



Hastings District Council

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OPEN NO ATTACHMENTS

A G E N D A

COUNCIL - EXTRAORDINARY MEETING

Meeting Date: **Tuesday, 24 March 2020**

Time: **4.30pm**

Venue: **Council Chamber
Ground Floor
Civic Administration Building
Lyndon Road East
Hastings**

Council Members	Chair: Mayor Hazlehurst Councillors Barber, Corban, Dixon, Harvey, Kerr (Deputy Chair), Lawson, Nixon, O'Keefe, Oli, Redstone, Schollum, Siers, Travers and Watkins
Officer Responsible	Chief Executive – Mr N Bickle
Manager Democracy & Governance	Mrs J Evans (Extn 5018)



HASTINGS DISTRICT COUNCIL
COUNCIL - EXTRAORDINARY MEETING
TUESDAY, 24 MARCH 2020

VENUE: Council Chamber
Ground Floor
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Lyndon Road East
Hastings

TIME: 4.30pm

A G E N D A

1. Apologies & Leave of Absence

At the close of the agenda no apologies had been received.

Leave of Absences had previously been granted to Councillor Lawson and Councillor Kerr

2. Annual Plan 2020/21 Update

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**3. Governance arrangements to cover the Covid 19 Level 4
Emergency Period and National Defence Emergency
Declaration**

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REPORT TO: COUNCIL - EXTRAORDINARY

MEETING DATE: TUESDAY 24 MARCH 2020

**FROM: STRATEGY MANAGER
LEX VERHOEVEN**

SUBJECT: ANNUAL PLAN 2020/21 UPDATE

1.0 PURPOSE AND SUMMARY - TE KAUPAPA ME TE WHAKARĀPOPOTOTANGA

- 1.1 The purpose of this report is to update Council on the status of the 2020/21 Annual Plan in light of the rapidly changing environment in respect of the Covid-19 virus pandemic.
- 1.2 The report also seeks a Council decision to defer the release of the Draft Annual Plan, Draft Development Contributions Policy and Amendment to Revenue and Financing Policy to enable the Council more time to assess the implications of the pandemic both on current operations and the impending 2020/21 financial year.

Main Points and Options

- 1.3 At the 19 March Council meeting the Council passed resolutions adopting the following for community consultation:
- Draft Annual Plan
 - Draft Development Contributions Policy
 - Amendment to Revenue and financing policy
 - Annual Plan Consultation Document
- 1.4 A further resolution passed at the meeting was the following:
- “That the Council delegate to the Chief Executive the correction of any drafting errors including any non-consequential omissions or amendments and take notice of any impacts of Covid-19 on our community”*
- 1.5 This paper is placed before Council to recognise that the context in respect of the Covid-19 virus pandemic has changed significantly with recent government announcements regarding moving to alert level 3 and then into alert level 4. This will have significant implications for our community and does again change the context within which the Council needs to deliver its services and within which it needs to assess the corresponding budgetary implications.
- 1.6 The service delivery and fiscal implications apply both to the remaining months of the current financial year and the forthcoming 2020/21 Annual Plan year.

- 1.7 It is considered prudent to pause and to take all the time necessary to further assess the impact of the pandemic to enable decisions to be made in the best interests of our community and in accordance with the resolution passed in 1.4 above. This will enable the Council to adapt its response in the same way Central Government is doing so.
- 1.8 Given the current environment, undertaking consultation of any sort irrespective of the topic is unlikely to be meaningful consultation.
- 1.9 Officers have assessed how they can give practical effect to a deferral of the matters outlined in 1.3 above and are comfortable that full compliance with all legal provisions can be achieved albeit with a different approach.
- 1.10 The recommendations within this report would:
- Provide a practical pathway for Council to further assess the implications of Covid-19 on the Council budget in accordance with Council resolutions of 19 March 2020;
 - Enable the Council to update the community on key matters and assistance available;
 - Allow Council to meet its legal obligations.

2.0 RECOMMENDATIONS - *NGĀ TŪTOHUNGA*

- A) **That the Council receives the report titled Annual Plan 2020/21 Update.**
- B) **That the Council defer the release for community consultation of the 2020/21 Annual Plan, Development Contributions Policy and Amendment to Revenue and Financing Policy as resolved at the Council meeting dated 19 March 2020 until such time as the most appropriate plan for our changed context is developed and agreed.**
- C) **That a flyer updating the community on the Annual Plan and how to seek rates payment assistance be inserted with the 4th instalment rates notice replacing the Annual Plan Consultation Document.**
- i. The reason for the deferral being to enable Council to assess the impact of the rapidly changing environment in respect of the Covid-19 virus pandemic on Council services and the most appropriate options to navigate the community through this changed context.

Attachments:

There are no attachments for this report.

REPORT TO: COUNCIL - EXTRAORDINARY

MEETING DATE: TUESDAY 24 MARCH 2020

**FROM: MANAGER: DEMOCRACY AND GOVERNANCE
JACKIE EVANS
GENERAL COUNSEL
SCOTT SMITH**

**SUBJECT: GOVERNANCE ARRANGEMENTS TO COVER THE COVID
19 LEVEL 4 EMERGENCY PERIOD AND NATIONAL
DEFENCE EMERGENCY DECLARATION**

1.0 EXECUTIVE SUMMARY - TE KAUPAPA ME TE WHAKARĀPOPOTOTANGA

- 1.1 This report proposes changes to Council decision-making processes to ensure that the Council can continue to make decisions and function effectively throughout the COVID-19 pandemic.
- 1.2 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.
- 1.3 This presents challenges for Council decision-making in light of COVID-19 and the risks associated with gatherings of certain numbers.
- 1.4 This report recommends that all formal meetings, briefings and workshops etc in the Councillor diary be cancelled until 30 April 2020. If necessary the Chief Executive (or his delegate) may convene an extraordinary meeting in consultation with the Mayor.
- 1.5 This report recommends that committee quorums for the 2 standing committees be reduced from 8 to three members in order to allow decisions to continue to be made by the committees notwithstanding that some members may attend and vote via audio or audio-visual link.
- 1.6 The report also recommends delegations to the chief executive be temporarily extended to include the power to authorise and enter into any contract or other arrangement, and to authorise any level of expenditure (budget or unbudgeted), subject to the conditions outlined in the report.

2.0 RECOMMENDATIONS - NGĀ TŪTOHUNGA

- A) That the Council receives the report titled Governance arrangements to cover the Covid 19 Level 4 Emergency Period and National Defence Emergency Declaration.
- 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) That the Council agree to amend standing orders and the general scheme of delegation to reduce the quorum for each Strategy and Policy Committee and Operations and Monitoring Committee to a minimum of two elected members (who would be required to be physically present for all meetings). This would still allow other members to attend and vote via audio or audio-visual link.
- D) That, if emergency legislative changes are made
- a. to reduce the quorum for Governing Body (full Council) meetings to less than 50% of the membership and/or
 - b. for remote meeting participants to count as present for the quorum,
- the Hastings District Council Standing Orders be amended without further Council resolution, to give immediate effect to a change in minimum quorum requirements and remote participation.
- E) That all meetings in the diary be cancelled until 30 April 2020. If necessary the Chief Executive (or his delegate) may convene an extraordinary meeting in consultation with the Mayor (or her delegate).
- F) Subject to the conditions below, the Council delegates to the Chief Executive the power to authorise and enter into any contract or other arrangement, and to authorise any level of expenditure (budget or unbudgeted). This delegation is subject to the following conditions:
- i. This delegated power can only be exercised only in circumstances where the Council (or any properly delegated committee of the Council) is unable or unavailable to hold a meeting as a direct or indirect result of the 2020 Covid-19 outbreak;
- G) The Chief Executive may exercise this delegated power only after consultation with first available person on the following list:
- i. the Mayor;
 - ii. the Deputy Mayor;
 - iii. the Chairperson of either the Strategy and Policy Committee or the Operations and Monitoring

Committee.

- H) Any decisions made and documents executed in exercising this delegated power must be reported to the next ordinary meeting of the Council.**

- I) This delegation is additional to the Chief Executive's other delegations as set out in the Hastings District Delegation to the Chief Executive as amended on 2 May 2019.**

3.0 BACKGROUND – TE HOROPAKI

- 3.1 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 China, Hong Kong, Iran, Italy, United Kingdom, United States, Singapore and Thailand. New Zealand, at the time of writing, has over 102 confirmed cases.
- 3.2 On 23 March Prime Minister further announced that New Zealand will move to Level 3 effective immediately, and Level 4 in 48 hours for at least four weeks. The bottom line is that NZ is moving to self-isolation with schools and non-essential services closed.
- 3.3 As things change rapidly in New Zealand, the Council is closely monitoring further advice from the Government and preparing for to manage a COVID-19 outbreak in Hastings and Hawke's Bay.
- 3.4 Smaller public gatherings, including Council are being restricted and the Council wants to ensure that the Council's business can continue should the Covid-19 outbreak in New Zealand reach a point that the Council is unable (due to restrictions on gatherings, or unavailability of members) to hold Council meetings that comply with the relevant statutory requirements, and to minimise the risk that we cannot take important decisions due to quorum and participation restrictions.

4.0 DISCUSSION - TE MATAPAKITANGA

Legislative constraints

- 4.1 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 be physically present in the room in order to achieve a quorum.
- 4.2 Although the LGA allows for attendance by members at meetings by audio or audio-visual 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).
- 4.3 Given it is possible that smaller gatherings (which may include Council/Committee meetings) may also be prohibited by Government, and there is a possibility that elected members may be affected by the outbreak and therefore unable to attend Council/committee meetings, officers recommend that alternative decision-making processes are implemented.
- 4.4 This situation is not unique to Hastings 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).
- 4.5 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 occurs then it will be possible for Council's regular decision-making processes to be implemented remotely.

- 4.6 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 changes would be proposed.
- 4.7 Under the Epidemic Preparedness Act 2006, Orders in Council could be obtained which would modify a restriction or requirement in the LGA. 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.
- 4.8 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.

5.0 PROPOSAL

- 5.1 There are some options that can be implemented to ensure the Council has the ability to make urgent decisions during the pandemic.

Standing orders

- 5.2 The Hasting District Council Standing Orders were adopted on 25 October 2018. In parts, the Standing Orders reflect the legislative constraints that currently apply, such as the quorum for meetings of the Council being eight and that members who take part in meetings via audio or audio visual link may vote but are not counted as a part of that meeting's quorum. It is possible that the legislative constraints that apply to the conduct of meetings may be varied by the government in response to the 2020 Covid-19 outbreak. The Council is awaiting to hear whether any changes are planned to be made.
- 5.3 Officers recommend that, to the extent that any legislative or regulatory changes are made to minimum meeting quorums or to make remote meeting participation by members easier, then the Hastings District Council Standing Orders are to be read as if those new minimums are the minimums required by the Standing Orders.
- 5.4 Any amendment to Standing Orders requires a majority vote of at least 75% of the members present at the meeting.

Quorum Changes

- 5.5 The quorum required to hold meetings of the Strategy and Policy Committee, or of the Operations and Monitoring Committee, shall be changed to become three members.
- 5.6 Both Standing Committees have wide ranging delegated powers to direct activities previously approved in the annual and long term plan. They also have authority to exercise all of Council's powers, functions and authorities (except where prohibited by law) for urgent matters, or matters that must be

dealt with prior to the next scheduled Council meeting. There are areas of activity that cannot be delegated from Council to Committees by statute and that includes for example the power to make a rate or a by-law, borrow money and dispose of assets.

Financial Delegation to the Chief Executive

5.7 Subject to the conditions below, the Council delegates to the Chief Executive the power to authorise and enter into any contract or other arrangement, and to authorise any level of expenditure (budget or unbudgeted). This delegation is subject to the following conditions:

- This delegated power may be exercised only in circumstances where the Council (or any properly delegated committee of the Council) is unable or unavailable to hold a meeting that complies with the requirements of such meetings (for instance those requirements within the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any emergency variations of those requirements that may at the time be in place) as a direct or indirect result of the 2020 Covid-19 outbreak;

5.8 The Chief Executive may exercise this delegated power only after consultation with first available person on the following list:

- the Mayor;
- the Deputy Mayor;
- the Chairperson of either the Strategy and Policy Committee or the Operations and Monitoring Committee;

5.9 Any decisions made and documents executed in exercising this delegated power must be reported to the next ordinary meeting of the Council.

5.10 This delegation is additional to the Chief Executive's other delegations, and (as with the Chief Executive other delegations) the Chief Executive may sub-delegate this power should the Chief Executive be unavailable. 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.

Meetings

5.11 It is proposed to cancel all meetings, council workshops and briefings until 30 April 2020. The Chief Executive (or his delegate) will consult with the Mayor (deputy Mayor, Chair of Strategy and Policy or Chair of Operations and Monitoring Committees) to call an extraordinary meeting of Council if necessary during this period.

5.12 Communications between the Council and Elected members will be via email and the Hub.

Attachments:

There are no attachments for this report.