed extension form

Proactively Released

Office of Hon Kieran McAnulty

Minister for Emergency Management
Minister of Local Government
Minister for Racing
Minister for Rural Communities
Deputy Leader of the House



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

Cc: House Office

From: Hon Kieran Michael McAnulty, Minister for Emergency Management

For immediate presentation to the House

Please see attached a declaration extending the current state of national emergency (due to Cyclone Gabrielle) over the Tairāwhiti and Hawke's Bay Civil Defence Emergency Management Group areas, signed by Hon Kieran Michael McAnulty, Minister for Emergency Management at **TIME on DATE**.

The extension to the state of national emergency comes into force at 8.43am on Tuesday, 7 March 2023 and will expire at 8.43am on Tuesday, 14 March 2023. There is no limit to how many times a state of national emergency may be extended.

The extension has been made on the advice of the Director of Civil Defence Emergency Management and discussed with the Prime Minister. This decision was made following engagement with the affected Civil Defence Emergency Management Group offices, both of which confirmed that the focus of their activities remains on the emergency response.

The effect of the declaration is that control of the response to Cyclone Gabrielle in the Tairāwhiti and Hawke's Bay Civil Defence Emergency Management Group areas is being managed at the national level, supporting the reduction and management of risk at the local and regional levels.

It provides the Director of Civil Defence Emergency Management and the National Controller authority to direct and control the response under the Civil Defence Emergency Management Act 2002. The aim is to support the areas specified under the states of national emergency by coordinating across the regions and setting priorities for the response at the national level.



Briefing

Giving notice of a national transition period for Wairarapa Districts affected by Cyclone Gabrielle

To Minister for Emergency Management (Hon Kieran McAnulty)			
Date	6/03/2023	Priority	High
Deadline	7/03/2023	Briefing Number	23/35

Purpose

This briefing seeks your agreement to give notice of a national transition period over the Masterton, Carterton, and South Wairarapa Districts to support the recovery from Cyclone Gabrielle.

Recommendations

- Note** that you, as Minister for Emergency Management, gave notice of a national transition period over the Northland, Auckland, and Waikato Civil Defence Emergency Management Group areas and Tararua District at 7.56am on 3 March 2023.
- Note** that the Masterton, Carterton, and South Wairarapa Districts have previously advised NEMA that they needed more time to discuss their inclusion in a national transition period. They have now considered their position and expressed a desire to be included in a national transition period.
- Note** that my advice as Director of Civil Defence Emergency Management is for you to give notice of a national transition period for the Masterton, Carterton, and South Wairarapa Districts, to ensure a timely and effective recovery from the impact of Cyclone Gabrielle.

4. s9(2)(h)



Giving notice of a national transition period for Wairarapa districts affected by Cyclone Gabrielle	Report No. 23/35
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5. **Agree** to give notice of a national transition period over the Masterton, Carterton, and South Wairarapa Districts.

Agree / disagree / discuss

6. **Sign and date** the form attached as **Annex One** to give notice of a national transition period over the Masterton, Carterton, and South Wairarapa Districts.

Agree / disagree / discuss

7. **Note** that after giving notice of a national transition period, you must as soon as practicable notify the public of the notice by publishing it in one or more newspapers circulating in the districts, on an internet site to which the public has free access and in the *New Zealand Gazette*. NEMA officials will ensure that these requirements are complied with.

8. **Note** you are also required to advise the House of the notice as soon as practicable. A draft memo to the Clerk of the House and party leaders is attached as **Annex Two**.


9. **Note** that I recommend the national transition periods over all areas are formally reviewed by 28 April 2023. NEMA will provide you with advice on this as, by this time, we expect the Civil Defence Emergency Management (CDEM) Groups to have a clearer understanding of recovery needs (including whether access to the powers remains desirable).


10. **Agree** to review the need for the national transition periods over Auckland, Waikato, Northland, and the Tararua, Masterton, Carterton, and South Wairarapa Districts by 28 April 2023.

Agree / disagree / discuss

11. **Forward** a copy of this briefing to the Prime Minister and Deputy Prime Minister for their information.

Agree / disagree / discuss


Roger Ball
Acting Director of Civil Defence
Emergency Management, NEMA
06 / 3 / 2023


Hon Kieran McAnulty
Minister for Emergency Management
21.3.23

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Roger Ball	Acting Director of Civil Defence Emergency Management, NEMA	s9(2)(a)	✓
Annabel Ritchie	Chief Legal Advisor - Corporate, DPMC		
Rima Khorshid	Acting Team Leader, Policy Unit, NEMA		

Minister's office comments:

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

Giving notice of a national transition period for Wairarapa districts affected by Cyclone Gabrielle

Background

1. Cyclone Gabrielle caused widespread damage to the northern and eastern parts of the North Island, displacing thousands of households and impacting critical infrastructure.
2. On 14 February 2023, to manage the impacts from the cyclone, you declared a state of national emergency over the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti, and Hawke's Bay Civil Defence Emergency Management (CDEM) Group areas, then declared a second state of national emergency over the Tararua District later that day [briefings 23/16 and 23/12 refer]. These areas had earlier declared states of local emergency. The Masterton, Carterton, and South Wairarapa Districts (the affected Wairarapa districts) also experienced damage from Cyclone Gabrielle, but did not declare states of local emergency. Wellington Region Emergency Management and the relevant local territorial authorities concluded that they were able to manage the emergency response without the powers unlocked through a state of national emergency (state of emergency powers).

Current situation

3. A state of national emergency remains in force over the Tairāwhiti and Hawke's Bay CDEM Group areas. Following a third extension for these areas on Monday 6 March 2023, the state of national emergency is set to expire on 14 March 2023, unless extended or terminated early [briefing 23/34 refers].
4. On Friday 3 March 2023, you:
 - terminated the states of national emergency insofar as they related to the Northland, Auckland and Waikato CDEM Group areas and the Tararua District; and
 - gave notice of a national transition period over Northland, Auckland and Waikato CDEM Group areas and the Tararua District [briefing 23/28 refers].
5. To inform advice on the national transition period, the National Emergency Management Agency (NEMA) engaged with affected CDEM Group offices to understand their recovery needs. At that time, the Wellington Region Emergency Management Office (WREMO) advised that the affected Wairarapa districts needed more time to discuss their inclusion in a national transition period [briefing 23/28 refers].

6. On Monday 6 March, at a recovery meeting with the affected Wairarapa districts. Officials from each of the Masterton, Carterton, and South Wairarapa districts confirmed that they wanted to be considered for inclusion in a national transition period.

National transition periods are intended to enable recovery from emergencies

7. The CDEM Act 2002 contains provisions to assist with recovery from an emergency. A transition period enables access to recovery powers to support a seamless transition from the end of the response, into recovery in the short, medium, and long term. Notices of transition periods may be local (given by persons authorised by CDEM Groups and/or Mayors) or national (given by you, as Minister for Emergency Management).
8. Like the powers available to Controllers during a state of emergency, transition periods provide Recovery Managers with access to special powers to manage, coordinate and direct recovery activities during transition periods (transition period powers). Recovery Managers may be appointed at the national, CDEM Group, and local level.
9. Transition period powers are similar to state of emergency powers, though slightly more limited. For example, there is no power to requisition land, buildings, or equipment. Transition period powers may be exercised by Group and Local Recovery Managers. During a national transition period, the powers may also be exercised by the National Recovery Manager.
10. Additionally, during a national transition period, powers of direction, control, and prioritisation are also available, variously, to you (as the Minister for Emergency Management), the Director, and the National Recovery Manager. This enables national-level coordination of recovery activities and prioritisation of resources.

Legal threshold to give notice of a national transition period

11. Section 94A of the CDEM Act sets out several requirements that must be met to give notice of a national transition period.
12. Transition periods are subject to different legal tests than states of emergency. Before you can give notice of a national transition period, you must be satisfied that an emergency occurred,¹ and that invoking the powers to manage, co-ordinate, or direct recovery activities is:
 - a. in the public interest; and

¹ Though it is not necessary that a state of emergency was declared in respect of this emergency.

- b. necessary or desirable to ensure a timely and effective recovery.

13. You must also “have regard” to:

- a. the areas or districts affected by the emergency;
- b. whether the focus of activities is moving from response to recovery, including whether a state of emergency is about to expire or be terminated; and
- c. the capacity of any CDEM Group and any local authority in any area or district affected by the emergency to carry out recovery activities.

14. To meet the “have regard to” tests above, you must give those matters genuine attention and thought, but the matters are not necessarily determinative of your decision. It is up to you as the decision-maker to decide how much weight is given to each factor in paragraph 13 (ensuring that the weighting is clearly unfair or unreasonable).

I recommend that you give notice of a national transition period

15. Officials have considered several factors when formulating advice on whether the test for giving notice of a national transition period is met. These are whether:

- a. there is a need for transition powers to be available for the purposes of the recovery in the affected areas;
- b. there is a high degree of complexity (including in the extent and nature) of the consequences of the emergency, including indirect or national consequences (such as national economic impacts or impact on significant national assets);
- c. resources from across the country are required to assist recovery efforts in the affected areas;
- d. capacity and capability to manage and/or coordinate recovery activities in the affected areas is low or uncertain; and
- e. there is a need for the recovery in the affected areas to be part of a nationally consistent approach to recovery.

Assessment of needs in the affected Wairarapa districts

16. NEMA has been in contact with representatives from WREMO to understand whether including the affected Wairarapa districts in a national transition period would be warranted.

This includes considering the potential need for transition period powers at the local and CDEM Group level, and any benefits that would be gained from enabling better national coordination through the transition period powers available to the National Recovery Manager.

17. WREMO has advised that needs assessments are still underway in the affected Wairarapa districts, with full visibility of impacts still limited in some areas. While states of emergency were not declared in the immediate response to the cyclone, WREMO has not yet concluded whether transition period powers may be needed locally during the recovery.
18. Cyclone Gabrielle resulted in power outages, landslips, flooding across roads, extensive rural flooding, silt in residential properties, and isolated a number of eastern and coastal communities across the Wairarapa. These impacts were compounded by the effects felt across the Wairarapa from Cyclone Hale. The New Zealand Defence Force deployed 20 personnel to support local emergency staff in the Wairarapa.
19. Tinui, a village east of Masterton, appears to be the worst affected area. Flood inundation reached up to 400mm inside Tinui school buildings after stop banks burst. Rapid building assessments in the Tinui area are being carried out to determine whether buildings affected by flooding are safe to occupy. The Tinui area has been designated for emergency building management, under the Building Act 2004.
20. More broadly, multiple road and bridge closures occurred across Masterton, the South Wairarapa and Carterton due to slips, debris and dropouts, including state highway 53 Waihenga Bridge in Martinborough and Masterton-Castlepoint Road. Flooding of crops and damage to fences was also experienced across the three Districts.
21. Recovery structures across the Wellington CDEM Group area are being established at the district-level for the Wairarapa. This includes the setup of a recovery office, the appointment of a Wairarapa Recovery Manager, representing the Masterton, Carterton and South Wairarapa Districts, and a recovery governance structure that includes the mayors of these districts and their respective Chief Executives. This recovery coordination across the Wairarapa suggests that recovery across these Districts may be beyond their individual business-as-usual capacity.

On balance, I consider that a national transition period is warranted for the affected Wairarapa districts

22. My view is that recovery from Cyclone Gabrielle will be of such a scale and complexity that national-level coordination is necessary and desirable to ensure a timely and effective recovery at the national level. In some areas, recovery activities are likely to require

prioritisation and sequencing across regions due to the limited availability of specialist personnel and resources. Invoking the powers to manage, coordinate, or direct recovery activities in the affected Wairarapa districts consistently with the rest of the country is, in my view, in the public interest.

s9(2)(h)



² Noting that the Act does not require that a state of emergency was declared before a notice of transition period is given over an area.

s9(2)(h)



26. On balance, I, as Director of Civil Defence Emergency Management, advise that invoking the powers to manage, co-ordinate, or direct recovery activities is in the public interest and is desirable to ensure a timely and effective recovery from the impact of Cyclone Gabrielle in the Masterton, Carterton, and South Wairarapa Districts. **I therefore recommend that you give notice of a national transition period over these areas.**

I recommend reviewing this notice after 30 days

27. Once given notice of, national transition periods are regularly reviewed to ensure they remain warranted. However, given the uncertainty for the need for transition powers locally, if you wish to give notice of a national transition period for the Masterton, Carterton and South Wairarapa Districts, it would be appropriate to formally review expiration. I recommend that the national transition period across Northland, Auckland, Waikato and the Tararua, Masterton, Carterton, and South Wairarapa Districts be reviewed formally by 28 April 2023. By that stage, the CDEM Groups and local authorities should have a clearer understanding of recovery needs, including whether access to transition powers remain desirable.

Process for you to give notice to a national transition period and required communication

28. If you wish to give notice of a national transition period for the Masterton, Carterton, and South Wairarapa Districts, you must sign and date the form attached as **Annex One**. Officials will publish the notice of a national transition period in the *Gazette* as soon as practicable.

29. A national transition period lasts for 90 days unless you terminate it earlier. This notice does not affect the timing of the previous national transition period over the Northland, Auckland, and Waikato CDEM Group areas and Tararua District, which was notified on 3 March 2023. NEMA will continue to monitor the situation and provide advice on the need to extend, terminate or otherwise modify the national transition periods, as appropriate.
30. Once the notice is made, you must, as soon as practicable, notify the public of the notice by publishing it in one or more newspapers circulating in the districts, on an internet site to which the public has free access and in the *New Zealand Gazette*. NEMA officials will ensure that these requirements are complied with.
31. You must also advise the House as soon as is practicable following the notice of a national transition period. A draft memo to the Clerk of the House and party leaders is attached as **Annex Two**.

Next steps

32. If you agree to give notice of a national transition period over the Masterton, Carterton, and South Wairarapa Districts, sign and date the form attached as **Annex One**.
33. You must also advise the House as soon as is practicable. A draft memo to the Clerk of the House and party leaders is attached as **Annex Two**.
34. I, as Director of Civil Defence Emergency Management, will provide you with advice by 28 April 2023 on whether it is appropriate for the national transition periods over Northland, Auckland, Waikato and the Tararua, Masterton, Carterton, and South Wairarapa Districts to remain in place.

Annexes

Annex One: Notice of national transition period for Cyclone Gabrielle

The published version of this notice is available on the Gazette website:
<https://gazette.govt.nz/notice/id/2023-go893>

Annex Two: Draft memo describing the notice of national transition period, to be provided to the House with a copy of the signed notice

Annex Two: Draft memo describing the notice of national transition period, to be provided to the House with a copy of the signed notice

Proactively Released

Office of Hon Kieran McAnulty

Minister for Emergency Management
Minister of Local Government
Minister for Racing
Minister for Rural Communities
Deputy Leader of the House



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

Cc: House Office

From: Hon Kieran Michael McAnulty, Minister for Emergency Management

For immediate presentation to the House

Please see the attached:

- notice of a national transition period for the Masterton, Carterton and South Wairarapa Districts owing to the impacts of Cyclone Gabrielle signed by Hon Kieran Michael McAnulty, Minister for Emergency Management at **TIME** on **DATE**.

The transition period comes into force at **TIME** on **DATE**.

The national transition period will be in force for 90 days, and ends at **TIME** on **DATE**, unless extended or terminated earlier.

The notice of a national transition period have been made on the advice of the Director of Civil Defence Emergency Management and discussed **with the Prime Minister**. There is no limit to how many times a national transition period may be extended.

The effect of the notice of a national transition period is that the recovery from Cyclone Gabrielle is being managed at the national level, supporting the reduction and management of risk at the local and regional levels.

It provides the Director of Civil Defence and Emergency Management and National Recovery Manager with the authority to direct and coordinate the recovery from Cyclone Gabrielle. The aim is to support the areas specified in the notice of national transition by coordinating across the regions and setting priorities for the recovery at the national level.



Briefing

Cyclone Gabrielle: Giving notice of a national transition period for Hawke's Bay and Tairāwhiti

To Minister for Emergency Management (Hon Kieran McAnulty)			
Date	9/03/2023	Priority	High
Deadline	14/03/2023	Briefing Number	23/36

Purpose

This briefing seeks your agreement to give notice of a national transition period over the Hawke's Bay and Tairāwhiti Civil Defence Emergency Management (CDEM) Group areas, to come into effect on the expiry of the state of national emergency on Tuesday 14 March 2023.

Recommendations

- Note** that the following declaration and notices are in effect:
 - A state of national emergency over the Tairāwhiti and Hawke's Bay CDEM Group areas, owing to the impacts of Cyclone Gabrielle, which will expire at 8:43am on 14 March 2023, unless extended or terminated earlier.
 - A national transition period over the Northland, Auckland, and Waikato Civil Defence Emergency Management Group areas and the Tararua District, which will end at 7.56am on 1 June 2023, unless extended or terminated earlier.
 - A national transition period over the Masterton, Carterton, and South Wairarapa Districts, which will end at 8:43am on 5 June 2023, unless extended or terminated earlier.
- Note** that my advice as Director of Civil Defence Emergency Management is for you to give notice of a national transition period for the Hawke's Bay and Tairāwhiti CDEM Group areas, commencing on the expiry of the state of national emergency on Tuesday 14 March 2023, to ensure a timely and effective recovery from the impact of Cyclone Gabrielle.

3. s9(2)(h)

4. **Agree** to give notice of a national transition period over the Hawke's Bay and Tairāwhiti CDEM Group areas.

Agree / disagree / discuss

5. **Sign and date** the form attached as **Annex One** at any time before 8:43am on Tuesday 14 March 2023, which is when the state of national emergency over Hawke's Bay and Tairāwhiti CDEM Group areas expires, to give notice of a national transition period over these areas.

Agree / disagree / discuss

6. **Note** that after giving notice of a national transition period, you must as soon as practicable notify the public of the notice by publishing it in one or more newspapers circulating in the districts, on an internet site to which the public has free access and in the New Zealand Gazette. NEMA officials will ensure that these requirements are complied with. A draft press release is also attached as **Annex Two**.


7. **Note** you are also required to advise the House of the notice as soon as practicable. A draft memo to the Clerk of the House and party leaders is attached as **Annex Three**.


8. **Agree** to include the Hawke's Bay and Tairāwhiti in the formal review of previous national transition periods (by 28 April 2023) that you agreed on 7 March 2023 [briefing 23/35 refers].

Agree / disagree / discuss

9. **Forward** a copy of this briefing to the Prime Minister and Deputy Prime Minister for their information.

Agree / disagree / discuss


Roger Ball
**Acting Director of Civil Defence
Emergency Management, NEMA**
9 / 3 / 2023


Hon Kieran McAnulty
Minister for Emergency Management
15 / 3 / 23

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Roger Ball	Acting Director of Civil Defence Emergency Management, NEMA	s9(2)(a)	✓
Annabel Ritchie	Chief Legal Advisor - Corporate, DPMC		
Rima Khorshid	Acting Team Leader, Policy Unit, NEMA		

Minister's office comments:

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

Cyclone Gabrielle: Giving notice of a national transition period for Hawke's Bay and Tairāwhiti

Background

1. You have taken the following actions as Minister for Emergency Management since 14 February 2023 to manage the impacts from Cyclone Gabrielle:
 - a. At 8:43am on 14 February 2023, you declared a state of national emergency for the Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti and Hawke's Bay CDEM Group Areas [briefing 23/16 refers].
 - b. At 1:17pm, on 14 February 2023, you declared a state of national emergency for the Tararua District [briefing 23/12 refers].
 - c. On 20 February 2023 you extended, for a further seven days, the states of national emergency for Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti and Hawke's Bay CDEM Group Areas and the Tararua District [briefing 23/22 refers].
 - d. On 27 February 2023 you extended, for a further seven days, the states of national emergency for Northland, Auckland, Waikato, Tairāwhiti and Hawke's Bay CDEM Group Areas and the Tararua District, allowing the state of emergency as it applied to the Bay of Plenty CDEM Group Area expire at 8:43am on 28 February 2023 [briefing 23/26 refers].
 - e. At 7:56am on 3 March 2023, you terminated the states of national emergency as they applied to the Northland, Auckland, and Waikato CDEM Group Areas and the Tararua District, and gave notice of a national transition period over those areas, which came into effect upon that termination of the states of national emergency [briefing 23/28 refers].
 - f. On 6 March 2023 you extended, for a further seven days, the state of national emergency for the Tairāwhiti and Hawke's Bay CDEM Group Areas [briefing 23/34 refers].
 - g. At 8:43 on 7 March 2023, you gave notice of a national transition period over the Masterton, Carterton, and South Wairarapa Districts [briefing 23/35 refers].

Current situation

2. A state of national emergency remains in force over the Tairāwhiti and Hawke's Bay CDEM Group areas. Following a third extension for these areas on Monday 6 March 2023, the state of national emergency is set to expire on 14 March 2023, unless extended or terminated early [briefing 23/34 refers].

3. To inform advice on a national transition period over these areas following the expiry of the current state of national emergency, the National Emergency Management Agency (NEMA) engaged with affected CDEM Group offices to understand their recovery needs.

You may give notice of a national transition period

4. As with a state of national emergency, the authority to give notice of a national transition period sits with you, as the Minister for Emergency Management. A national transition period can be given over the whole of New Zealand, or over any CDEM Group areas or districts as required.
5. However, each recovery is still locally led, and a national transition period does not mean that accountability for the implementation of recovery in affected regions shifts to NEMA or you, as Minister for Emergency Management.
6. A national transition period lasts for 90 days and can be extended more than once or terminated early.
7. Prior to Cyclone Gabrielle, there have only been two previous national transition periods:
 - **For the Kaikōura, Hurunui, and Marlborough Districts following the 2016 Hurunui/Kaikōura earthquake and tsunami events:** to enable management of cross-regional recovery issues like the reinstatement of the State Highway and rail network (national assets) and the restoration of the Kaikōura Harbour (both severely impacted by landslides and uplift of the seabed). The national transition period lasted 180 days.
 - **For the whole of New Zealand owing to the 2020 COVID-19 pandemic:** to support a nationally coordinated approach to recovery, and to ensure there were sufficient powers available to support the recovery while bespoke legislation (the COVID-19 Public Health Response Act 2020) was embedded. The national transition period lasted 27 days.

Legal threshold to give notice of a national transition period

8. Section 94A of the CDEM Act sets out a number of requirements that must be met before you can give notice of a national transition period. Transition periods are subject to different legal tests than states of emergency. In deciding to give notice of a national transition period, you must consider whether a national transition period is required.
9. Before you can give notice of a national transition period, you must be satisfied that invoking the powers to manage, co-ordinate, or direct recovery activities is:
 - a. in the public interest; and

b. necessary or desirable to ensure a timely and effective recovery.

10. You must also “have regard” to:

- a. the areas or districts affected by the emergency;
- b. whether the focus of activities is moving from response to recovery, including whether a state of emergency is about to expire or be terminated; and
- c. the capacity of any CDEM Group and any local authority in any area or district affected by the emergency to carry out recovery activities.

11. To meet the “have regard to” tests above, you must give those matters genuine attention and thought, but the matters are not necessarily determinative of your decision. It is up to you as the decision-maker to decide how much weight is given to each factor in paragraph 10 (unless the weighting is clearly unfair or unreasonable).

I recommend that you give notice of a national transition period over Hawke’s Bay and Tairāwhiti

12. Officials have considered several factors when formulating advice on whether the statutory tests for giving notice of a national transition period in paragraphs 8–11 have been met. These are whether:

- a. there is a need for transition period powers to be available for the purposes of the recovery in the affected areas,
- b. there is a high degree of complexity (including extent and nature) of the consequences of the emergency, including indirect or national consequences (e.g., national economic impacts or impact on significant national assets),
- c. resources from across the country are required to assist recovery efforts,
- d. capacity and capability to manage and/or coordinate recovery activities is low or uncertain, and
- e. there is a need for a nationally consistent approach to recovery in different regions.

Assessment of needs in the Hawke's Bay and Tairāwhiti areas

13. NEMA has been in contact with representatives from the Hawke's Bay and Tairāwhiti CDEM Groups' offices to understand whether the current focus of their activities is moving from response to recovery and their expected need for transition period powers.
14. The Hawke's Bay and Tairāwhiti CDEM Group areas were both heavily affected by Cyclone Gabrielle. The CDEM Group offices report that various state of emergency powers have been used since the initial declaration, including the powers to close roads, evacuate homes, provide goods to isolated communities, requisition a site, and coordinate resources at a CDEM Group level.
15. The Group offices have advised NEMA that the focus of their activities is now transitioning from response to recovery, including through establishing recovery structures and appointing Recovery Managers, and indicated that they are comfortable with moving to a national transition period on Tuesday 14 March. Both have confirmed that they will require transition period powers to support their recoveries.
16. As previously advised, my view is that the recovery from Cyclone Gabrielle will be of such a scale and complexity that national-level coordination is necessary and desirable to ensure a timely and effective recovery [briefings 23/28 and 23/35 refer]. The activities required in these areas will be beyond the capacity of the affected CDEM Groups, and are likely to require prioritisation and sequencing across regions due to the limited availability of specialist personnel and resources.
17. Given the magnitude and scale of the impacts of Cyclone Gabrielle, in my view it is in the public interest to invoke the powers to manage, co-ordinate, or direct recovery activities, as this will ensure that the needs of communities across the country are appropriately prioritised and addressed, resources are allocated appropriately, and nationally significant interests (such as the reinstatement of key infrastructure) is given due attention
18. A national transition period is warranted for Tairawhiti and Hawke's Bay areas to:
 - a. enable the Director and National Recovery Manager to coordinate and prioritise resources nationally, and
 - b. continue providing CDEM Groups with access to emergency powers in areas where they are needed for recovery activities.

s9(2)(h)

s9(2)(h)

20. I note that while CDEM Group offices consider that they are ready to transition from response to recovery, there remains a need to ensure that iwi and Māori communities continue to feel supported as they manage the immediate and ongoing impacts of the event.
21. NEMA has heard from many iwi and community leaders that they have a particular interest in being involved in the recovery from Cyclone Gabrielle. Determining how mana whenua and the wider community are included in recovery conversations will vary based on existing local relationships, and are most appropriately managed at a council level. However, direction from the national level will ensure that these voices are being considered.
22. I, as Director of Civil Defence Emergency Management, advise that invoking the powers to manage, co-ordinate, or direct recovery activities is in the public interest and is necessary or desirable to ensure a timely and effective recovery from the impact of Cyclone Gabrielle in the Hawke's Bay and Tairāwhiti Civil Defence Emergency Management Group areas. I therefore recommend that you give notice of a national transition period over these areas.

Process to give notice of a national transition period and required communication

23. If you wish to give notice of a national transition period for the Hawke's Bay and Tairāwhiti CDEM Group areas, you must sign and date the form attached as **Annex One**. Officials will publish the notice of a national transition period in the Gazette as soon as practicable.
24. A national transition period lasts for 90 days unless you extend it or terminate it earlier. This notice does not affect the timing of the previous national transition period over the Northland, Auckland, and Waikato CDEM Group areas and the Tararua District, which was notified on 3 March 2023, or of the national transition period over the Masterton, Carterton, and South Wairarapa Districts notified on 6 March 2023.
25. You have previously agreed to formally review the national transition periods over the Northland, Auckland, and Waikato CDEM Group areas and the Tararua, Masterton, Carterton, and South Wairarapa Districts by 28 April 2023 [briefing 23/35 refers]. I recommend that the national transition period over the Hawke's Bay and Tairāwhiti is included in this review, to ensure that ongoing access to transition period powers remains desirable.
26. Once the notice is made, you must, as soon as practicable, notify the public of the notice by publishing it in one or more newspapers circulating in the areas, on an internet site to which the public has free access, and in the New Zealand Gazette. NEMA officials will ensure that

these requirements are complied with. A draft media release is, if required, is attached as **Annex Two**.

27. You must also advise the House as soon as is practicable following the notification of a national transition period. A draft memo to the Clerk of the House and party leaders is attached as **Annex Three**.

Annexes

Annex One: Notice of national transition period for Cyclone Gabrielle

The published version of this notice is available on the Gazette website: <https://gazette.govt.nz/notice/id/2023-go1094>

Annex Two: Draft media release

The Ending of State of National Emergency for Tairāwhiti and Hawke's Bay release is located on the Beehive website: <https://www.beehive.govt.nz/release/state-national-emergency-end-tair%C4%81whiti-and-hawke%E2%80%99s-bay>

Annex Three: Draft memo describing the notice of a national transition period, to be provided to the House together with a copy of the signed notice

Annex Three: Draft memo describing the notice of a national transition period, to be provided to the House together with a copy of the signed notice

Proactively Released

Office of Hon Kieran McAnulty

Minister for Emergency Management
Minister of Local Government
Minister for Racing
Minister for Rural Communities
Deputy Leader of the House



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

Cc: House Office

From: Hon Kieran Michael McAnulty, Minister for Emergency Management

For immediate presentation to the House

Please see attached a notice of a national transition period for the Hawke's Bay and Tairāwhiti Civil Defence Emergency Management Group areas owing to the impacts of Cyclone Gabrielle, signed by Hon Kieran Michael McAnulty, Minister for Emergency Management at **TIME** on **DATE**.

The transition period comes into force at **8:43am on 14 March 2023**.

The national transition period will be in force for 90 days, and ends at **8:43am on 12 June 2023**, unless extended or terminated earlier. There is no limit to how many times a national transition period may be extended.

The notice of a national transition period have been made on the advice of the Director of Civil Defence Emergency Management and discussed with the Prime Minister. This decision was made following engagement with the affected Civil Defence Emergency Management Group offices, both of which confirmed that they are ready to transition the focus of their activities from response to recovery.

The effect of the notice of a national transition period is that the recovery from Cyclone Gabrielle is being managed at the national level, supporting the reduction and management of risk at the local and regional levels.

It provides the Director of Civil Defence and Emergency Management and National Recovery Manager with the authority to direct and coordinate the recovery from Cyclone Gabrielle. The aim is to support the areas specified in the notice of national transition by coordinating across the regions and setting priorities for the recovery at the national level.