

6. LAW REFORM (EPIDEMIC PREPAREDNESS) BILL



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PURPOSE OF REPORT

1. To advise Council about the Law Reform (Epidemic Preparedness) Bill (the LREP Bill) the suggestions made by Council staff to LGNZ in relation to the discussion document and LGNZ's draft submission on the LREP Bill.

BACKGROUND

2. The policy of the LREP Bill is to ensure that, if there is a human outbreak of birdflu, or a similar infectious disease capable of becoming an epidemic, the Crown has powers available to it that will ensure a proper response can be made. It addresses some of the gaps in the Crown's statutory powers under the Health Act 1956 and amends a number of other enactments to deal with the consequences of an epidemic.
3. The Bill's purposes are:
 - to ensure that there is adequate statutory power to:
 - try to prevent the outbreak of epidemics in New Zealand;
 - respond to epidemics in New Zealand;
 - respond to certain possible consequences of epidemics (whether occurring in New Zealand or overseas);
 - to ensure that certain activities normally undertaken by people and agencies interacting with Government agencies can continue to be undertaken during an epidemic in New Zealand; and
 - to enable the relaxation of some statutory requirements that might not be capable of being complied with, or complied with fully, during an epidemic.
4. The LREP Bill proposes that the Prime Minister can issue an "epidemic notice", by publication in the Gazette, where "he or she is satisfied that the effects of an outbreak of a stated infectious disease are likely to disrupt essential governmental and business activity in New Zealand (or stated parts of New Zealand) significantly" (clause 5). An epidemic notice acts as a trigger for provisions in other enactments (which are being added by the Bill) to provide for a relaxation of certain statutory requirements, while the epidemic notice is in force. Clause 9 of the LREP Bill also proposes to allow the Governor-General, by Order in Council, to relax any requirement imposed by an enactment.
5. This appears to be a "backstop" provision to release the government or other agencies from their statutory requirements if necessary, but the LGNZ discussion document (attached) advises that local authorities should not regard this as the best mechanism for releasing them from their statutory obligations because obtaining an Order in Council takes time (time which may not be available in an epidemic outbreak).
6. Therefore, most of LGNZ's proposed submissions (which are set out on pages 2 and 3 of the discussion document) to the Select Committee hinge on clause 5 of the Bill, and suggest that provisions be added to relevant legislation to relax the requirements of that legislation should an "epidemic notice" be issued by the Prime Minister.
7. LGNZ requested, on 16 May 2006, that comments be provided on its discussion document by 19 May 2006. The closing date for submissions on the LREP Bill, of 6 June 2006, had been set by Parliament on or about 12 May 2006.
8. To this end a memorandum dated 19 May 2006 was prepared (attached), supporting LGNZ's suggested submissions and recommending that further submissions or investigations be made in respect of the following matters:

- provision also be included to relax the timeframes in the Local Government Official Information and Meetings Act provisions where information is requested under section 10 or a Land Information Memorandum is requested under section 44A;
 - in respect of feedback sought by LGNZ on the issue of a Council quorum we found the options a little unclear but indicated out support for the first option (that a quorum is half the number of members able to meet). We also advised it may be useful to include the second option as well, so that when there is no longer a quorum, of even a quarter of the members, provision is included for the Minister to appoint a Commissioner to sit alongside the remaining Councillors; and
 - we suggested that possibly further investigation should be made of whether there is a need to make any amendments to the Burial and Cremations Act or the Public Works Act so that land can be acquired urgently, if needed, for the purpose of burying bodies. We also noted that amendments to the Health Burial Regulations may also be needed.
9. A draft of LGNZ's final submission on the LREP Bill is attached. (There may be some changes prior to it being finalised but there are not likely to be any major changes in policy direction. LGNZ do not intend to send us the final submission, at this stage, in reliance on the Select Committee protocols which state that a final submission cannot be sent to other parties until after it has been heard by the Select Committee.)
 10. The draft submission adopts all of our suggestions, although it only makes a submission (for a new clause 23a of schedule 7 of the Local Government Act 2002 to be added) addressing the first option in relation to the quorum. There is no wording suggested for possible amendments to the Public Works Act or to section 86 of the Health Act and the Health (Burial) Regulations, but they more clearly identify the potential issues arising under the regulations as:
 - local authority registration of funeral directors (more funeral directors may be needed in a short time or for persons to be appointed as funeral directors without complying with the registration requirements);
 - the certificates and requirements for mortuaries may need to be relaxed; and
 - the provisions around the handling and transportation of dead bodies that are dangerous to health.
 11. We also note that in section 9 of the LGNZ discussion document there are comments on the relationship of the Bill with the Civil Defence Emergency Management Act 2002 (CDEMA). CDEMA allows for the Minister of Civil Defence to declare a state of national or local emergency. It also allows a local authority to declare a state of local emergency.
 12. In an epidemic, the Prime Minister is likely to issue an epidemic notice. Once an epidemic notice is given, the powers under the Bill and the legislation that it amends come into effect. A state of national or local emergency can be declared under CDEMA at the same time (but may well not be). LGNZ consider that the two pieces of legislation will complement each other. The Bill mainly gives powers to the Medical Officers of Health, whereas the CDEMA has a much broader focus and gives powers to a wider group. During an epidemic, there will need to be some coordination between Medical Officers of Health, police, and Civil Defence Emergency Management Groups.

STAFF RECOMMENDATIONS

It is recommended that the Council receive the information.