

Civil Contractors New Zealand Submission on the proposed Severe Weather Emergency Recovery Legislation Bill

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To: The Governance and Administration Committee

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1. Introduction

Thank you for the opportunity to submit on this draft Bill.

- 1.1 Civil Contractors New Zealand (CCNZ)** is an industry association representing the interests and aspirations of more than 700 member organisations, including more than 470 large, medium-sized, and small businesses in civil engineering, construction, and general contracting. Our 270 associate members provide valuable products, support, and services to contractor members. We live and work in all communities across New Zealand.
- 1.2** Our members play a vital role in the development of our country, our economy, and our way of life. They build and maintain the roads connecting our cities and towns; they install and care for the water networks that bring fresh water to houses and wastewater to treatment plants; they install the cables that bring the internet to homes and businesses. These are services a modern and developed economy must have to compete efficiently in world markets and to deliver high living standards for all New Zealanders.
- 1.3** Our members have been significantly impacted by the recent severe weather events, with many committing their teams to support recovery efforts. They are inevitably some of the first responders in a natural disaster, conducting work such as clearing debris from bridges, constructing stop banks, repairing damage to transport and water networks, supporting rescue efforts and clearing slit.
- 1.4** We note that civil contractors are the ones putting equipment and businesses on the line to repair the damage of these events, and many contractors have contributed

significant time, effort and resource to the recovery already on a voluntary basis, something that is not sustainable without good direction and resourcing from central and local government.

2. Consultation period

We are seriously concerned with the timeframe for consultation, having received notice of the Bill at 9pm Tuesday evening, with submissions closing due by 5pm Wednesday.

- 2.1** This is simply not sufficient to support good outcomes, and can lead to the benefit of engagement with key stakeholders (in our case the very companies who will be an integral part of rescue, response, recovery and rebuild work) being missed.
- 2.2** This approach undermines our confidence in the Bill. If this approach to consultation is a sign of what is to come, and the response period for each piece of proposed legislation is to be less than 24 hours, we risk poor outcomes.
- 2.3** Our members want to contribute and be involved, as they will be doing the work. They have the practical knowledge around how most effectively any necessary work (particularly earthworks) under the Emergency Recovery framework will be undertaken. It is important their needs are understood and met, so they can support the recovery efforts in the most efficient and practical ways possible.

3. Feedback

Due to the limited timeframe, we make the following comments:

- 3.1** At a high level, CCNZ supports efforts to streamline response and recovery efforts. In particular, legislation to remove barriers to successful recovery efforts, provide for fast and effective decision making, ensure a logical and effective emergency management structure is in place and well understood, and provide sufficient funding to support the rescue, response and recovery effort.
- 3.2** Legislation needs to support and incentivise faster decision making in the event of a natural disaster i.e. in the case of Hawke's Bay, allocation of appropriate sites to dump both clean and contaminated waste.
- 3.3** Providing local authorities with increased flexibility to address the response and recovery is a necessary step, and should be taken sooner rather than later.
- 3.4** The legislation also needs to give relevant Ministers the authority to overrule any rigid and unjust local authority actions where recovery efforts are undermined i.e., contractors threatened with prosecution for dumping waste at an "unauthorised" location, despite the lack of any "authorised" location, and the knowledge they were responding to immediate storm impacts in the middle of the night, taking actions that resulted in people's lives and property being saved.
- 3.5** The proposed objectives of the legislation are clear and appropriate, and the need for immediate action is noted.

- 3.6** We are not convinced there are enough checks and balances. The mechanisms for any challenge to any inappropriate Orders in Council once put in place are not clearly set out.
- 3.7** The approach proposed under Orders in Council will streamline decision making, but also puts a lot of power in the hands of party leaders and single ministers, without much consultation with affected stakeholders. There is little guidance in the Bill for where the bar should be set regarding such interventions.
- 3.8** The proposed approach also uses emergency legislation to overcome issues, obstructions and challenges that will remain once the response has completed.
- 3.9** Emergency response should not be an excuse for being unprepared. Knee-jerk reactions are not an appropriate replacement for well-planned and well-resourced mechanisms. It is clear the emergency response has been disjointed. If we had truly learnt from the Christchurch earthquakes, appropriate mechanisms for funding and coordinating response and recovery would be in place, and there would not be a need to create workarounds via orders in council.
- 3.10** The checks and balances in Section 8 of this legislation need to be strengthened. In some cases, a minister may only regard a response only from a panel they personally appoint which has three days to review any Order in Council, or the leader of a political party. Given the ability to disregard these responses, this does not seem to be an adequate control to ensure the significant powers enabled through this Bill are not misused, or used for purely political inclusions rather than those relating directly to an effective recovery for impacted regions.
- 3.11** Section 3 – Purposes - the introductory comments to this section state that the purpose is to “assist communities and local authorities affected by the severe weather events to respond to, and recover from, the impacts of the severe weather events”. But the matters referred to in Section 3(a)(i) to (vi) and 3(b) are all recovery related. This section also needs to refer to matters that will need to be considered during the response phase (which is the most immediately critical phase when a natural disaster hits).
- 3.12** Section 9 refers to the Minister being required to engage with parties that the Minister “considers appropriate”. This phrase is not defined and is too subjective. Initial consultation on this Bill only included local authorities and Māori entities, which is too narrow a lens. Consultation with broader community interests, and with the civil construction sector who are the subject matter experts on earthworks and land stabilisation and remediation should be conducted where possible.
- 3.13** Sections 13 to 16 refer to the Recovery Review Panel. Consistent with our comment above, that Panel should include representation from our civil construction sector to better inform decision making.
- 3.14** The Regulatory Impact Statement notes that Orders in Council should be prospective rather than retrospective, but endorses retrospective use in this case only. CCNZ

recommends further investigation and details on where the retrospective use of orders in council may be justified or appropriate.

4. Conclusion

Given the restricted timeframe of less than 24 hours to make this submission, these are our initial thoughts.

We welcome further interaction with the Committee on effective response to the recent severe weather events, and contact that results in informed decision making.

Thank you for the opportunity to provide this submission.



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