

Submission

to the

National Emergency Management Agency

on the

Discussion document:

*Strengthening New Zealand's
emergency management legislation*

13 May 2025



About NZBA

1. The New Zealand Banking Association – Te Rangapū Pēke (**NZBA**) is the voice of the banking industry. We work with our member banks on non-competitive issues to tell the industry's story and develop and promote policy outcomes that deliver for New Zealanders.
2. The following seventeen registered banks in New Zealand are members of NZBA:
 - ANZ Bank New Zealand Limited
 - ASB Bank Limited
 - Bank of China (NZ) Limited
 - Bank of New Zealand
 - China Construction Bank
 - Citibank N.A.
 - The Co-operative Bank Limited
 - Heartland Bank Limited
 - The Hongkong and Shanghai Banking Corporation Limited
 - Industrial and Commercial Bank of China (New Zealand) Limited
 - JPMorgan Chase Bank N.A.
 - KB Kookmin Bank Auckland Branch
 - Kiwibank Limited
 - Rabobank New Zealand Limited
 - SBS Bank
 - TSB Bank Limited
 - Westpac New Zealand Limited

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Introduction

4. NZBA welcomes the opportunity to provide feedback to the National Emergency Management Agency (**NEMA**) on the discussion document: *Strengthening New Zealand's emergency management legislation (Discussion Document)*. NZBA acknowledges the work that has gone into developing the Discussion Document and appreciates the opportunity to contribute at an early stage to the reform of the emergency management legislation.
5. NZBA supports the Government's objective to minimise the impact of emergencies on essential services, so that communities can continue to function normally during an emergency – or return to normal as soon as possible.
6. Cyclone Gabrielle and other recent emergencies provide timely reminders of the interconnectedness and interdependencies between essential infrastructures that provide or enable essential services. As outlined in the Discussion Document, during Cyclone Gabrielle outages quickly cascaded across electricity, telecommunications and roading infrastructures, which impacted access to some banking services.
7. NZBA agrees that it is important that New Zealanders have confidence that they will have access to basic banking services (in particular, cash and payment services) during and after an emergency, and acknowledges that banks (as well as other participants) have a role to play in ensuring these services are available.
8. This submission focusses on issue 11 in the Discussion Document, which is to reduce disruption to the infrastructure that provides essential services. In particular:
 - 8.1. whether the current lifeline utilities framework in the Civil Defence Emergency Management Act 2002 (**CDEM Act**) should be replaced with an expanded, principles-based definition of "essential infrastructure";
 - 8.2. whether there should be minimum business continuity planning (**BCP**) requirements for essential infrastructure providers; and
 - 8.3. options to address barriers to co-operation and information sharing between essential infrastructure providers, government agencies and emergency services.
9. This submission has three main themes:
 - 9.1. Banks are heavily reliant on essential infrastructures, such as electricity, telecommunications and roading infrastructure, to provide access to banking services during and after an emergency. As reflected in Figure 5 of the Discussion Document, the disruption to payment services often occurs at the end of the 'chain of disruption'. Therefore, any requirements introduced by the Emergency Management Bill (**Bill**) should reflect that many essential



infrastructures are often dependent on other essential infrastructures not being disrupted.

- 9.2. Cash and payment services are provided by multiple participants across complex supply chains. Therefore, any requirements should be proportionate and take into account an essential infrastructure provider's role in the supply chain, the dependencies that exist between various participants in the supply chain, and the essential infrastructure provider's ability to manage and control risks. The role of an essential infrastructure provider in an emergency will also depend on the nature, scope and scale of the emergency.
- 9.3. Any requirements introduced by the Bill should:
 - 9.3.1. not be inconsistent with, not duplicate, seek to leverage and work together with the existing and proposed sector-based regulatory regimes that essential infrastructure providers are subject to; and
 - 9.3.2. promote and facilitate coordination between essential infrastructure providers, sectoral regulators and the government agencies that are responsible for emergency management.

For instance, banks are subject to prudential regulation and supervision by the Reserve Bank of New Zealand (**RBNZ**) under the Banking (Prudential Supervision) Act 1989, which will be replaced by the Deposit Takers Act 2023. The RBNZ requires banks to, among other things, have systems in place to monitor and manage material risks (including operational risks) and report internal outages and service failures. In addition, as Financial Market Authority (**FMA**) licensed 'financial institutions', banks are also required to comply with licence standard conditions for business continuity management.

Narrow definition of "lifeline utility"

- 10. NZBA supports the option to replace the current lifeline utilities framework with an expanded, principles-based definition of "essential infrastructure". Appendix C proposes that the Bill would set out a list of additional essential services, with corresponding essential infrastructure providers designated once the legislation is in force.
- 11. Two potential essential services that are set out in Appendix C that are relevant to basic banking services are:
 - 11.1. vaulting, processing, settling distribution, withdrawal and deposit of New Zealand legal tender; and



- 11.2. operations of systems, services and products that are critical to the initiation, instruction, authorisation, clearing and settlement of payments in New Zealand.
12. If this option is adopted, the Bill should set out a clear process to follow and criteria that must be met before an essential infrastructure provider or class of essential infrastructure providers is designated as such. The process should include the requirement to consult with proposed essential infrastructure providers, sectoral regulators and other affected persons. This would ensure a more informed and effective designation process. For instance, consultation feedback could help determine the scope of the appropriate class for designation, roles and responsibilities of those designated and any appropriate exemptions from requirements, having regard to existing sectoral regulatory obligations on that designated essential infrastructure provider or class of essential infrastructure providers.
13. Essential services often involve multiple participants across complex supply chains. For example, the provision of cash services involves the central bank, bank and non-bank deposit taker branches and ATMs, independent ATM providers, cash-in-transit firms, mobile money providers and merchants. The ability of banks to provide cash services is reliant on the provision of services by other participants in the supply chain. Similarly, the provision of payment services involves the central bank, banks, payment service providers (including card schemes and point-of-sale providers) and merchants. Given the interdependencies between the many participants in the supply chain, designation as an essential infrastructure provider should reflect the particular functions and roles each participant performs in the provision of an essential service with clear requirements for specific functions and roles. On a related note, Issue 13 of the Discussion Document, which relates to managing access to restricted areas, should be considered in a way to support the ability of essential infrastructure providers to carry out their functions and roles.
14. Not all services that are provided by an essential infrastructure provider will be essential services. Designation as an essential infrastructure provider should identify the functions and roles each participant performs in the supply chain and clarify that an essential infrastructure provider is only treated as such (and that the requirements under the Bill only apply) to the extent that the essential infrastructure provider provides an essential service. The role of an essential infrastructure provider in an emergency may also depend on the nature, scope and scale of the emergency. For instance, an entity designated as an essential infrastructure provider should not be treated as such in a region where the provider has no or a limited physical presence.
15. Finally, changes to technology, consumer behaviour and sectors may over time change what is considered to be an essential service and who should be subject to the EM Bill. For example, recent changes to the cash system include a significant increase in the cash distributed by independent ATM providers.



Strengthening lifeline utility business continuity planning

16. NZBA agrees that essential infrastructure providers should understand the risks they face, prepare for potential disruption, and manage disruptions effectively when they occur. Where essential infrastructure providers are not currently subject to minimum business continuity planning requirements, it makes sense that they should be.
17. Any minimum business continuity planning requirements that are imposed on essential infrastructures providers should have regard to existing and proposed regulatory regimes that essential infrastructure providers are subject to. For instance, banks are subject to sector-specific regulations that are imposed by the RBNZ as the prudential regulator and the FMA as the conduct regulator.
18. To avoid unnecessary duplication and implementation costs, any minimum business continuity planning requirements that are introduced should not be inconsistent with, not duplicate, seek to leverage and work together with sector-based regulatory regimes. In some cases, it may be appropriate for certain designated essential infrastructure providers or classes of essential infrastructure providers to be exempted from minimum business continuity planning requirements under the Bill where they are subject to equivalent requirements under existing regulatory regimes.
19. Even with business continuity plans that comply with minimum regulatory requirements, banks remain heavily reliant on other essential infrastructures, such as electricity, telecommunications and roading infrastructure, to provide access to banking services. To support the provision of essential services during and after an emergency, it will be important that the needs of essential infrastructure providers are considered in the development of emergency management plans (for example, via prioritised access to particular resources, such as fuel for electricity generators), which will require engagement with NEMA and CDEM Groups.
20. Finally, it should be recognised that during an emergency essential infrastructure providers will require a degree of flexibility in determining how to allocate finite resources to enable communities to continue to “function normally” following an emergency (such as electricity generators and secure transport vehicles), which might result in needs-based rationing of essential services.

Barriers to cooperation and information sharing

Information sharing

21. Banks are subject to reporting and other information gathering powers under different legislative regimes and have established processes to securely share information with regulators.
22. It is important that any reporting or information gathering powers in the Bill are accompanied by information sharing protections to protect against improper use or



disclosure by recipients. Information that relates to business continuity management, event management, internal outages, service failures or cash and payment services is likely to be sensitive.

23. Information sharing protections may include:
 - 23.1. statutory obligations to treat information gathered as confidential;
 - 23.2. offence and penalty provisions for unauthorised use and disclosure by recipients of information; and
 - 23.3. appropriate protections from the application of the Official Information Act 1992 and the Privacy Act 2020 for information that is supplied by essential infrastructure providers under the Bill.
24. Many essential infrastructure providers have a national presence and operate essential infrastructures that may span across multiple regions and CDEM Groups. Therefore, consideration should be given to ways to standardise information requests to avoid multiple and inconsistent requests.
25. Consideration should also be given to the extent to which essential infrastructure providers' information might be shared at a sector level with a regulator where the emergency response is coordinated by that regulator (as opposed to essential infrastructure providers contributing direct to emergency management plans). This approach might also better leverage existing information sharing regulatory protections.

Barriers to cooperation

26. As discussed earlier in this submission, the provision of essential services often involves multiple participants across a complex supply chain. Clearer statutory protections from the application of the Commerce Act 1986 for emergency planning and response could promote greater sector-wide coordination, which could prevent unnecessary duplication and implementation costs and improve emergency preparation and management.
27. Sector-wide coordination can help to ensure that business continuity readiness can be maintained in a cost effective manner. This could be led by sectoral regulators or government agencies that are responsible for emergency management. For example, as part of the RBNZ's stewardship mandate for money and cash the RBNZ has a work programme to strengthen the resilience of the cash system, with a particular focus on branches, ATMs and cash-in-transit.
28. Finally, it is important that NEMA remains aware of sector-wide and regulatory initiatives and engages with relevant stakeholders as it develops the EM Bill to avoid unnecessary duplication and implementation costs.