



AGENDA

Extraordinary Council Meeting

I hereby give notice that an emergency meeting of the Kapiti Coast District Council will be held on:

Date: Wednesday, 25 March 2020

Time: 5.30pm

**Location: Council Chamber
Ground Floor, 175 Rimu Road
Paraparaumu**

**Wayne Maxwell
Chief Executive**

Kapiti Coast District Council

Notice is hereby given that an emergency meeting of the Kapiti Coast District Council will be held in the Council Chamber, Ground Floor, 175 Rimu Road, Paraparaumu, on Wednesday 25 March 2020, 5.30pm.

Council Members

Mayor K Gurunathan	Chair
Deputy Mayor Janet Holborow	Deputy
Cr Angela Buswell	Member
Cr James Cootes	Member
Cr Jackie Elliott	Member
Cr Gwynn Compton	Member
Cr Jocelyn Prvanov	Member
Cr Martin Halliday	Member
Cr Sophie Handford	Member
Cr Robert McCann	Member
Cr Bernie Randall	Member

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1 WELCOME**2 COUNCIL BLESSING**

“As we deliberate on the issues before us, we trust that we will reflect positively on the communities we serve. Let us all seek to be effective and just, so that with courage, vision and energy, we provide positive leadership in a spirit of harmony and compassion.”

I a mātou e whiriwhiri ana i ngā take kei mua i ō mātou aroaro, e pono ana mātou ka kaha tonu ki te whakapau mahara huapai mō ngā hapori e mahi nei mātou. Me kaha hoki mātou katoa kia whaihua, kia tōtika tā mātou mahi, ā, mā te māia, te tiro whakamua me te hihiri ka taea te arahi i roto i te kotahitanga me te aroha.

3 APOLOGIES**4 DECLARATIONS OF INTEREST RELATING TO ITEMS ON THE AGENDA**

Notification from Elected Members of:

4.1 – any interests that may create a conflict with their role as an elected member relating to the items of business for this meeting, and

4.2 – any interests in items in which they have a direct or indirect pecuniary interest as provided for in the Local Authorities (Members' Interests) Act 1968

5 MEMBERS' BUSINESS

- (a) Public Speaking Time Responses
- (b) Leave of Absence
- (c) Matters of an Urgent Nature (advice to be provided to the Chair prior to the commencement of the meeting)

6 REPORTS

6.1 DELEGATIONS FOR DECISION MAKING DUE TO COVID-19

Author: Jennifer Allan, Strategic Advisor

Authoriser: Wayne Maxwell, Chief Executive

PURPOSE OF REPORT

- 1 This report proposes changes to Council decision-making processes to ensure that the Council can continue to make decisions and function appropriately throughout the COVID-19 pandemic.

SUMMARY

- 2 By law, elected members must be physically present in a meeting when a Council or committee decision is made in order for a quorum to be achieved.
- 3 This presents challenges for Council decision-making in light of COVID-19 and is simply not possible while New Zealand is at Alert Level 4. At this level all businesses are closed except for essential services.
- 4 This report recommends that all committee quorums are reduced in order to allow decisions to continue to be made by committee, notwithstanding that some members may attend and vote via audio or audiovisual link.

BACKGROUND

- 5 In January 2020 the Coronavirus (COVID-19) outbreak in the Wuhan Province of China was reported in the media. This flu like illness is highly contagious and can be transmitted from person to person. The virus has spread throughout the world. New Zealand, at the time of writing, has over 150 confirmed cases.
- 6 On 23 March 2020, Prime Minister Ardern announced New Zealand was moving to Level 3 of the COVID-19 threat alert system effective immediately, and moving to Level 4 at 11:59PM on Wednesday 25 March 2020. This is the highest alert level and imposes significant restrictions on the movement of people in an attempt to slow the rate of community transmission of the COVID-19 virus. Educational institutions will close, non-essential businesses will shut, and travel will be severely limited.
- 7 By Thursday 26 March 2020, all physical meetings across the country will not be allowed until (at least) 25 April 2020 due to the COVID-19 restrictions.
- 8 As things change rapidly in New Zealand, the Council is closely monitoring further advice from the Government and preparing for a possible COVID-19 outbreak in the Kapiti district.
- 9 The Council needs to anticipate how it will function in an escalated Level 4 alert level environment, and given the rate of escalation, this report proposes it implements the changes with immediate effect.

Legislative constraints

- 10 The Local Government Act 2002 (LGA) requires Council to have a quorum for all meetings of Council and Committees where decisions are made. The Act requires meeting attendees to physically be present in the room in order to achieve a quorum. A summary of clause 23 (2) of Schedule 7 of the LGA is set out below.
 - 10.1 Business may not be transacted at any meeting unless at least a quorum of members is present during the whole of the time at which the business is transacted.
- 11 Although the LGA allows for attendance by members at meetings by audio or audiovisual links, and the Council's standing orders provide for this to occur, those attending by these links do not count toward the quorum (LGA, clause 25A(4) of Schedule 7).

- 12 Due to the COVID-19 restrictions, officers recommend that alternative decision-making processes are implemented.
- 13 This situation is not unique to Kapiti Coast District Council – all councils across the country are grappling with these issues and a range of solutions are being worked on by Local Government NZ (LGNZ) and the NZ Society of Local Government Management (SOLGM).
- 14 Representatives of LGNZ and SOLGM are liaising with the Department of Internal Affairs with a view to progressing an amendment to the LGA which would allow a quorum to be obtained via audio or audiovisual link. If this law change occurred then it would be possible for Council's regular decision-making processes to be implemented remotely.
- 15 However, the Chief Advisor of SOLGM has advised that any such law change is likely to take weeks to progress. It is unclear what other legislative amendments will be implemented.
- 16 Under the Epidemic Preparedness Act 2006, Orders in Council could be made that would modify a restriction or requirement in the LGA or other legislation. However, this process involves several steps including the issuing of an epidemic notice by the Prime Minister, the presentation of that notice to Parliament, and while the notice is in force, the Minister of Local Government (on the advice of the Secretary for Local Government) recommending to the Governor General that the particular Order in Council be made. Officers understand that this process has not yet commenced.
- 17 The challenge for the Council is that swift action is required to put plans in place in order to ensure that Council can make decisions as necessary. Some urgent decisions may relate directly to the response to COVID-19, while others may be necessary for the continued operation of Council services.

ISSUES AND OPTIONS

Issues

- 18 The key issue is how can the Council continue to function as effectively as possible, yet limit risk of virus transmission and keep people safe. In doing so, it must acknowledge a number of risks, including that staffing levels may be compromised, elected members may be confined to home, and the community's focus will be on more important matters than the ordinary course of Council business.
- 19 The Council has two options regarding its governance structures which are:
- 20 Transferring all decision making powers (except those reserved to Council) to the Strategy and Operations Committee and reducing the quorum requirements of that Committee to any two members.
 - 20.1 Advantages
 - Efficient and responsive
 - Few elected members needed to form a quorum
 - Requires fewer staff resources to support
 - 20.2 Disadvantages
 - Some key decisions cannot be made (per the Local Government Act).
- 21 Revert all decision making to the Council.
 - 21.1 Advantages
 - Allows all decision-making to happen (full delegated authority).
 - 21.2 Disadvantages
 - Council may be unable to meet in sufficient numbers while New Zealand is at Alert Level 4.

- 22 The preferred option is under 20: to utilise the Strategy and Operations Committee, while implementing changes to the quorum requirements. This is already a committee of the whole; and it already carries the delegated authority to undertake all decision making that is not confined under the Act to remain with Council. The recommendations below restate this however, for the avoidance of doubt.
- 23 The proposed model gives the Council the greatest flexibility to make decisions and keep the Council running even at times when staff and elected member attendance may be severely compromised. It may be expected that there will not be many requirements of the committee while the country is in level 4, but it is prudent to have in place a structure that allows decisions to be made.
- 24 An accompanying requirement is to suspend all other meetings of committees and subcommittees, including community boards. It is not appropriate for formal meetings to be held while the country is at level 4; and staff resources will not be able to support the meetings processes.
- 25 These changes are to be made immediately, and until further notice. This is in recognition of the uncertainty that exists as to when the level 4 status can be lifted.

CONSIDERATIONS

Policy considerations

- 26 If adopted, these recommendations will ensure that Council can make decisions during the pandemic, despite legislative constraints.

Legal considerations

- 27 If the recommendations are not adopted, Council will not be able to make decisions that are required for the effective operation of Council during the pandemic until such time as central government makes the necessary amendments to the Local Government Act and other legislation.
- 28 Relevant legislation is the Local Government Act 2002, Clause 23, Schedule 7 and Clause 32, Schedule 7.

Local Government Act 2002: Clause 23 Schedule 7. Quorums

- (1) A meeting is duly constituted if a quorum is present, whether or not all of the members are voting or entitled to vote.*
- (2) Business may not be transacted at any meeting unless at least a quorum of members is present during the whole of the time at which the business is transacted.*
- (3) The quorum at a meeting of—*
- (a) a local authority consists of—*
- (i) half of the members if the number of members (including vacancies) is even; or*
- (ii) a majority of members if the number of members (including vacancies) is odd; and*
- (b) a committee—*
- (i) is not fewer than 2 members of the committee (as determined by the local authority or committee that appoints the committee); and*
- (ii) in the case of a committee other than a subcommittee, must include at least 1 member of the local authority.*

Local Government Act 2002: Clause 32 Schedule 7. Delegations

Unless expressly provided otherwise in this Act, or in any other Act, for the purposes of efficiency and effectiveness in the conduct of a local authority's business, a local authority may delegate to a committee

or other subordinate decision-making body, community board, or member or officer of the local authority any of its responsibilities, duties, or powers except—

(a) the power to make a rate; or

(b) the power to make a bylaw; or

(c) the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan; or

(d) the power to adopt a long-term plan, annual plan, or annual report; or

(e) the power to appoint a chief executive; or

(f) the power to adopt policies required to be adopted and consulted on under this Act in association with the long-term plan or developed for the purpose of the local governance statement; or

(g)[Repealed]

(h) the power to adopt a remuneration and employment policy.

(2) Nothing in this clause restricts the power of a local authority to delegate to a committee or other subordinate decision-making body, community board, or member or officer of the local authority the power to do anything precedent to the exercise by the local authority (after consultation with the committee or body or person) of any power or duty specified in subclause (1).

(3) A committee or other subordinate decision-making body, community board, or member or officer of the local authority may delegate any of its responsibilities, duties, or powers to a subcommittee or to another committee or subordinate decision-making body, community board, or member or officer of the local authority, but, to avoid doubt, if doing so is itself a sub-delegation, the power to so delegate is subject to any conditions, limitations, or prohibitions imposed in connection with the primary delegation

Financial considerations

29 There are no financial implications from this decision, other than the time required by staff to support decision will be less, and cumulatively there will be less elected member input required as well. We will need to consider whether the current delegations are adequate for the current and projected circumstances, and further report will be provided to the Committee.

30 There will be some potentially significant costs associated with managing the Council during this time, but that will be subject to a separate report.

Tāngata whenua considerations

31 Not applicable.

Strategic considerations

32 Not applicable.

SIGNIFICANCE AND ENGAGEMENT

Significance policy

33 This matter is not a matter of significance in terms of the Council's Significance and Engagement Policy.

Consultation already undertaken

34 Not applicable.

Engagement planning

35 Not applicable.

Publicity

36 Not applicable.

RECOMMENDATIONS

37 That the Council:

- a) **Receive** the information.
- b) **Note** that any legislative change to remove the requirement that councillors meet “in person” in order to satisfy a quorum is likely to take some weeks.
- c) **Note** that the Epidemic Preparedness Act 2006 process to amend requirements set out in legislation has not yet been commenced.
- d) **Agree** that the delegation to the Strategy and Operations Committee will have all the delegated powers, duties and functions of the Council, except those specified in the Local Government Act.
- e) **Agree** to amend the delegation to the Strategy and Operations Committee so that the Committee will have a quorum of two members.
- f) **Agrees**, with immediate effect, that meetings of Council’s other committees and other decision making bodies (including Community Boards) are suspended until further notice, and decisions that otherwise would have been considered by those decision making bodies will be referred to the Strategy and Operations Committee for decision.

APPENDICES

Nil