

Emergency Management Legislation Reforms:

**CDEM Special Interest Group - Regional
Issues and Options Analysis Report**

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1.0 Report Purpose & Scope

The aim of this report is to provide information and analysis to support an effective Regional Councils sponsored Civil Defence Emergency Management (CDEM) Special Interest Group (SIG) submission on the Emergency Management (EM) Bill when submissions are called for.

Context for the project is drawn from the 2018 Technical Advisory Group (TAG) Report (*Delivering better responses to natural disasters and other emergencies*), policy developments and emergency events since.

It is significantly based on prospective Bill scope as per 'Trifecta' (*Modernising the emergency management framework, Jan. 2022*) proposals and submissions, and subsequent engagement with National Emergency Management Agency (NEMA) officials by CDEM Group Managers/Controllers (GMs/Cs).

The report seeks to *'identify common themes/issues within the reports (papers and interviews) that impact across Groups and local government in the civil defence emergency management space...the idea is not necessarily to come to conclusions (although if there is collective agreement this may be appropriate) but rather identify and analyse the issues from a CDEM GMs/Cs perspective'*.

Key to the project and report has been 'one-to-one' catchups across 13 of 16 Groups to better appreciate perspectives and the range of circumstances facing Groups. Collectively this involved about 20 hours of online discussion.

The writer is extremely grateful to those who were able to participate in these conversations, and to several Group colleagues who also participated. This was followed up with an 'all in' GMs/Cs workshop in early November.

The Workshop was an opportunity to debrief on the areas of agreement and differences in the key themes/issues from the documents review and from the views expressed in the one-to-one CDEM Groups sessions, on how the work of Groups' might be (better) enabled by legislative change through the prospective Bill, and what else is needed.

The report considers the known scope of the Bill as per Trifecta and through conversations with GMs/Cs that ranged widely across the emergency management space. Feedback offered by participants on issues around the impacts of local government reforms, the '4Rs' (reduction, readiness, response, recovery), and overall EM system development was significant, and is also considered.

The focus remains however, on the CDEM GM/Cs perspective on EM Bill scope and proposals, and the report identifies issues and implications, based on their knowledge of Bill proposals at early-November.

Other aspects of the Regulatory Framework Review ('Review of the National Civil Defence Emergency Management Plan and accompanying Guide' and 'Developing a Roadmap for the National Disaster Resilience Strategy') are not in scope of the project.

The report is based on the understanding that a (third) Cabinet paper was due to be submitted mid-late November relating to final policy proposals to be reflected in a draft Bill, and that *'subject to Ministerial and Cabinet Decisions, the Bill will be introduced to the House of Representatives before the end of 2022 or early 2023'* (NEMA website <https://www.civildefence.govt.nz/>).

A list of documents reviewed in the course of this project is included as **Appendix 1**.

2.0 CDEM Groups Context

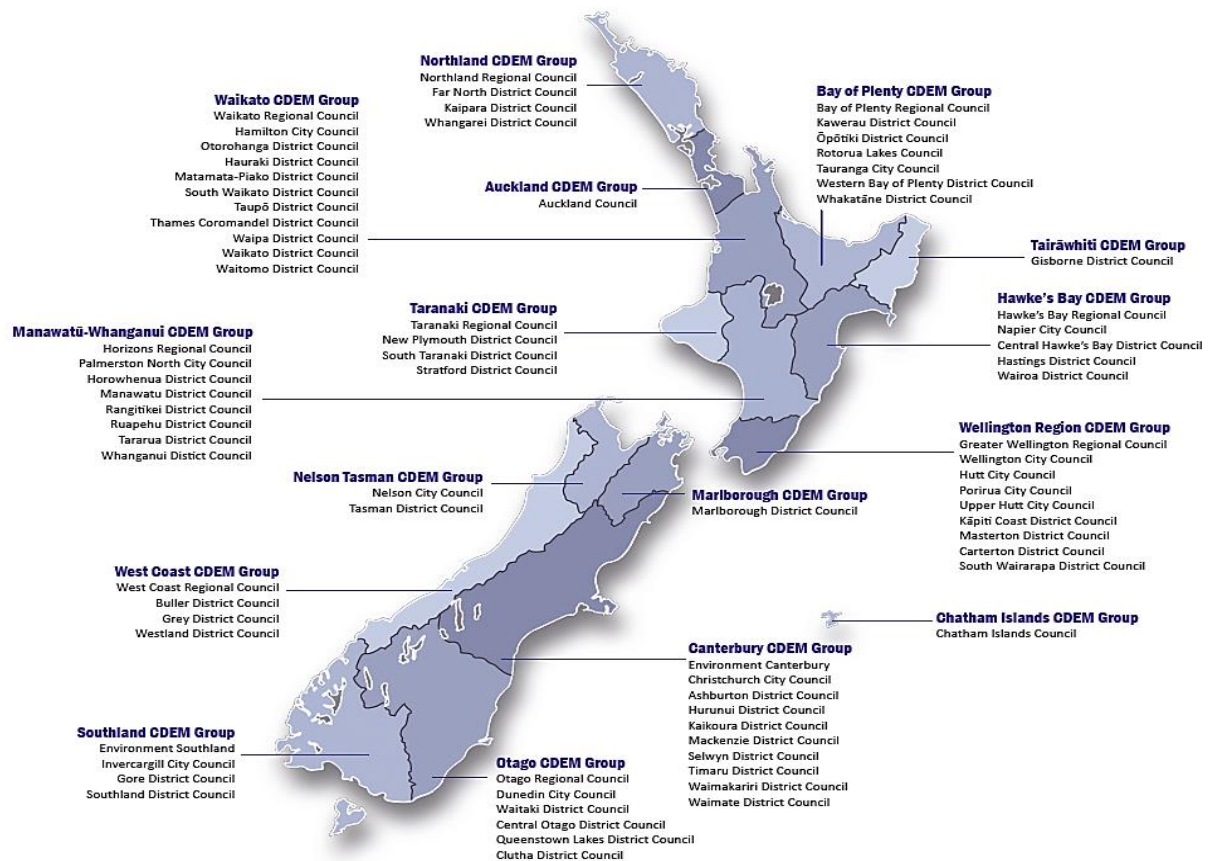
New Zealand has comparatively decentralised emergency readiness and response arrangements, with a CDEM Group office and EM staff at regional level on behalf of local authorities playing a key coordination role in partnership with councils on the one hand, and on the other, partnering with NEMA providing national direction.

In practice intra-regional arrangements vary widely, from a single EM entity associated with unitary councils, to relatively decentralised arrangements and a smaller role for Groups on the other. In larger regions with up to a dozen Councils this diversity of arrangements co-exists according to territorial authority preferred approach. It adds to system complexity but also reflects nuances of circumstance and history.

With 11 regional councils, 6 unitary authorities and 67 territorial authorities making up local government, the 16 CDEM Groups (with associated Joint Committees and Coordinating Executive Groups) shown below vary widely in scale and community circumstances - populations range from 860 on the Chatham Islands to 1.7 million in Auckland.

An analysis of relevant Annual Plan documents for the 2022/23 year indicated the 16 CDEM Groups collectively accounted for around \$35 million annual budgeted expenditure.

This diversity in size, rural/urban character and 'hazardscape', coupled with EM arrangements at local/regional level means a wide range of views about how a responsive but appropriately guiding legislative framework should be provided is more than likely. In that context this report reflects the range of opinions amongst EM professionals but identifies commonly held views as well.



3.0 Overview of Emergency Management Policy Development since 2018

3.1 Timeline

In January 2018, the TAG Report was released provided advice and options on how to deliver better responses to natural disasters and other emergencies. In August 2018 a Government Report, *Delivering better responses to natural disasters and other emergencies: Government response to the Technical Advisory Group's recommendations* was released.

Key elements of that response were:

- **National Level** – Proposed formation of NEMA to replace the Ministry of CDEM with enhanced monitoring responsibilities and clarification/development of lead agency roles.
- **Regional Structure** - TAG found that the effectiveness of, and confidence in the emergency management system was impacted by the wide variation of regional approaches and recommended CDEM Groups take a regional approach to EM with a majority in support of requiring shared emergency management services in each region.
- The Government response proposed to give CDEM Group and member local authorities clear and separate responsibilities for emergency management. CDEM Groups would continue planning with an explicit function to coordinate across the region while local authority members would be required to give effect to, and resource decisions of the CDEM Group. Consistency in organisational roles/arrangements and explicit service level agreements (SLAs) would be required.
- *At the time, 'it was considered that the overall benefits of regional coordination and clear lines of accountability to the CDEM Group outweighed the loss of local autonomy'.*
- **Role of Iwi** – significant focus on recognizing the capability that iwi brings to emergency management, reflected subsequently in extensive Trifecta proposals.
- **Capability and Capacity** – professionalisation of staff and development of volunteer capability, as well as establishing fly-in teams was proposed.
- **Authority, Intelligence, and Information & Communication** – a range of clarifications and development proposals.

In April. 2019 a recast National Disaster Resilience Strategy replaced the previous National Civil Defence Emergency Management Strategy. Subsequently the need for an implementation roadmap was identified and included in the Regulatory Framework (Trifecta) work programme. Preparation of that element has however been paused due to resourcing issues and to give priority to the new EM Bill.

Later in 2019, Cabinet agreed to establish NEMA, and it was stood up as a departmental agency on 1 December 2019, replacing the Ministry of CDEM.

In Sept. 2020, a first (of now three) Cabinet Papers updating the legislative framework in response to TAG and to strengthen New Zealand's response to emergencies, identifying 'tranche one' proposals were released. The amendments proposed in the first tranche focused on operational clarifications, including:

- clarifying roles and responsibilities e.g., making it clear local controllers have a role to coordinate emergency responses
- enabling an approved provider to issue warnings
- establish the New Zealand Emergency Management Assistance Team (EMAT) in legislation
- protect volunteers from civil liability when acting under the direction of a person performing functions, duties, or powers under the Act, and
- enable a Controller or Recovery Manager to operate nationwide.

A second tranche of proposals were to deal with matters where policy work was yet to be completed and to build on lessons from recent emergencies. This included several significant matters such as:

- providing greater recognition, understanding and integration of iwi/Māori perspectives and tikanga in emergency management – before, during and after an event
- providing greater opportunities for people with disabilities to participate in emergency management planning, and
- updating existing incentives and sanctions for ensuring greater compliance with emergency management obligations.

In late 2020 NEMA established a new Policy Unit to lead the Regulatory Framework Review Programme to bring together three projects as ‘Trifecta’ – the legislation, refresh of the 2015 CDEM Plan and to develop a roadmap for giving effect to the 2019 national the resiliency strategy.

Objectives identified for Trifecta are:

Emergency Management Act:

- reflects the place of the Treaty of Waitangi in emergency management
- provides for greater recognition of the “4 Rs” – risk reduction, readiness, response, and recovery
- is informed by the views of the emergency management sector, iwi and Māori, and the community
- is part of a consistent, coherent, and streamlined overarching emergency management legal framework
- is consistent with modern legislative design and fit for purpose for end user and sector needs.

Review of the National Civil Defence Emergency Management Plan and accompanying Guide:

- update and enhance current planning arrangements, including incorporating lessons identified through emergency responses, recoveries, and reviews
- ensure the form and function is fit-for-purpose and aligned with the emergency management planning framework.
- ensure roles and responsibilities across the 4 Rs are clearly defined, communicated, and well understood.

Develop a Roadmap for the National Disaster Resilience Strategy

The Strategy sets three priorities for the next ten years to improve our nation’s resilience to disasters:

- Managing risks
- Effective response to and recovery from emergencies
- Enabling, empowering, and supporting community resilience

'The roadmap will detail how to achieve these changes. It will identify the key actions required to shift from our current to our target state and describe the work required to deliver the key shifts'. (NEMA website <https://www.civildefence.govt.nz/>).

In Dec. 2021, a second Cabinet Paper on Emergency Management System Reform was released. This was predicated on a decision to prepare a new EM Bill to replace the CDEM Act 2020, rather than further amending enactments.

The proposed Bill is intended to address the shortcomings of the current emergency management system by:

- Adopting an inclusive and community-led approach to emergency management with a focus on disproportionately impacted communities
- Introducing a new power for the Chief Executive of NEMA to make 'Emergency Management Rules' (EM Rules) to improve the flexibility and responsiveness of the legal framework, separate to the use of emergency powers and to be used to steward the system outside of a response
- Modernising the treatment of lifeline utilities, including renaming to critical infrastructure, and clearly setting out the roles and responsibilities of critical infrastructure sectors and entities
- Clarifying roles and responsibilities across the system at the national, regional, and local levels
- Setting out NEMA's functions and roles (including as a steward and assurer of the emergency management system)
- Introducing a truly integrated '4 Rs' (risk reduction, readiness, response, and recovery) approach to emergency management.

The Cabinet paper also mandated proposals for legislative change to ensure recognition and representation for the role iwi and Māori play in emergency management by:

- Enabling iwi and Māori to participate in all CDEM Group Coordinating Executive Groups and in Joint Committees with full voting rights
- Establishing an iwi and Māori function in the description of CDEM Group functions in the replacement to section 17 of the Act
- Including iwi and Māori roles and responsibilities in the National Civil Defence Emergency Management Plan Order 2015 (the Plan)
- Providing for mandatory consultation of iwi and Māori in the development of planning and strategy documents
- Enabling iwi and Māori to be provided government financial support directly for costs incurred while caring for affected people in an emergency (rather than having to go via local government mechanisms) and using the same criteria that currently provide reimbursement for such welfare services to Territorial Local Authorities.

Certain tranche 1 policy approvals were also revised in the Cabinet Paper. These include more clearly delineating in the primary statute between the respective functions of local controllers in response and those of local recovery managers. The functions of local controllers, as set out in the statute, should be to co-ordinate the response to an emergency and direct personnel in the local area.

To enable targeted engagement with the local and regional emergency management sector for the 'Emergency Management Regulatory Framework Review (Trifecta) Programme' the document, *'Modernising the emergency management framework'* was released for consultation 14 January – 11 February 2022.

Four main topics were included for engagement on proposals and options for each matter:

- **Roles and Responsibilities**

‘We want to explore the intersecting roles and functions of the emergency management system across the four Rs (risk reduction, readiness, response, and recovery), and how they might be better enabled and facilitated by legislation:

- Civil Defence and Emergency Management (CDEM) Groups
 - Functions of CDEM Groups and local authorities
 - Membership of CDEM Groups
 - Legal status of CDEM Groups
 - Accessibility of CDEM Group plans
- Emergencies
 - Undeclared emergencies
 - Concurrent emergencies
 - Ambulance services
- Lead agencies
- Animal welfare

- **Disproportionately impacted people**

We want to understand how to ensure equitable outcomes for people disproportionately effected by emergencies:

- Planning requirements

- **Critical Infrastructure**

This topic explores the future state vision for lifeline utilities as well as the categorisation and definitions, legislative and regulatory changes, and shared objectives for lifeline utilities:

- Critical infrastructure changes
- Planning level of emergency services
- Reporting, monitoring, and evaluation

- **Iwi and Māori Participation**

How do we best recognise and support Māori participation in the emergency management system? This topic explores the role, participation, representation, funding, and planning involvement of iwi and Māori.

- Representation
 - Māori Emergency Management Advisory Group
 - Joint Committee representation
 - Co-ordinating Executive Group representation
- Participation
 - Iwi and Māori function
 - Consultation on Group Plans and strategies
- Additional proposals

Since the receipt of Trifecta submissions until the present there has been further targeted sector engagement, including in March 2022 a Minister’s roadshow engaging with councils, GMs/Cs ‘Lead Agency’ engagement by NEMA, and generally until August a ‘fortnightly’ GMs/Cs online catchup, also with the NEMA Policy Team.

Through 2022 work on the EM Bill drawing on Trifecta engagement results has proceeded as has review of the National Civil Defence Emergency Management Plan and accompanying Guide. However, work on developing a Roadmap for the National Disaster Resilience Strategy has been placed on hold, giving policy development priority to the first two Trifecta elements and especially the Bill.

As indicated above the new Emergency Management Bill, could be introduced to Parliament late 2022- early 2023. It would then be referred to Select Committee and submissions invited.

3.2 Commentary

Through conversations with GMs/Cs, varying degrees of frustration regarding the pace of change in responding to TAG and the development of the modernized regulatory framework were expressed.

This is set within the context of the years since TAG being released being characterized by a series of more frequent, more severe emergency events across the country that challenge existing frameworks and resourcing in the response and recovery spaces. Indeed, the scale and nature of events such as the Covid pandemic has tested all CDEM Group roles across the country at the same time.

The number, scale, and duration of adverse weather events, attributed in part to climate change exacerbation, is of significant concern to GMs/Cs. This is in terms of resourcing levels, the ongoing fatigue of response-recovery-response modes, and the uncertainties in roles, especially in undeclared events, that Trifecta is directed at addressing. Of rising concern is the ability of the system under its current structure to respond to future events as outlined above.

Related to this are rising community expectations of EM responsiveness, community (defence) infrastructure development and after-event restoration, but declining levels of household preparedness to 'go it alone' for an initial period, and to pay (rates) for existing, let alone enhanced levels of service.

A 'meta-analysis' of recent event reviews (no small undertaking and including those experienced in 2022 with reviews yet to be completed) is warranted to gain greater insight into current 'system performance'.

While it has been observed that by and large effective initial responses have been mounted, there is growing concern among GMs/Cs of the sustainability of ongoing heightened response demands, given existing overall resources in the face of growing demands.

This has a consequence in recruitment/ retention of both professional and voluntary resourcing, while other non-response elements of CDEM Group function are 'deprioritised' and so working against a more comprehensive 4Rs approach.

Apart from the challenge of a more demanding operating environment, concern is evident at the concurrent short turnaround Trifecta and follow-up engagement timeframes, the sufficiency of information on proposals/options, a perceived lack of careful consideration of the full implications and costs of the proposed changes and how EM legislative reforms fits into/with the broader local government sector reforms.

The EM Bill has been characterized as modernization, but 'non-transformative', with no financial (for central government) implications likely to be identified. This gives rise to a perception that policy makers are not appreciating the CDEM Groups/local government situation discussed above and as it has unfolded in recent years since the TAG report.

An identified risk is that the Bill has been progressed while the Plan Review and Resilience Strategy Roadmap are being phased and on 'different tracks.' There is considerable expectation around the Bill contents and directiveness among Groups whereas responses may be better in the other documents.

4.0 Trifecta Proposals and CDEM Group Responses

4.1 Roles and Responsibilities – Functions

Section 17 of the Act sets out the functions for each CDEM Group and applies concurrently to each member local authority. The Government's response to TAG was for CDEM Group and member local authorities to have clear and separate responsibilities for emergency management.

Four Functions Options were identified in Trifecta:

- A Current State** - Section 17 of the Act sets out the functions for each of the CDEM Groups and applies concurrently to each member local authority. There is no clear separation between the individual duties of local authorities and the collective functions of the CDEM Groups.
- B Distinct Local Functions** - CDEM Groups retain the section 17 functions and will also have an explicit function to coordinate across the region. Local authorities are removed from section 17 and have local emergency management functions distinct from the CDEM Group.
- C Strengthened Regional Approach** - CDEM Groups retain the section 17 functions and will also have an explicit function to coordinate across the region. Local authorities are removed from section 17 and instead must 'give effect' to the decisions of the CDEM Group. and
- D Regional Approach with Local Support** - CDEM Groups retain the Section 17 functions and will also have an explicit function to coordinate across the region. Local authorities are removed from Section 17 but are expected to have capability and capacity to support CDEM Group and integrate their business-as-usual work for emergency management.

Trifecta engagement raised concerns in a wider sector context about a (perceived) loss of local autonomy, but the importance of greater clarity around local authority and CDEM Groups functions, roles and responsibilities has been acknowledged.

Among GMs/Cs, most expressed (at least partial) support for Option D: Regional Approach with Local Support, some for B: Distinct Local Functions, while others found not enough information to respond upon. Several issues were raised in discussions:

- Concern about the timing of these proposed changes given that of several sector reforms that are progressing at pace that have implications for EM functions, especially when a 4Rs lens is applied, and with which, explicit integration is desirable.
- The need to address existing capacity constraints and ongoing funding issues, with constituent territorial authorities under significant funding pressure and reluctant to 'resource up' CDEM Groups to enable effective response to a (broadening) mandate and higher community expectations.

- The observation of a degree of ‘postcode lottery’ arising in funding levels as a result across and between regions because of differing preparedness of/attitudes by Joint Committees and CEGs to mandate resourcing for broad outcomes and uncertain future risks, amid growing expectation that central government will ‘come to the party with a package’ in the aftermath.
- The possibly missed opportunity to clarify CEG, GMs and Group Office roles as part of this process.
- The benefit of clarifying regional/local roles in the explicit context of clarifying national roles and 4Rs responsibilities. There is perceived risk in shared 4Rs responsibilities, but lack of clear accountabilities.
- The need to address consistency in service levels between regions but ensure service delivery is appropriate and responsive to circumstance.
- The proposals do not address the level of integration with wider regional council and territorial authority functions that give effect to the ‘4Rs’ aspiration, while CDEM Groups feel stretched to ‘do response and maintain readiness for it, and maybe recovery’.
- Uncertain impacts of change on established arrangements.
- Unclear interrelationships with the ‘lead agency issue’ (see section 4.2.x below).

It is relevant to note that both LGNZ and Taituarā Trifecta responses suggested it is *‘uncertain that there has been a significant level of confusion about roles and responsibilities’...‘do not believe that there is a fundamental misunderstanding of roles, lack of coordination or clear hierarchy.’*

In discussions with the GMs/Cs they were uncertain who was consulted as part of these responses. Follow-up discussion between the CDEM EM Reform SIG Group and these organisations is desirable.

It is also relevant to note NEMA’s March discussion paper on ‘Clarifying the functions of local authorities and CDEM Groups - Draft revised proposal’ disaggregated and (re)allocated S17 (1) (a) through (i) between Groups and local authorities.

At this point it is not clear how this eventually ‘landed’, especially as it relates to Unitary Authorities (Auckland at one extreme and Chatham Islands at the other). Nor is it clear more generally along the spectrum of options and discussions, where the Bill will land on the level of separation, and, whether proposals will include consideration of and demonstrate impacts on funding availability/capability shortfalls as they exist now and into the future.

4.2 Other Roles and Responsibilities Proposals

4.2.1 Legal Status of Groups

Three options were identified:

A Keep the current state

B Explicit recognition in the Act - Through the Bill, CDEM Groups are explicitly given their own legal status.

C Mandatory delegation requirements - Introduce mandatory delegation requirements. This option would make it mandatory for local authorities to delegate their ability to enter into contracts.

Some (albeit in principle) support was given for Option B: Explicit recognition in the Act, while others noted that a CDEM Group is not an agency in its own right. Several noted not enough information as being available to respond upon. Issues raised in discussions:

- Desire for clarification of the significance of this issue, and whether contracting was an ability needed by Groups was a moot point for some, (*“administrative noise” as administering authorities can sign contracts on behalf*)
- if the issue is (only) entering contracts outside of emergencies, are there delegations that suffice?
- Uncertainty over implications, especially in relation to health & safety, employment, and liability matters.
- Possible unintended consequences, especially in heightening service level expectations by communities during emergencies.

4.2.2 Accessibility of CDEM Group Plans

Three options were identified:

- A Keep the current state** - There is no mandatory requirement or specified format to publish a civil defence and emergency management group plan (CDEM Group Plan).
- B Explicit requirement to publish (minus the incorporated documents)** - Make publication of CDEM Group Plan explicit and allow for plan documents to be incorporated by reference in specified ways
- C Explicit requirement to publish (incl. documents incorporated by reference)** - Make publication of CDEM Group Plan explicit and allow for plan documents to be incorporated by reference in specified ways. The documents incorporated by reference must be published with the CDEM Group Plan.

Support was expressed for Option B/C: Explicit requirement to publish (without/with incl. documents incorporated by reference). Issues raised in discussions:

- Will it per se achieve accessibility?
- Does it need to be in the Act itself, or can be satisfactorily achieved another way e.g., practice guidance)?
- Need/appropriate consistency with other legislative disclosure requirements
- An element of pragmatism is required, although acknowledge the benefit of consistency
- The opportunity and benefits of aligning CDEM planning timing/cycle (the what) with that for local authorities in terms of the Long-Term Planning cycle (the how or resourcing)

4.2.3 Undeclared Emergencies

Three options were identified:

- A Keep the current state**
- B Response thresholds for coordination** - Introduce new response thresholds for the coordination of undeclared emergencies. Introduce functions and powers for Controllers outside a state of emergency.

- C Liability protections for undeclared events** - Retain current approach and practices to undeclared events but introduce measures for protection from liability for personnel outside of a state of emergency or transitional period.

General support among GMs/Cs was indicated for Option B: Response thresholds for coordination...*'to get attention is not a reason to declare'... 'significant proportion of emergency events do not need to be and are not declared'... 'will provide clarity.'*

Issues raised were:

- Does this require a revision of the definition of an emergency and the current thresholds for a declaration of local emergency?
- Has the role of the Group Office and Group Manager been considered?
- Is this simply focused on hazards where CDEM is the lead agency, or are these thresholds intended to be all-hazards?
- Is this intentionally focused on liability outside a state of local emergency?
- Need to seek clarity on what will constitute an undeclared emergency and who authorises the undeclared emergency.
- Would the ability to have an undeclared emergency response mechanism be seen as a more attractive response option (with unintended consequences).
- Who would assume the responsibility of lead agency?
- Should be related to activation levels.
- There may be implications for recovery?
- Would clarification of liability issues be all that is required here?

4.2.4 Concurrent Emergencies

Three options were identified:

A Keep the current state

- B The Bill provides guidance and clarity around responding to concurrent emergencies** - Introduce greater clarity, through the Bill (or regulations or rules), about the management of concurrent emergencies at a local, regional, and national level.

- C Other mechanisms provide guidance and clarity around the responding to concurrent emergencies** - Introduce guidance by specifying, for example, the roles and responsibilities of CDEM Group members or matters to be taken into account when coordinating the response.

General support among GMs/Cs was indicated for Option B: the Bill provides guidance and clarity
Issues raised:

- Lesser need/relevance in some contexts.
- Can it be achieved by procedural guidance?

4.2.5 Ambulance Services

Two options were identified:

A Keep the current state

B Amend definition of emergency services - The Bill will define what an emergency ambulance service is, that an emergency ambulance service is specifically included in the definition of emergency services, and that emergency ambulance services are specifically included in Civil Defence Emergency Management Coordinating Executive Groups or their equivalent.

Universal support expressed for Option B: Amend definition of emergency services...*'corresponds with current state'...ambulance services have long been an integral part of the wider community response and are long overdue to be included alongside other emergency services'*

4.2.6 Animal Welfare

Two options were identified:

A Keep the current state

B Expressly provide for the welfare of animals in emergencies - Make it clear that for emergency management activities, indicating animals are covered (in addition to people and property), clarifying that animals can be 'seized' for their safety/rescue, and also clarifying that entry on premises is allowed to rescue animals, as it is to rescue humans.

Again, universal support for Option B: express provision for the welfare of animals in emergencies
Issues raised include:

- Ensuring alignment with animal welfare legislation
- Confirming scope with respect to companion and/or production animals
- Ensuring legality of powers of property entry and seizure and consistency with other 'rights relevant' legislation

4.2.7 Lead Agencies

Trifecta was supplemented with subsequent targeted engagement indicating additional specificity of options.

Two options were initially identified:

A Keep the current state

B Hook in the Act - An enabling clause is added to the Act through the Bill which permits the making of regulations or rules or both with the specific purpose of establishing the roles and responsibilities of lead and support agencies. This option would ensure the lead agency framework is recognised in primary legislation but would use regulations, rules and supporting guidance (as necessary) to clarify agency responsibilities before, during, and following emergencies.

General support was expressed for Option B: Clarification of Lead Agency arrangements within the legislation. Much more conditional support was expressed in subsequent targeted engagement in relation to further, more specific options with reservations about the implications of Options 2 Lead agency across the 4Rs and/or Option 3 Mandated Unified Control. Among issues raised were:

- *'Clarification of Lead Agency arrangements is considered to be a critical requirement for this review...the current situation of a mismatch between legislation that was designed around a CDEM Group as lead agency across all hazards, and the NSS handbook/National CDEM Plan that both detail lead agencies arrangements, has caused and continues to cause issues'*
- It remains unclear to GMs/Cs how lead agency options have 'landed' in Bill development, that is, the issue of whether across the 4Rs or not, and implications of 'unified control', especially in relation to funding processes. This includes the role of key Government agencies such as MBIE in infrastructure oversight and MSD in welfare, in terms of how this plays out at regional/local levels.

5.0 Critical Infrastructure

The Trifecta consultation document tabulated proposed changes in relation to infrastructure roles and responsibilities determined through past consultation as context for two specific proposals as per below. Overall, proposals seek changes to strengthen the Act in relation to the role and responsibilities of Lifeline Utility entities within the emergency management system. It noted that since 2002, emergency events have emphasised the importance of having a more comprehensive legal framework for Lifeline Utilities.

General support was indicated for replacing 'Lifeline Utilities' with 'Critical Infrastructure', creating a definition of 'Critical Infrastructure' in the Act, specifying critical infrastructure sectors and entities via a notice in the Gazette not via a schedule to the Act, developing criteria for categorisation, a requirement for Critical Infrastructure entities to proactively, and on request, share information with identified parties, and, introduce obligations for sector specific response plans, that would be updated at three year intervals.

Issues raised related to scope (e.g., supply chains for consumer goods as critical services?), the role of fuel sector coordinating entities, and ensuring alignment with RMA planning requirements.

As regards the two specific proposals, '**Option A**' Current State was available, while an '**Option B**' for these two areas was also indicated:

- **B Planning level of emergency services** - lifeline utilities must state their planning emergency level of service.
- **B Reporting, monitoring, and evaluation** - new monitoring, evaluation, and annual reporting requirements.

General support was expressed for lifeline utilities being required to state their planning emergency level of service on a three yearly basis. Issues raised in relation to this matter centered on the accountabilities of and within responsible entities, and how monitoring and enforcement would be undertaken.

As regards new monitoring, evaluation, and annual reporting requirements, general support was indicated. That is:

- lifeline utilities must provide an annual statement to the responsible agency affirming that the organisation has the capability and capacity to meet obligations signed by the entity Chief Executive or equivalent authority
- the agency designated as responsible may review the entity's systems and processes to ensure that the entity has developed adequate capability and capacity, and
- the responsible agency must confirm the respective sector's ability to meet their duties and responsibilities annually and make relevant information available to CDEM Groups or NEMA or both on request.

Discussions with and among GMs/Cs focused on who would be 'responsible agencies', the alignment of these EM related requirements with other legislation, and overall, how would all this work in practice.

6.0 Iwi & Māori Participation

Extensive proposals aimed at enabling iwi and Māori to participate in the emergency management system at national, regional, and local levels were included in Trifecta, having been particularly foreshadowed earlier via TAG and referenced in relevant Cabinet Papers. These include:

Membership of CDEM Groups – would now take two forms, local authority members, and iwi & Māori representative members. Iwi and Māori representative members have different obligations to local authority members based on their intended role. These representatives' remuneration costs will be centrally funded.

Māori Emergency Management Advisory Group (MEMAG) - establish a new national body Māori Emergency Management Advisory Group in legislation, with a varied scope including providing advice to NEMA and may also provide advice and guidance to CDEM Groups

Iwi and Māori representation on Joint Committees - Iwi and Māori may elect two members with full voting rights to CDEM Group Joint Committees. Membership fees and expenses of members will be centrally funded.

Iwi and Māori representation on CEGs - legislate to achieve participation of iwi and Māori in all CEGs... A funding mechanism is likely to be drawn from NEMA's baseline.

New iwi and Māori function - requirements in legislation to identify needs and develop plans to address them, identify the contributions iwi and Māori can make to managing an emergency event and communicate this information widely

Consultation on CDEM Group plans and strategies - explicit requirement to consult and collaborate on plans, develop capability/capacity to engage with Māori, seek involvement in planning and have regard to feedback, operational coordination arrangements by and with Iwi and Māori.

Additional proposals – related to operability of Iwi and Māori participation, including involvement in National CDEM planning activities, and updating the Act's purpose statement.

General support was expressed for all proposals, noting that to varying degrees, many of these arrangements are already in place or underway. However, a range of issues were raised:

- Being prescriptive of/cautions about numbers and roles in/methods of appointment/election to Cttees /CEGs especially in regions with many iwi/hapū.

- As the relationships with iwi are largely held at a local level the two parties should enter dialogue and decide how the governance and partnership should work for them rather than set structure being imposed through legislation.
- Uncertainty about MEMAG's role with respect to CDEM Groups.
- The extent to which these proposals have been/will be tested with iwi.
- The extent/nature/cost of funding for engagement in plans and strategies development
- The implications for level of service/responsiveness.

It was emphasised that these changes will in of themselves have a transformational impact on EM.

7.0 Disproportionately Impacted People

Trifecta noted there is opportunity through reform to ensure that existing institutional structures and processes, such as CDEM Group planning, prioritise equity for people who are disproportionately impacted by emergencies. While the current state remains an option it is proposed that disproportionately impacted people be included in planning as follows:

Mandatory engagement with disproportionately impacted communities in CDEM Group planning activities. This option ensures disproportionately impacted communities are actively consulted and engaged with during the development of CDEM Group Plans. CDEM Groups would engage with disproportionately impacted communities to:

- identify the needs of disproportionately impacted communities within their CDEM region.
- develop plans to address these needs.
- identify how disproportionately impacted communities can collaborate with CDEM across Reduction, Readiness, Response and Recovery.
- communicate this information to the wider CDEM Group, their communities, and others as required.

General support among GMs/Cs was expressed but also a range of issues noted:

- To varying degrees reflects current practice.
- Defining and identifying disproportionately affected communities remains unclear and potentially problematic in terms of clarity and consistency across jurisdictions.
- Uncertainty was expressed about interrelationship of this set of requirements with welfare function(s)/other agencies planning work.
- It needs in practice to reflect the way in which those communities wish to engage.
- It was questioned whether this better done in legislation or by other means (i.e., Plan/Guide, Resilience Strategy/Roadmap).
- General uncertainty was expressed about terminology, scope, resourcing, funding implications.

8.0 Other Major Reforms - Interface Issues

As indicated above how EM legislative reforms fits into/with the broader local government sector reforms and their impacts was one of three key issues raised through conversations with most GMs/Cs. The other two - the '4Rs' and overall EM system development are further considered below. This section briefly discusses interface issues to be aware of as the EM Bill becomes available for consideration in relation to submissions.

(i) Three Waters Reforms - Three Waters services, assets, and staff from 67 Councils are proposed to be integrated into 4 Entities through the first of three bills currently before Parliament and expected

to be passed by end December 2022. Of the 'major reforms' this is the most advanced and contested. That notwithstanding, it is the writers view that the status quo is the least likely option, with some level of separation from councils appearing likely over coming years.

The Water Services Entities (WSE) Bill foreshadows a 4 Stage transition:

- **To late '22/early 23:** Bill Nos 1 & 2 progressed, National Transition Unit programming, sector engagement, Local Establishment Entities (LEEs) stood up.
- **Act 1 assent date to 1 July 2024:** 'Establishment period', LEEs in place; 3 Waters plans and budget separated from Councils LTPs.
- **First three years:** Entities structures and processes all stood up, Te Mana o Te Wai statements and responses, first 30-year Infrastructure Strategy.
- **From 2027:** All governance arrangements and planning processes fully operational but not likely until then.

The Cabinet Paper for WSE Bill No 2: *"noted that water services entities will have roles, responsibilities, and duties as lifeline utilities under the Civil Defence Emergency Management Act 2002, and the National Civil Defence Emergency Management Plan, as they will fit the definition of lifeline utilities within that legislation"*

LGA provisions relating to councils' delivery of three waters services, including obligations to plan for and report on these services, is proposed to be repealed by this Bill.

Other legislative provisions applicable to utility (network) operators, and ((to be previously) authorised under the Local Government Act) to Councils will be extended to WSEs.

It also appears that there will likely be consistency of funding of infrastructure as currently provided to local authorities transferred across, (i.e., the 60/40 Govt: Councils restoration funding split for some horizontal Infrastructure as per the authorising Cabinet Minute).

The Cabinet Paper for WSE Bill No 2 also provides for both mandatory (specified contents) and non-mandatory 'Relationship Agreements' between WSEs and local authorities (bilateral/multilateral and incl. iwi/hapu). It can be expected such agreements, at least in the first instance, will reflect how current CDEM Group and Councils coordination for EM-related planning and operations would be authorised.

WSEs will have specific responsibility for stormwater management planning, as well as preparing Asset Management Plans and Infrastructure Strategies for assets increasingly subject to a disrupted climate.

Still in the 'grey zone' is what stormwater 'assets' transfer to WSEs, especially in rural settings and what remains with Councils. This could add 'three-way' complexity to agreements and emergency responses.

While RAs are the likely mechanism for mandating CDEM Groups/WSEs arrangements, the issue of the three CDEM Groups that span two entities is yet to be determined (Manawatū-Whanganui split between Entity B & C, Nelson-Tasman and Marlborough split by C & D).

Under these proposed provisions, WSEs become both strategic partners with, and applicants to, Councils. But many questions about emergency management interfaces remain.

GMs/Cs key operational level concern remains who do residents and Councils call in adverse event circumstances' across at least three of the four Rs? While precise details of such arrangements, let

alone planning processes are not 'in scope' for the EM Bill, this will likely be one of many interface related questions many Joint Committees and CEGs will ask when the EM Bill surfaces.

(ii) Resource Management Reforms - The two main RMA replacement Bills (Spatial Planning (SPA), and Natural and Built Environment (NBEA) Bills) have recently been introduced to the House and are subject to Select Committee process by May 2023.

Regional spatial strategies (RSSs) mandated by the SPA will identify big issues and opportunities facing regions and develop strategies and implementation plans to respond to them. These include managing areas that are vulnerable to natural hazards or climate change and the need for protective infrastructure or change in land use.

Regionalised NBEA Plans replacing existing District and Regional Plans are guided by an objective of 'better prepar(ing) for adapting to climate change and risks from natural hazards, and better mitigate(ing) emissions contributing to climate change.

Considerable reliance is placed on a National Planning Framework (rollup/extension of existing national policy statements (NPSs) and environmental standards (NESs)) to guide both RSS and NBEA plan development.

The third new piece of legislation, the Climate Adaptation Act is not now envisaged until 2024 with little detail currently available.

The RM system change was announced as being phased over 10 years with many changes progressively implemented among regions that will be at different stages of transition for extended periods.

The detail on how EM might engage with regionalised plan-making processes, and in time NBEA plan development and implementation in ways different to the RMA is not yet available. In the interim, reliance is placed on guidance from MFE on a risk-based approach to natural hazards, in anticipation of a new Natural Hazards NPS, although that is now superseded by RMA reform.

Increasing frequency and severity of adverse flood events is heightening EM sector concerns and those expressed by GMs/Cs in relation to flood restoration costs and long-term risk reduction and the future role of CDEM Groups in relation to the 4Rs.

Of shorter-term concern to many GMs/Cs are current 'disconnects' between EM and the planning system and process. This is discussed below under '4Rs'

(iii) Reform of the LIMs System - Government has agreed package of changes to ensure Land Information Memoranda (LIMs) provide better and more consistent natural hazards information and greater certainty for local authorities about sharing such information through LIMs and reduced exposure to legal liability.

A consequence of these changes and underpinning information systems upgrades over coming years upon which they will rely, will be better natural hazards information becoming available to the EM system, including lifeline (critical) infrastructure entities.

(iv) National Adaptation Plan – The first national plan for adapting to climate change (NAP) was released in August 2022. **Appendix 2** is an extract from the NAP Table of Actions, indicating those assigned to NEMA (Lead Agency) / Emergency Management (Portfolio). This sets expectations about the nature and pace of EM legislation development and implementation over the next few years. It suggests that new emergency management legislation and the National Emergency Management Plan, will have been adopted by 2024.

9.0 'The 4Rs'

Risk reduction, readiness, response, and recovery are key concepts and practice in emergency management in the general sense. At local and regional levels activities in pursuit of better mitigating the risks of, preparing for, and responding to disasters are shared across CDEM Group and local authorities' roles and responsibilities, along with many other players.

While the 4Rs are axiomatic to GMs/Cs., considerable uncertainty about how the emerging EM legislation is embracing them was evidenced in discussions. General statements have been made in Cabinet Papers/statements of objectives for framework development in relation to enhanced focus on Readiness, Response, Recovery and Reduction. The implication being that this would be a significant focus for Bill development, e.g., *'Introducing a truly integrated '4 Rs' (risk reduction, readiness, response, and recovery) approach to emergency management'*.

However, in Trifecta and other available Bill related documents reviewed, what is to be introduced is not evidenced. It may be that developments in this respect may now be 'reserved' for other/(will) be best dealt with by other, Trifecta elements (the Plan & Guide and the Roadmap).

Among the 4Rs related issues raised in discussions were:

- What is the level of realism for a 'whole of 4Rs approach' within the CDEM mandate?
- Should agencies identified as lead agencies in response also have overall responsibility of the other 3Rs?
- There needs to be much stronger interrelationships between CDEM priorities and activities with other aspects of Councils functions and 'the reforms' as we go forward into a more uncertain and natural emergency challenged future.
- Frequently referenced were variable EM relationships with, influence on, and responsiveness of planning system personnel and processes.
- The variable availability of hazards analysis and associated resourcing across regions was remarked on.
- Just how does resiliency building (at a community level) 'work' in an ongoing way, especially in metro areas and at scale (i.e., Auckland)?
- Maintaining ongoing recovery readiness and resourcing remains 'problematic' for local councils.
- Government community resiliency initiatives seem not to have come to much save LIMs system development.
- Event driven community 'resourcefulness' is being confused with resiliency.
- What is and who pays for 'cost-effective risk reduction 'in the round'?

10.0 EM System Development

The Regulatory Framework Review Programme (Trifecta) aims to *'build a modern, fit-for-purpose, and enduring framework for the emergency management system so that:*

- *communities better understand the risks they face and are better prepared to respond to and recover from emergencies.*
- *iwi and Māori participation are recognised, enabled, and valued.*
- *the emergency management system is well-coordinated, high-performing and enjoys widespread trust and confidence.*
- *the impacts of emergencies on people, the economy and the environment are reduced.'*

A significant focus in GMs/Cs discussions was on 'system development' considering these objectives. They imply to this Group integrated functionality across tiers/sectors (especially in response mode), clarity of mandate, consistency of practice/service level appropriate to circumstance, and being well resourced to meet increasing event frequency and rising community expectations.

It was also seen to imply an increased level of system stewardship. It was of concern to GMs/Cs that apart from proposals on 'rule-making powers' of the NEMA Chief Executive, (generally supported with cautions/conditions), very little in Trifecta related to system stewardship. Proposals and implementation pathways/requirements were not seen to really be addressed.

Many system development comments were made by GMs/Cs, and wide-ranging issues raised relating to:

- What is the pathway forward for regional structures and their strengthening in legislation in the face of variations in territorial authorities' commitment/participation and funding?
- A perceived dilution of TAG resolve in this regard - yet the level of regionalisation happening in other LG reforms is very evident.
- What is the mandated baseline CDEM level of service that should be provided to all New Zealanders and how does this relate to commitment/participation and funding?
- A perceived lack of systems thinking in response to TAG over several years, the need for which recent events have well demonstrated.
- Concern about what lies ahead considering increasing frequency / severity of events and a need for future oriented rather than catchup thinking on system requirements.
- 'Moving from CDEM to EM'...accounting for variabilities of scale of regions, diversity of communities, diversity of Council sizes/capabilities/capacities.
- Appreciation of changing community expectations, rising level of service demands, diminishing levels of community preparedness, and increasing vulnerabilities.
- Concern about the nature of CDEM Groups relationship with 'All of Government' in relation to what is required for whole of system sustainability and improvement.

11.0 Discussion of Main Issues

The TAG report was prepared in 2017. Since that time New Zealand has experienced an ongoing and increasing number of adverse events calling on the resources of CDEM Groups. Over that period there has been incremental improvement to the framework within which Groups operate but by and large the 'system' at local/regional level is as it was 5 years ago.

There is genuine concern evident among GMs/Cs about the need for system development and investment to meet the challenges of more frequent, longer lasting, and severe events; and, at a time when a range of reforms that significantly interface with EM are 'up in the air'.

Widespread concern exists among this grouping about the (lack of) clarity of proposals (options), the need for and benefits of a collaborative approach to framework development and implementation,

that resourcing/funding is 'not in scope', and, that interrelationships/synergies with other reforms are not being addressed concurrently nor at system level.

The wider local government sector conversation about moving from 'welfare to wellbeing' outside of event response does not seem to have reached EM from a 4Rs perspective. What does wellbeing as an element of community resilience look like? and, how are disproportionately impacted communities to be addressed pre-event?

Despite all this, meaningful emergency responses to recent events drawing on CDEM Groups have happened impacting on the sustainability of the system as structures, systems, funding and overall capability have remained largely unchanged. The concern is that this singular focus on response is compromising attention to other aspects of EM and over time is not sustainable.

Beyond CDEM Groups, there is divergence of view among many councils and LGNZ and Group offices about the need for and nature of reforms. While a diversity of view is healthy and to some extent to be expected, the degree of divergence is surprising.

Many do not see the need for change to the extent/nature that GMs/Cs do. The EM Bill being positioned to 'not be transformational' does not help bridge this a divergence among parties who need to act cohesively in emergencies and in systemic preparations for a more disrupted climate.

As well the 'big issues' do not seem to GMs/Cs to be being addressed with sufficient urgency. These include funding of recovering critical assets (i.e., the so-called 60-40 review) and establishing a coherent policy framework for managed retreat (both from the impacts of climate change and in a post-disaster scenario).

Some comments encountered like '*why are/would we put so much effort into this anyway...what is/are the problems we are trying to solve?*' versus GMs/Cs concerns about more longstanding, deep-seated system level shortfalls need resolution. This is especially important in the face of rising community expectations on what will be delivered in an event, lower risk appetites, and lower level of household preparedness.

Appendix 1: Documents List

- <https://www.civildefence.govt.nz>
- Delivering better responses to natural disasters and other emergencies: Government response to the Technical Advisory Group's recommendations, August 2018
- Modernising the emergency management framework (Trifecta) consultation document, 14 Jan-11 Feb 2022
- Legislation:
 - Civil Defence Emergency Management Act 2002
 - National Civil Defence Emergency Management Plan Order 2015
 - Water Services Entities Bill 2022
 - Spatial Planning Bill, 2022
 - Natural and Built Environment Bill, 2022
- Cabinet Papers:
 - Updating the legislative framework to strengthen New Zealand's response to emergencies – tranche one, 2020
 - Emergency Management System Reforms, 2021
 - Policy proposals for three waters service delivery legislative settings, 2022
- National Disaster Resilience Strategy, 2019
- Clarifying the functions of local authorities and CDEM Groups - NEMA discussion paper, 2022
- Marlborough CDEM Group comments on 'Clarifying the functions of local authorities and CDEM Groups'
- Chatham Islands Civil Defence Emergency Management Group: Emergency Management Capability Analysis Report by C3 Consulting, June 2022
- Comments in response to 'Trifecta' Feb. 2022 by Auckland (incl lead agency engagement), Bay of Plenty, Nelson-Tasman, Canterbury, Manawatū-Whanganui, Southland and Wellington CDEM Groups and by Taituarā and LGNZ
- National Adaptation Plan, August 2022

National Adaptation Plan - Table of Actions, August 2022 – Those assigned to NEMA (Lead Agency) / Emergency Management (Portfolio)

Objective	Title	Lead agency	Relevant portfolio	NCCRA risks addressed	Status c = critical /supporting	Timeframe	Implementation progress expected by
Enabling better risk-informed decisions (Chapter 3)							
C1	3.4 Raise awareness of climate hazards and how to prepare	NEMA	Emergency Management	G6	c	Years 1–6 (2022–28)	<ul style="list-style-type: none"> By end of March 2024, a public education strategy is developed for natural hazards, and there is increased availability of information on preparedness for extreme weather events. By 2026, a dedicated public education programme to raise awareness is rolled out, with campaigns and tools able to be timed and tailored for specific circumstances, audiences, and channels, and used by public service agencies, businesses, and schools.
SW1	3.11 Implement the National Disaster Resilience Strategy	NEMA	Emergency Management	G2, G6	c	Years 1–6 (2022–28)	<ul style="list-style-type: none"> By 2024, Cabinet gives approval for the National Disaster Resilience Strategy (NDRS) Roadmap and implementation is underway. By 2026, the emergency management system is maturing, and outcomes are improving for communities through delivery of initiatives under the NDRS Roadmap. By 2028, outcomes from the NDRS Roadmap implementation, and new opportunities arising from it, are considered in the development of the 2029 strategy.
SW2	3.12 Improve how science, data and knowledge are used to inform emergency management	NEMA	Emergency Management	G1, G6	c	Years 1–6 (2022–28)	<ul style="list-style-type: none"> By 2024, science, data and knowledge of natural hazards and risks, including their inter-relationships with climate, are increasingly shared across all parts of the emergency management system. By 2026, NEMA is strongly engaged and influential within the research and science sector to ensure the necessary research is being done, data and knowledge are available, and structures are in place for two-way sharing. By 2028, Aotearoa has a strong international reputation in Sendai Framework discussions and implementation.
Adaptation options including managed retreat (Chapter 5)							
C3	5.13 Connect communities to wider response and recovery support	NEMA	Emergency Management	G6	c	Years 1–6 (2022–28)	<ul style="list-style-type: none"> By 2024, new civil defence and emergency management legislation is adopted, and improved guidance provided across the emergency management system. A professional training framework for disaster response and recovery at the national and regional level is implemented and integrated. This includes recognition of the contribution, and development, of the Māori emergency management workforce.
Communities (Chapter 9)							
SW1	9.1 Modernise the emergency management system	NEMA	Emergency Management	G6	c	Years 1–6 (2022–28)	<ul style="list-style-type: none"> By 2024, new emergency management legislation and the National Emergency Management Plan have been adopted, and improved guidance is provided across the emergency management system. By 2026, the new emergency management legislation and National Emergency Management Plan have been implemented, and the system is using a range of regulatory tools (e.g., rules) to ensure consistency while retaining flexibility. By 2028, the new emergency management regulatory framework (regulations, rules, and guidance) has been reviewed and updated, as appropriate.
SW1	9.3 Develop the emergency management workforce	NEMA	Emergency Management	G6	c	Years 1–6 (2022–28)	<ul style="list-style-type: none"> By 2024, implementation and integration of a professional training framework for disaster response and recovery at the national and regional level is underway. This includes recognition of the contribution, and development, of the Māori emergency management workforce. By 2026, implementation of the professional training framework for response and recovery is underway at national and regional levels, which includes accelerated actions to recognise and support Māori emergency workforce development. By 2028, implementation and integration of a professional training framework for disaster response and recovery is extended to the local level, and data shows an increase in capacity and capability.