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Report to Environment Committee  
from Dr Jane Bradbury, Divisional Manager, Environment

**Draft Submission on Civil Defence Emergency Management Bill**

1. **Purpose**

To present a draft submission on the Civil Defence Emergency Management Bill for ratification by the Committee.

2. **Background**

The Civil Defence Emergency Management Bill (the Bill) was introduced into the House in December 2000. It will repeal the Civil Defence Act 1983, the current legislative framework for local government's civil defence functions. The new Bill was referred to the Government Administration Select Committee. That Committee has called for submissions by 28 February 2001.

We have been waiting for this Bill for a long time. Following reports by the Earthquake Commission and the New Zealand Institute for Economic Research in 1995, a Government Task Force headed by Sir Somerfield Teagle was set up to investigate civil defence in New Zealand. The 1996 report found that a new approach and new legislation for civil defence was required.

The new Ministry for Emergency Management (now named the Ministry for Civil Defence Emergency Management) was set up in transition mode in 1997 and officially formed in 1999. The Civil Defence Emergency Management Group (CDEMG) concept was developed and four pilot CDEMG programmes operated in 1998-99. There are various opinions about the success of these pilots.

Across the country, some regions have preceded the legislation and set up CDEMGs; other regions (including Wellington) have chosen not to go ahead until the legislation is in place.

In Wellington, a group of civil defence officers investigated the formation of a CDEMG, producing a Foundation Document. Although broadly supported by the constituent local authorities, the chief executives requested that the suggested approach be reviewed and that issues such as responsibilities, accountabilities and financial arrangements undergo closer scrutiny.

In September 2000, after another meeting of the chief executives, a Steering Group was set up to develop more fully the concept of a separate Emergency Management Authority for central New Zealand. This Group disbanded when the Bill was introduced as some members did not think it worthwhile pursuing a model which was different from the one contained in the Bill. The Steering Group had some long and fascinating discussions about the best arrangements for civil defence emergency management in the Wellington Region. Certainly those discussions have been a major influence on the WRC's draft submission.

Local Government New Zealand (LGNZ) set up a Working Party to prepare its submission on the Bill. As a member of that Working Party, I have drawn on the discussions and the final LGNZ submission when preparing this Council's submission.

### 3. **Philosophy Underpinning the Bill**

The philosophy behind the new Bill is:

- *integrated* emergency management by involving all sectors with an interest in civil defence emergency management (CDEM) including public health, biosecurity;
- *comprehensive emergency management* through the “4Rs” – risk reduction, readiness, response and recovery;
- CDEM is a *core business* of central and local government and should be included in all aspects of its work;
- a *risk management* and *sustainable hazard* management approach is required – ie we choose to accept a certain level of risk and establish ways to manage that risk; and
- people and communities have a responsibility to provide for their own well-being.

#### 4. **Main Proposals**

- *National Civil Defence Emergency Management Strategy* – a long-term strategy to be completed one year after the commencement of the Act. This may include statements of the Crown’s goals for CDEM policy objectives and measurable targets.
- *National Civil Defence Emergency Management Plan* – to be completed three years after the commencement of the Act.
- *Director’s Guidelines on CDEMG Plans* – to be produced one year after enactment.
- *Director of Civil Defence Emergency Management* to co-ordinate and promote CDEM at the national level.
- *Civil Defence Emergency Management Groups (CDEMGs)* – consortia of local authorities based on regional and unitary authority boundaries. The idea of these Groups is that they will ensure closer day –to –day working relationships and improve local capability to deal with local emergencies. They will also provide a platform for addressing national capability. They are to be a joint standing committee of the constituent local authorities and membership is made up of elected representatives of these authorities.
- *Civil Defence Emergency Management Group Plans* – five year plans (CD plans are currently for 3 years) to be prepared by the CDEMG to identify hazards and ways that they can be managed. To be completed two years after enactment.
- *Co-ordinating and Advisory Groups (CAGs)* comprising the Chief Executive Officers of local authorities and emergency services. Its function is to advise the CDEMG and implement its decisions.

The Proposed CDEM Group Structure is attached as Figure 1 (*The Formation of Civil Defence Emergency Management Groups*, Ministry for Civil Defence Emergency Management, October 2000 - before the Bill was introduced. Figure 2 shows the planning relationships provided by the Bill.

#### 5. **WRC Response to the Bill**

The draft submission on the Bill is **attached**. A clause by clause analysis will accompany the submission.

Whilst we support the intent of the Bill, we have grave reservations about some of the proposed structures, responsibilities and functions. In our opinion there are several aspects of the Bill that are confused and ill-conceived . Some

**Figure 1: Proposed CDEM Group Structure**

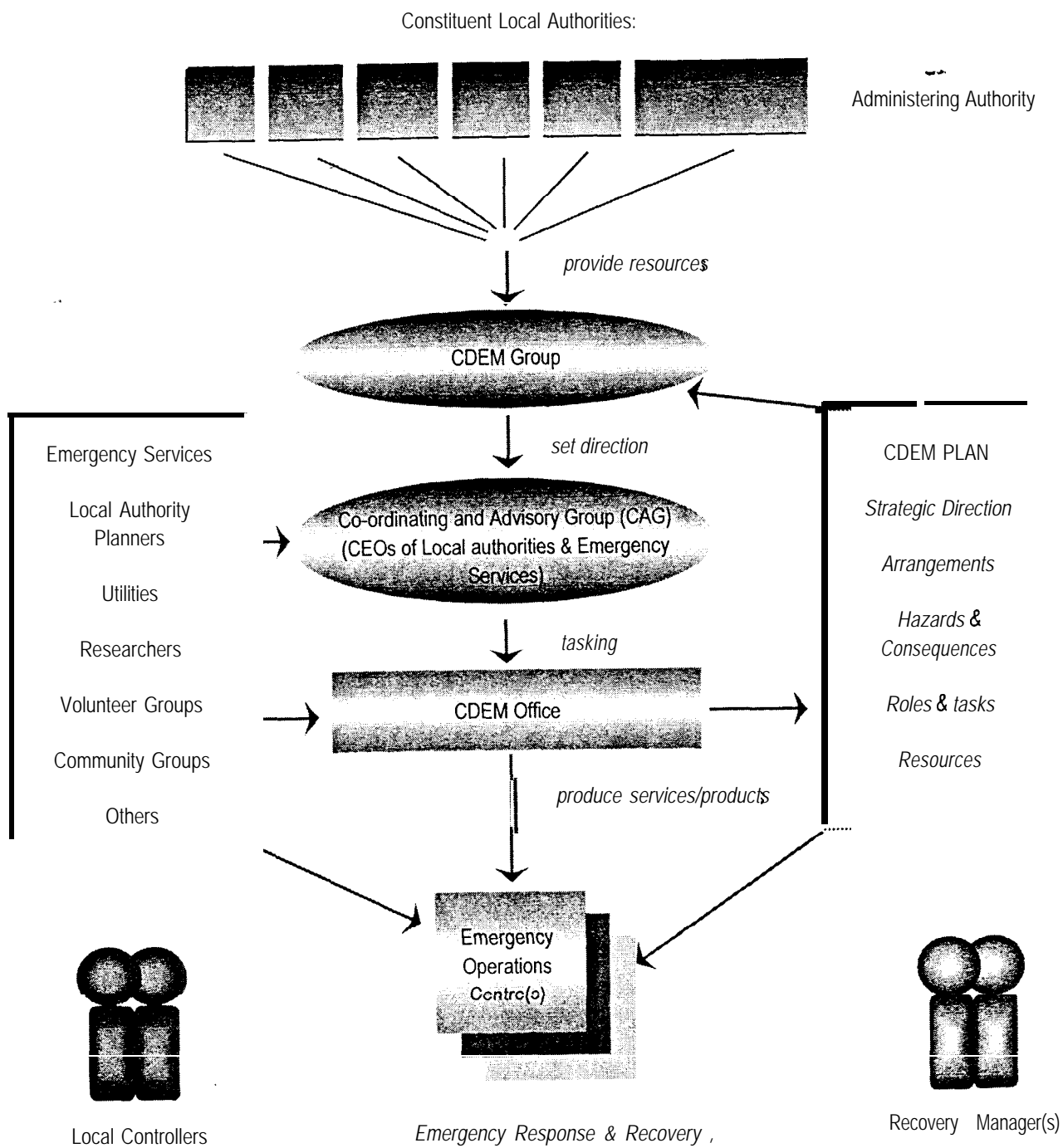
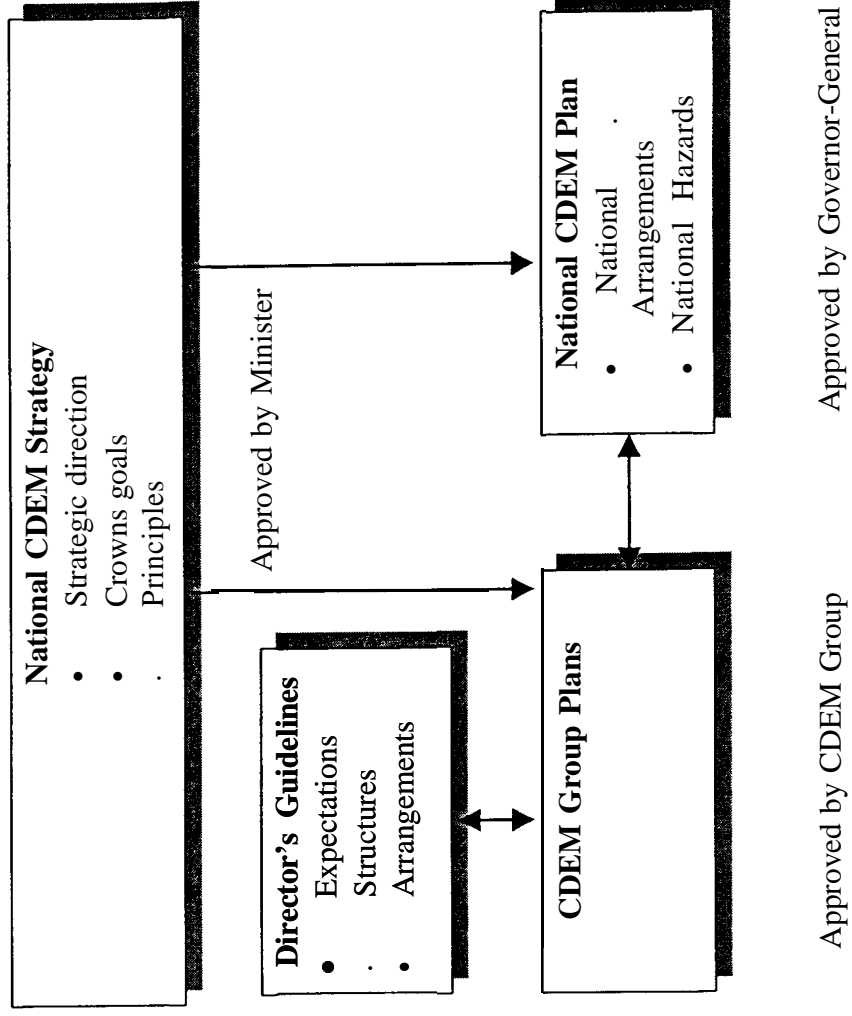


Figure 2

## Planning Relationships:



are contrary to the principles of the 1989 local government reform and current governance/management practice.

Our submission is divided into (a) areas of support; (b) key concerns; and (c) other concerns. The areas of concern are outlined briefly below:

- Any new legislation should improve the current situation. We are sceptical about whether the contents of the Bill will deliver an improvement.
- The Bill is very poorly drafted. The purpose of the Bill is unclear and uses terms that are not defined. Functions and responsibilities are muddled. The impression gained is that many current buzz words have been used with little real thought to their meaning. This is disappointing as the Council was hoping for clarity and certainty.
- The management structure in the Bill places a lot of emphasis on the value of a co-operative approach and joint decision-making. Whilst we do not deny that this is a laudable approach, we cannot help but be rather cynical about whether this will happen in practice. There are many examples of local authorities in the Region not being able to agree or work together well. In any case compromise (which is inevitable with joint decision-making) does not always bring about the best results. CDEM is about saving lives. It is too important to allow the worst aspects of politics or self-interest to influence the outcome.
- The responsibilities given to the CDEMG are contrary to the fundamental principles of the 1989 local government reform. Some powers given to the CDEMG are more appropriate for chief executive officers. The proposed structure does not recognise the strategic direction, policy making and performance monitoring roles of elected members and the implementation role of the Chief Executive. We find it quite incredible to find this confusion in a new piece of legislation. The situation – to be effective – requires clarification.
- The CDEMG is constituted as a joint standing committee of local government. There has been a lot of uncertainty about what this means in practice in this legislation. The administrative and related services that may be required by a CDEMG are to be provided by the regional council and paid for by each CDEMG member equally unless otherwise agreed. However, there will be other expenditure for which the CDEMG will be responsible. The Bill assumes that all members will agree with the type or activity being undertaken, and on how the costs are shared, before the costs are incurred. Our advice is that the joint committee structure poses some problems because there is doubt that a joint committee can make a financial commitment on behalf of a local authority if the member has not agreed to pay.

Furthermore, there is some conflict with parts of the Local Government Act 1974 whose provisions are designed to make each local authority accountable for determining priorities and expenditure through to a public process (long-term financial strategies, funding policies, annual plans). It is difficult to see how a local authority can commit expenditure without going through the financial accountability processes.

- The Bill does not incorporate good management principles. Effective management requires strong leadership, sound decision-making, clear accountabilities and “the right people to do the right jobs”. This is especially true in emergencies. Group decision making, for example, is not prevalent in the armed forces or the police. Likewise, in local government, elected members set the strategic direction and formulate policy – but they employ a Chief Executive to implement the policy and “make it all happen”. This is not so with this Bill. There is a Group of elected representatives (CDEMG) who set the strategic direction and a Group of CEOs of local authorities and emergency service organisations in the Co-ordinating and Advisory Group (CAG) who together are responsible for implementing the decisions of, and providing advice to, the CDEMG. There is not any one person in charge.

Our recommendation is that whatever model is adopted for the CDEMG, it be a requirement for the CAG to appoint a Group Director with responsibility to assist the elected representatives on the CDEMG to prepare policy and the CAG to deliver the desired outcomes. This person should be part of the administering authority.

- The regional council role in CDEM is slightly confused in the Bill. The Bill provides for CDEMGs to be based on regional council boundaries. It also provides for regional councils to be the administering authority for the CDEMG. In material released by the Ministry for Civil Defence Emergency Management prior to the legislation, there was also some suggestion that regional councils should run the emergency management office. The emergency management office is not mentioned in the new Bill, but it stands to reason that some body of expertise with co-ordinating responsibilities is required. It is our submission that there should be a lead authority with an emergency management office housing the Group Director, the Recovery Co-ordinator. This lead authority could be any constituent local authority appointed by the CDEMG. However, given the administering function of the regional council and the cross boundary nature of all its other functions, it is common sense that the regional council operate the emergency management office.
- The Bill gives almost excessive powers to the Director of Emergency Management – far greater than would normally be given to an employee of government. It would be more appropriate for the Minister of Civil Defence to have these powers.

- The Bill provides for the CDEMG to appoint at least one *suitably qualified and experienced person to be the Local Controller for its area*. This raises two issues:
  - a) More than one controller will be required because of the varying types of emergency events and because back-ups will inevitably be needed. Although the Bill doesn't preclude more than one controller, it should explicitly recognise this need.
  - b) The term *local controller*, suddenly seems to have replaced the term *regional controller*. There is a need for local controllers at the territorial authority level and Group controllers at the Group area level – all of whom should be qualified and experienced.

## 6. **Conclusion**

Although we are pleased to see the new legislation, we are unconvinced that it adds anything to emergency management that cannot already be achieved under the existing model. In essence, the Bill doesn't go as far as we would like. We acknowledge that at present, a co-operative approach is achieved by good will and common sense rather than through statutory requirements. Therefore there are cracks and omissions. However, the new structure is "woolly" in that it lacks clarity of purpose and functions and does not provide for a clear management structure. In its quest for comprehension, co-operation and inclusiveness, it is risking being crippled by indecision and dissension.

## 7. **Communications**

A press release may be prepared outlining the Council's key concerns with the Bill.

## 8. **Recommendation**

*That the Committee considers the draft submission and that the final submission, incorporating any amendments from the Committee, be approved by the Chairperson, Environment Committee.*

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Attach: