



Ōtorohanga District Council

EMERGENCY COUNCIL MEETING

(CALLED UNDER SECTION 22A OF THE LOCAL GOVERNMENT ACT)

AGENDA

25 MARCH 2020

11am

Members of the Ōtorohanga District Council

His Worship the Mayor MM Baxter
Councillor K Christison
Councillor B Ferguson
Councillor R Johnson
Councillor K Jeffries
Councillor RA Klos
Councillor A Williams

**ŌTOROHANGA DISTRICT COUNCIL
EMERGENCY COUNCIL MEETING**

25 MARCH 2020

Notice is hereby given that an Emergency Council Meeting of the Ōtorohanga District Council will be held in the Council Chambers, 17 Maniapoto Street, Ōtorohanga on Wednesday 25 March 2020 commencing at 11am.

This meeting has been called under Section 22A of the Local Government Act.

**Tanya Winter
CHIEF EXECUTIVE**

24 MARCH 2020

ORDER OF BUSINESS:

PRESENT

IN ATTENDANCE

APOLOGIES

DECLARATION OF CONFLICTS OF INTEREST

REPORTS

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ITEM 62 DELEGATIONS TO THE CHIEF EXECUTIVE FOR INTERIM POWERS IN THE COVID-19 PANDEMIC

TO: HIS WORSHIP THE MAYOR & COUNCILLORS
 ŌTOROHANGA DISTRICT COUNCIL

FROM: CHIEF EXECUTIVE

DATE: 25 MARCH 2020

Relevant Community Outcomes

- Ensure services and facilities meet the needs of the Community
 - Ōtorohanga District is a safe place to live
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Executive Summary

The purpose of this report is for Council to adopt a set of delegations for the Chief Executive that will provide the maximum power possible under the Local Government Act to make decisions in the absence of being able to bring Council together over the lockdown period for COVID-19.

Recommendation

It is recommended that the Delegations to the Chief Executive for Interim Powers in the COVID-19 Pandemic are adopted (attached as **Appendix 1**).

Background

As the COVID-19 situation continues to evolve, Council's approach is to focus on the health and wellbeing of our people, as our first priority, and to take an informed approach that is sensible, balanced and respectful of our community. We are doing this by ensuring our approach is based on the expert medical advice of the Ministry of Health.

As of 20 March 2020, public gatherings of more than 100 people have been restricted, and New Zealand's borders are now closed to anyone other than New Zealand citizens and residents.

On 21 March 2020, alert levels for COVID-19 were introduced. New Zealand is currently at Alert Level 3 and moving to Alert Level 4 by 11.59pm Wednesday 25 March.

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. Clause 23 (2) of Schedule 7 of the LGA states:

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.

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).

Once the country is at Alert Level 4 (complete lockdown) our ability to bring elected members together at this time to make decisions is severely compromised.

This situation is not unique to Otorohanga 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).

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.

However, the Chief Advisor of SOLGM has advised that any such law change is likely to take weeks, if not longer, to progress. It is unclear what other legislative changes would be proposed.

Current Situation

This Council, our country and the world are facing extraordinary challenges, and yet as deliverers of critical services to our community we are expected to maintain business as usual in many parts of our business. What is not clear is what challenges lay ahead of us. For this reason it is prudent that as many potential obstacles to efficient and effective decision-making are removed as possible. Extraordinary times call for extraordinary solutions.

This report puts a plan in place that ensures 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.

While these delegations are intended to give the Chief Executive the maximum powers possible in law, that doesn't reduce the obligation to operate in an open and transparent manner. The delegations include a clause on consultation with the Mayor or Deputy Mayor before they are exercised, and a public reporting mechanism should the delegations actually be exercised. The delegations are deliberately worded around the specific circumstances of the COVID-19 pandemic and they may be revoked at any time by Council.

Options

Council's options are straightforward and they are to either adopt the delegations attached, not adopt them, or amend them.

Options Analysis

If Council agrees to this recommendation, then urgent decision-making will be able to continue.

If Council decides to continue with the status quo then decision-making power would be retained via the current delegations and the quorums that apply to Council and Committee meetings would remain as they are currently. Urgent decisions would not be able to be made if those quorums were not able to be met due to lockdown, restrictions on public gatherings or if the health of members prevented them from attending in person.

Tanya Winter
CHIEF EXECUTIVE

Appendix 1: Delegations to the Chief Executive for Interim Powers in the COVID-19 Pandemic

DELEGATIONS TO THE CHIEF EXECUTIVE FOR INTERIM POWERS IN THE COVID-19 PANDEMIC

The Council is concerned about the Coronavirus (COVID-19) pandemic in New Zealand and therefore wishes to provide additional powers to the Chief Executive to ensure there is a mechanism for ensuring lawful decision-making if needed.

Accordingly, the Council delegates to the Chief Executive (and any Acting Chief Executive) all of the Council's powers, duties, and responsibilities that the Council can lawfully delegate to officers. These powers, duties, and responsibilities include the ability to enter into any contract or to authorise any level of expenditure. They do not include the powers, duties, and responsibilities under the Civil Defence Emergency Management Act 2002 (which shall be dealt with in accordance with that Act).

This delegation is subject to the following conditions:

- the delegated powers, duties, and responsibilities may be exercised only in circumstances where the Council, its committees, or its community boards are unable or unavailable to hold meetings that comply with the requirements of the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987;*
- the Chief Executive and any Acting Chief Executive must exercise the delegated powers, duties, and responsibilities in consultation with the Mayor (or, if the Mayor is unavailable, the Deputy Mayor or, if the Deputy Mayor is unavailable, the Chairperson of the relevant committee or community board or, if the Chairperson of the relevant committee or community board is unavailable, any Deputy Chairperson of the committee or community board);*
- the Acting Chief Executive may exercise the delegated powers, duties, and responsibilities only in the event that the Chief Executive is unavailable; and*
- any decisions made and documents executed in exercising the delegated powers, duties, and responsibilities must be reported to the next ordinary meeting of the Council.*

This delegation may be revoked at any time by the Council. In the event there is any inconsistency between this delegation and any other delegations made by the Council, this delegation takes precedence.