



AGENDA Ordinary Meeting



Date: Wednesday 25 March 2020, 1pm

Venue: Taranaki Regional Council chambers, 47 Cloten Road, Stratford

Councillors

D N MacLeod (*Chairperson*)
M P Joyce (*Deputy Chairperson*)
M J Cloke
M G Davey
D L Lean
C L Littlewood
M J McDonald
D H McIntyre
E Van Der Leden
N W Walker
C S Williamson

Via Zoom

Apologies

Notification of Items

- | | | |
|--------|---|--|
| Item 1 | 3 | Governance and decision-making arrangements during Covid-19 Pandemic |
| Item 2 | 8 | Public Excluded |
| Item 3 | | Verbal update on Annual Plan projects |



Purpose of Local Government

The reports contained in this agenda address the requirements of the Local Government Act 2002 in relation to decision making. Unless otherwise stated, the recommended option outlined in each report meets the purpose of local government and:

- Promote the social, economic, environmental and cultural well-being of communities in the present and for the future.
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

Membership of the Ordinary Committee

Councillor D N MacLeod (*Chairperson*) Councillor M P Joyce (*Deputy Chairperson*)

Councillor M J Cloke Councillor M G Davey

Councillor D L Lean Councillor C L Littlewood

Councillor D N McDonald Councillor M J McIntyre

Councillor E D Van Der Leden Councillor N W Walker

Councillor C S Williamson

Health and Safety

Emergency Procedure

In the event of an emergency, please exit through the emergency door in the committee room by the kitchen.

If you require assistance to exit please see a staff member.

Once you reach the bottom of the stairs make your way to the assembly point at the birdcage.

Staff will guide you to an alternative route if necessary.

Earthquake

If there is an earthquake - drop, cover and hold where possible.

Please remain where you are until further instruction is given.



Date 25 March 2020

Subject: **Governance and decision-making arrangements during Covid-19 Pandemic**

Approved by: M J Nield, Director Corporate Services

B G Chamberlain, Chief Executive

Document: 2457719

Purpose

1. The purpose of this memorandum is to seek agreement to put in place appropriate governance and decision-making arrangements that will ensure effective and efficient responses during the Covid-19 Pandemic.

Executive summary

2. The World Health Organisation has declared a worldwide novel coronavirus (Covid-19) pandemic. The New Zealand Government has responded with a range of measures that have in recent times, been escalating on an almost daily basis. On Monday 23 March, the Government declared that New Zealand would move immediately to Alert Level 3 and to Alert Level 4 by midnight on Wednesday 25 March.
3. Members will be aware that Alert level 4 will essentially put New Zealand in a lockdown situation in an effort to prevent widespread outbreaks of the disease
4. There may be urgent matters requiring decisions that cannot wait for normal or even emergency Council meetings to be held.
5. Two options are discussed. Option 1, a delegation to the Chief Executive, is considered the most efficient form of Council decision-making in the current Covid-19 environment.

Recommendations

That the Taranaki Regional Council:

- a) receives the memorandum Governance and decision-making arrangements during Covid-19 Pandemic
- b) agrees to Option 1 or Option 2 or some other option for Council decision-making during the Covid-19 pandemic

- c) if Option 1 is agreed then, agrees to make delegations to the Chief Executive, which include appropriate conditions, to make urgent decisions during the Covid-19 pandemic, as set out in Attachment 1
- d) if Option 2 is agreed then, agrees to establish a Pandemic Committee to make decisions during the Covid-19 pandemic on all matters that would normally be the responsibility of the full Council.

Background

- 6. The World Health Organisation has declared a worldwide novel coronavirus (Covid-19) pandemic. The New Zealand Government has responded with a range of measures that have in recent times, been escalating on an almost daily basis. On Monday 23 March, the Government declared that New Zealand would move immediately to Alert Level 3 and to Alert Level 4 by midnight on Wednesday 25 March.
- 7. Members will be aware that Alert level 4 will essentially put New Zealand in a lockdown situation in an effort to prevent widespread outbreaks of the disease. From Wednesday 25 March, New Zealanders have been instructed to stay or work from home, businesses will be closed except for essential services, schools will be closed and travel will be severely limited. Alert Level 4 will be in place for four weeks but may be extended beyond that.
- 8. The Council has already moved to postpone committee meetings and has put in place arrangements for staff to work from home.
- 9. Given the potential for catastrophic effects for New Zealand should Covid-19 be not contained, there will be urgent matters requiring decisions that cannot wait for normal or even emergency Council meetings to be held. The Council can call an emergency meeting with 24 hours' notice, or an extraordinary meeting with three days' notice.
- 10. However, under certain circumstances it may be impractical to convene either of these meetings. For example, the *Local Government Act 2002* requires that only councillors who are physically present at a meeting can be counted towards a quorum. As a result, the Council cannot rely on audio-visual meetings to make decisions.
- 11. Decisions will need to be made very quickly as we have seen from central government over the last few days.
- 12. We now have a pandemic situation where life is not normal. This may remain the case for some months. The situation requires the Council to change its methods of decision-making for the duration of the Covid-19 pandemic. Delegations and decision-making arrangements need to be put in place that reflect the seriousness of the situation and that are fit for purpose.

Options

- 13. Two options are put forward for Council consideration:
- 14. Option 1: Delegate all powers that can be delegated to the Chief Executive.
- 15. Option 2: Establish a Pandemic Committee of the Council.

Option 1

16. Option 1 would delegate to the Chief Executive all the Council's powers, duties and responsibilities that can be delegated to the Chief Executive, except for those that the Council cannot legally delegate. This scope enables the fullest ambit of action by the Chief Executive, while retaining the appropriate legislative parameters.
17. Authorising the Chief Executive to approve expenditure, approve the foregoing of revenue or to take any other steps not provided for in the Long-Term Plan or Annual Plan focuses on unplanned and unexpected situations that are likely to arise during the Covid-19 pandemic.
18. To ensure appropriate safeguards, it is proposed to ensure that the delegation be made subject to certain conditions for example that the Chief Executive will obtain the endorsement to the proposed decision from the Chair and Deputy Chair or two other Chairs before making the decision.
19. Furthermore, normal reporting procedures would apply (for example as provided to the Executive, Audit and Risk committee) supplemented by additional reporting as required. This will enable councillors to raise any matters of concern.
20. The Council can revoke the delegation at any time or when the Covid-19 has clearly passed.
21. For everyone's information the powers that cannot be delegated are:
 - the power to make a rate
 - the power to make a bylaw
 - the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan
 - the power to adopt a long-term plan, annual plan, or annual report
 - the power to appoint a chief executive
 - the power to adopt policies required to be adopted and consulted on under the *Local Government Act 2002* in association with the long-term plan or developed for the purpose of the local governance statement
 - the power to adopt a remuneration and employment policy.
22. Option 1 is the preferred option of Council staff.
23. Attachment 1 sets out details of the scope of the delegation to the Chief Executive during the Covid-19 pandemic.

Option 2

24. This option would see the Council meeting on an 'as needs' basis in a remote 'workshop' fashion to deal with essential business. Committee meetings would cease to occur with the Council acting as a committee of the whole and dealing with all normal committee business.
25. Meetings would be held in a workshop format, not a formal Council meeting and so the quorum requirements for Council meetings would not apply. Recommendations from the workshops would then flow through to a much smaller Pandemic Committee of two persons (the Chair and Deputy Chair) who would then have to physically meet together

to satisfy the two person minimum quorum required. This Pandemic Committee would review the Council workshop recommendations and make decisions.

26. This construction technically meets the quorum requirements of the *Local Government Act 2002*. The local government sector has asked for change to the LGA in respect of quorate but no action has been taken to date. This Option may be open to legal challenge and is also problematic in meeting pandemic separation requirements.
27. This option is the least favoured by staff because, in addition to the above, it may also not guarantee the necessary urgency that require decisions to be made quickly. There may be delays in getting sufficient councillors together for a workshop, arriving at recommendations and having those forwarded to the Pandemic Committee for further consideration.

Conclusion

28. The most efficient form of Council decision-making in the current Covid-19 environment is a delegation to the Chief Executive, with appropriate safeguards built in to ensure the whole Council is comfortable with those decisions.
29. The delegation can be revoked at any time or when the Covid-19 situation has passed.

Decision-making considerations

30. Part 6 (Planning, decision-making and accountability) of the *Local Government Act 2002* has been considered and documented in the preparation of this agenda item. The recommendations made in this item comply with the decision-making obligations of the Act.

Financial considerations—LTP/Annual Plan

31. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.

Policy considerations

32. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the *Local Government Act 2002*, the *Resource Management Act 1991* and the *Local Government Official Information and Meetings Act 1987*.

Iwi considerations

33. This memorandum and the associated recommendations are consistent with the Council's policy for the development of Māori capacity to contribute to decision-making processes (schedule 10 of the *Local Government Act 2002*) as outlined in the adopted long-term plan and/or annual plan. Similarly, iwi involvement in adopted work programmes has been recognised in the preparation of this memorandum.

Legal considerations

34. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.

Attachment 1

Delegation to Chief Executive for decision-making during Covid-19 pandemic

1. With immediate effect and until the Government reduces the alert level status below level 3, allowing meetings (including meetings of the Council), the Council:
 - Delegates to the Chief Executive all of the Council's powers, duties and responsibilities, except for those powers, duties and responsibilities that the Council is not legally able to delegate.
 - Authorises the Chief Executive to approve expenditure, to approve the foregoing of revenue, or to take any other steps not provided for in the Long-Term Plan or Annual Plan.
2. The exercise of this delegation is where an urgent decision is required to:
 - Enable the discharge of the Council's health and safety duties – this is of particular importance and relevance during the Covid-19 pandemic. Such decisions would include actions to protect employees and contractors;
 - Implement the range of measures (acting under the relevant Covid-19 alert level) directed or issued as guidance by the Government, relevant Ministers or agencies. This ensures that any decisions are aligned with, and support, the official government position; or
 - Respond to any issues that arise as a result of the prevailing Covid-19 alert level or any other urgent matter.
3. Prior to exercising this delegation, the Chief Executive must obtain the endorsement to the proposed decision from two Chairs in the following order of precedence:
 - Council Chair
 - Council Deputy Chair
 - Executive, Audit and Risk Committee Chair
 - Any Committee Chair.
4. The exercise of the delegation and the decision must be reported by the Chief Executive to Councillors as soon as practicable and reported to the first available Council meeting.

Ordinary Meeting Public Excluded

In accordance with section 48(1) of the *Local Government Official Information and Meetings Act 1987*, resolves that the public is excluded from the following part of the proceedings of the Ordinary Meeting on Wednesday 25 March 2020 for the following reason/s:

Item 3 - Verbal Update on Annual Plan Projects

THAT the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.

AGENDA AUTHORISATION

Agenda for the Ordinary Meeting of the Taranaki Regional Council held on Tuesday 25 March 2020.

Confirmed:



24/03/2020 5:58 PM

M J Nield
Director Corporate Services

Approved:



24/03/2020 6:00 PM

B G Chamberlain
Chief Executive