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Strengthening New Zealand's emergency management legislation

Thank you for the opportunity to submit on the National Emergency Management Agency's (NEMA) discussion document titled *Strengthening New Zealand's emergency management legislation*. There is no confidential information in this submission.

Clarus is a group of energy infrastructure businesses. Our assets include natural gas pipelines and underground gas storage, electricity lines and generation, and LPG delivery. We have obligations as a 'lifeline utility' under existing legislation. Clarus operates across 15 of the 16 Civil Defence Emergency Management (CDEM) Group regions. Our perspective as a lifeline utility with assets nationwide leads us to focus on related matters in NEMA's discussion document.¹ Given NEMA's consultation is about issues rather than specific proposals, our submission makes general rather than specific suggestions.

Commentary on proposed requirements relating to critical infrastructure providers

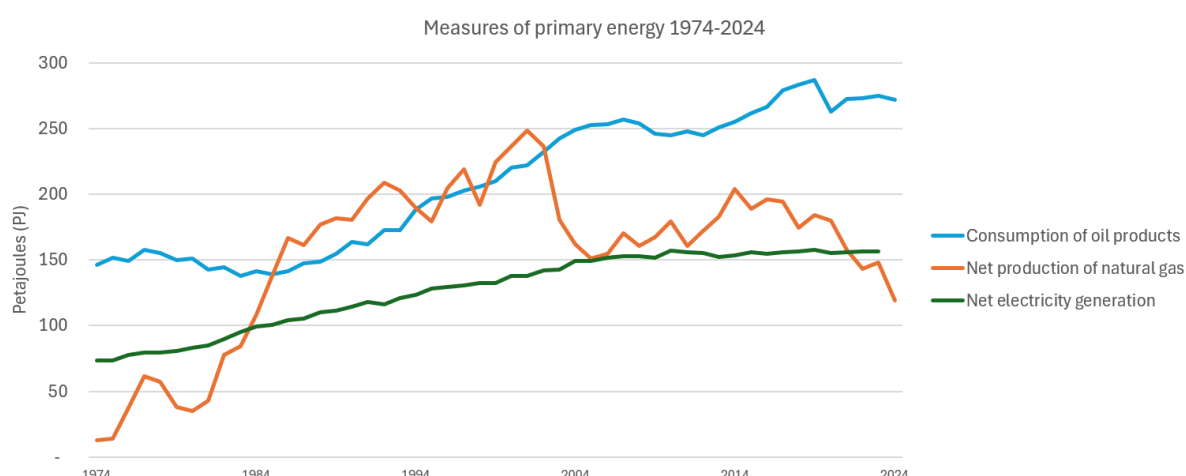
Alignment with existing sector-specific regulation: Any new resilience obligations introduced under the Emergency Management Bill must be aligned with existing sector-specific regulations (such as price-quality regulation under Part 4 of the Commerce Act, or continuance of supply obligations that exist for electricity² but not gas). Misalignment of national requirements with sector-specific requirements could result in conflicting requirements, inefficiencies, and increased compliance costs.

¹ Specifically in the discussion document, "Issue 11: Reducing disruption to the infrastructure that provides essential services" which is part of "Objective 4: Minimising disruption to essential services."

² Section 105 of the Electricity Industry Act 2010, which includes penalties of up to \$1000 per day during which the offence continues.



Cost considerations and sector differences: The Bill should recognise the diversity across infrastructure sectors. Resilience measures must be evaluated in the context of sector-specific characteristics such as remaining asset life, and cost-benefit-risk trade-offs. A one-size-fits-all approach will not be appropriate. In particular, there is a strong contrast between the electricity and natural gas sectors. Electricity is growing significantly and becoming even more critical within the economy. However, natural gas supply is declining and this is leading to less gas being sold to fewer customers. This means it is increasingly important to strike a balance between the cost and benefits of investing in enhanced resilience. The requirements to meet specific resilience/risk readiness levels should be proportionate and be informed by long term demand and supply forecasts. The benefits of further investment in risk readiness must clearly outweigh the cost burden on consumers. The below chart shows the actual decline of natural gas.³ The Ministry of Business, Innovation and Employment (MBIE) have forecast electricity generation to grow by 56% from 2023 to 2050.⁴ Meanwhile, EY have forecast natural gas production to fall by over 80% from 2024 to 2050.⁵



Clarification of business continuity versus emergency planning: We recommend that the Bill clearly distinguish between business continuity planning and emergency

³ Historical data compiled by Clarus from MBIE datasets available from <https://www.mbie.govt.nz/building-and-energy/energy-and-natural-resources/energy-statistics-and-modelling/energy-statistics>.

⁴ MBIE's electricity forecast is sourced from the reference scenario in the *Electricity Demand and Generation 2024* report available from <https://www.mbie.govt.nz/building-and-energy/energy-and-natural-resources/energy-statistics-and-modelling/energy-modelling/electricity-demand-and-generation-scenarios>.

⁵ EY's gas forecast is sourced from the low intervention scenario in the *Gas Supply and Demand Study 2024* available from <https://www.gasindustry.co.nz/our-work/work-programmes/supply-and-demand-2024/#gas-supply-and-demand-study-2024>.



management planning. These are related but distinct concepts, and clarity will help ensure appropriate planning and investment by lifeline utilities.

We note that business continuity should not be treated as analogous to a guarantee of continuance of service. Unplanned (emergency) permanent cessation of gas pipeline services has always been, and remains, possible. An event like a landslide, washout or earthquake could do damage where service is lost and the cost to reinstate exceeds the future revenues enabled by reinstatement of the affected section of pipeline. In such a situation, a pipeline owner may give notice that it will not be restoring the lost service.

Strengthening lifeline utility business continuity: Clarus agrees with the need to strengthen business continuity readiness but does not support a regime of financial penalties to address this. In the case of our Firstgas and Firstlight Network businesses, such penalties could duplicate Commerce Commission penalties for failure to meet quality standards. Clarus believes option 2 (non-legislative; increase assurance of lifeline utilities' business continuity plans) is appropriate.

Furthermore, it will prove difficult for NEMA to determine what an acceptable level of investment in business continuity is. This has been the experience of the Commerce Commission when assessing the resilience expenditures of electricity distribution businesses. The Commission noted that "...assessing the quantum and prudence of [resilience] expenditure is difficult."⁶ Furthermore, defining what constitutes a reasonable expectation of service (for the purposes of business continuity planning) from other lifeline utilities will be problematic.

Need for national consistency and leadership: The current emergency management framework is fragmented. The 16 CDEM Groups operate autonomously, often with differing systems, processes, and levels of capability. This lack of standardisation presents significant challenges for organisations like Clarus that operate nationally. Strong leadership and strategic direction from NEMA is essential to drive consistency, ensure alignment with national standards and protocols and foster a more cohesive and effective emergency management system. Legislative support for this leadership role would help ensure compliance and uniformity across the country.

We look forward to engaging more fully once detailed proposals are available.

⁶ Paragraph B98 of the Commission's *Default price-quality paths for electricity distribution businesses from 1 April 2025 – Draft decision - Reasons paper* available from https://comcom.govt.nz/_data/assets/pdf_file/0031/353983/Default-price-quality-paths-for-electricity-distribution-businesses-from-1-April-2025-Draft-reasons-paper-29-May-2024.pdf