

## Review of Select Committee Report: Emergency Management Bill No. 2

AENZ Recommendation	Outcome	Commentary
Definitions to includes animals	Success	Under cl. 91 (1)(m) animals are now mandated to be included in emergency management plans. "Animals" are not defined meaning all animal taxonomic ranks (all phylum's) are included, though there is some in ambiguity trough <i>ejusdem generis</i> which could limit application of this interpretation to exclude the likes of insects for example. However, this certainly means laboratory animals, animals in zoos and aquariums are in scope, a change that is welcome.
Definition of "emergency" to include animals	Success	The basis for declaring an emergency and resulting emergency powers, includes threats to property (cl. 6(b)), as well as distress to people (i.e. potential loss of animals). The Bill clearly defines animals as property (which creates some complications with the above interpretation) and though not ideal to reinforce a negative status of animals being property, not sentient beings, it does however mean threats to animals only would meet the definition of an emergency subject to other caveats.
Emergency powers able to protect animal life	Partial Success	Ironically, by making animals property the life state (alive or dead) is irrelevant, so emergency powers to protect property now extend to deceased animals. Requisitioning powers however are limited to human life (cl. 132(2)), though interpretation of indirect threat to human life remains untested (i.e. people will go in to save animals from hazardous environments, so by saving animals this prevents people such as the public from entering and therefore protecting human life). This means the recovering of deceased animals using emergency powers is legitimised as deceased animals as property are further damaged by decay or other forms of deterioration.
Holding periods of displaced animals extended from 7 days to 30 days to allow for reuniting.	Not achieved	Current laws such as those under s.144 of the Animal Welfare Act mean animals displaced can only legally be rehomed via an approved organisation after 7 days of being in custody. However, the model act from the American Bar Association specifies 30 days to allow for displaced or impacts families sufficient time to claim their animals following a disaster. Currently, there is only one "Approved Organisation" under the Animal Welfare Act, being the SPCA. This creates a burden and monopoly of disaster adoptions, and it would be in the public interest to have other organisations to be approved under s. 144 and expand holding periods to 30 days for animals affected by state of emergency, The Bill does not provide timeframes or legal transfer of ownership of property which is inconsistent with the policy statement on page 17. It should be noted that the Dog Control Act provides no provisions for the custody or disposal of dogs relocated or transferred under the EM Bill to a dog control officer's custody. This means only the SPCA has the legal power to retain custody, transfer ownership or otherwise dispose of such animals. This is inconsistent with the National CDEM Plan that mandates local authority responsible for companion animal emergency management care, not the SPCA.
Disposal provisions for animals rescued, seized, displaced.	Partial Success	The EM Bill has new and welcome provisions for animals being relocated (cl. 129) and being passed to a suitable person who can address it's needs. It also provides powers to do anything else that is reasonable in the circumstances in relation to that animal. This provides for rescue, decontamination, treatment, care etc. It is important to note these new powers are bestowed to a controller or any constable, and reasonable efforts must be made to make premises secure following rescue, and that reasonable efforts to

		<p>contact the owners of displaced/rescued animals is made. With the lack of definition of “animal”, these powers extend to wildlife, livestock and the like.</p> <p>Existing powers of Inspectors under the Animal Welfare Act, remain unaffected (cl 12). However, the exercise of such powers in a disaster environment are complicated with mandatory notice of entry provisions (multi-addresses and properties under flood water leaving nowhere to affix notices for example). Therefore, it is more effective for any animal disaster rescue to be under the authority of a controller or constable. This means MPI has no legal powers for animal rescue under emergency management law, and any related exercise of such powers must be delegated by the controller or a constable. There have been historical incidents where MPI officials have failed to clearly document such delegations causing unnecessary conflict between agencies (i.e. Edgecumbe 2017).</p> <p>However, the power to “seize” animals (or any other thing) without disposal provisions remains. Practically, it will be important that animals are not “seized” but are “relocated” and transferred to custody of a suitable person.</p>
Limiting unilateral powers to destroy animals	Not achieved	<p>Controllers continue to have power to destroy animals en masse (cl.133). Safeguards including requirements to consult with a Registered Veterinarian have not been included. The exercise of such power is protected from liability (cl. 197, 202) and given the lack of accountability mechanisms in the Bill, such as the failure to establish an Inspector-General, this remains a risk to public confidence in emergency management given the lessons of Hurricane Katrina where Sheriff Deputies undertook a mass slaughter of evacuee pets.</p>
Ensuring protection of disability assistance dogs	Not achieved	<p>The EM Bill report does not provide a response to (1) How will the existing disability assistance dog civil defence identification tag be protected or continued (2) the inequality between guide dogs under the Human Rights Act, and other disability assistance dogs under the Dog Control Act, in terms of right of access transport and evacuation centres.</p>
Providing powers to controllers to temporarily amend bylaws for animal management	Not achieved	<p>The EM Bill does not provide powers to Controllers to temporarily amend bylaws for animal management during a state of emergency meaning temporary exercise areas or other needed provisions cannot be quickly enabled as routine decision making by council is required. It may mean evacuees are forced to exercise their animals in areas not designated as off-leash and liable for penalties under bylaws.</p>
Removal of unrealistic requirements to contact owners before animal rescue	Success	<p>The draft bill made an onerous and counter-productive requirement that animal rescue from property required the owner’s permission. This would have created significant delays that would have comprised animal and human safety. The removal of this requirement is welcome.</p>
Purpose to include to protect animals	Success	<p>With emergency being defined to include threat to property, and animals under the act treated as property, the EM Bill now legitimise protection of animals in disasters.</p>
Removal of animals being treated as property	Not Achieved	<p>Animals are treated as property, but the Bill makes this ambiguous under cl. 133 with “an animal” being specified additionally to “any property”. If animals are now defined under property, it is unclear why are they listed separately.</p>
Ombudsman oversight of NGOs providing EM function	Not Achieved	<p>The Office of the Ombudsman submitted on EM Bill No. 1. The EM Bill No. 2 project plan stated previous submissions would be considered. The EM Bill report makes no response to the issues raised by the Ombudsman in EM Bill No. 1, that being organisations</p>

		(including NGOs) exercising statutory powers and functions should come under their oversight.
OIA extension to crown funded NGO	Not Achieved	The EM Bill clarifies EM Committees, Regional, District and Local Controllers have requirements under the Local Government Official Information and Meetings Act (LGOIM). However, NGOs that may receive central government funding for EM remain outside this level of accountability. This means disaster related fundraising, rehoming, rescue expenses and activities by NGOs remain without accountability mechanisms.
Establishment of IGEM	Not Achieved	The lack of establishing an Inspector-General for Emergency Management as successful proven in Queensland and Victoria, means New Zealand's without independent oversight and assurance of emergency management, further reducing accountability mechanism.

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