



If calling, please ask for Democratic Services

Council

Tuesday 24 March 2020, 3.00pm

Council Chamber, Greater Wellington Regional Council, Level 2, 15 Walter Street, Te Aro, Wellington, with members not required for the quorum to participate remotely

Members

Cr Ponter (Chair)

Cr Staples (Deputy Chair)

Cr Blakeley

Cr Brash

Cr Connelly

Cr Gaylor

Cr Hughes

Cr Kirk-Burnnand

Cr Laban

Cr Lamason

Cr Lee

Cr Nash

Cr van Lier

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For Decision

DELEGATION TO CHIEF EXECUTIVE DURING COVID-19 PANDEMIC

Te take mō te pūrongo

Purpose

1. To propose that Council issues a delegation to the Chief Executive to ensure that urgent decisions can be made, in specified situations, where it is impractical for Council to meet during the COVID-19 pandemic.

He tūtohu

Recommendations

That the Council:

- 1 **Notes** that Greater Wellington considers it is prudent for Council to authorise the Chief Executive to make urgent decisions in specified situations during the COVID-19 pandemic.
- 2 **Issues** a delegation, which includes appropriate conditions, to the Chief Executive to make urgent decisions during the COVID-19 pandemic (Attachment 1).

Te horopaki

Context

2. The World Health Organisation (WHO) has declared a world-wide novel coronavirus (COVID-19) pandemic. The New Zealand Government has responded with a range of measures, including the 21 March 2020 announcement of an alert system and the declaration of 'Alert 2' status. On 23 March 2020 the alert status was elevated to 'Alert 3' with 'Alert 4' to be initiated on 25 March 2020.
3. As the situation continues to change rapidly in New Zealand, Greater Wellington is closely monitoring further advice from the Government and preparing for the raising of the alert level in the Wellington Region.
4. On 20 March 2020 Committee meetings for the current cycle were cancelled and moved to Council-only meetings. Where needed, Council also has the ability to convene Emergency and Extraordinary meetings.
5. As a result of the increased alert status, some Councillors can no longer physically attend Council meetings. Under Alert 4 physical Council meetings will not be possible. We are awaiting the issue of an Order in Council to address meeting requirements.

Delegation for urgent matters

6. Given the nature of COVID-19, there is a possibility that there will be urgent matters requiring decision that cannot wait for an emergency Council meeting.
7. In the absence of the proposed delegation it is possible that urgent decisions in key areas could not be progressed in a matter necessary to meet the imperatives of the situation. We recommend that, to be prudent, a delegation is granted to the Chief Executive to ensure that required decisions can continue in certain situations.
8. The proposed delegation is set out in **Attachment 1**, with the supporting rationale explained below.

Te tātaritanga Analysis

9. Greater Wellington envisages that this delegation would be used only as a contingency and only for the purposes of decision-making during the COVID-19 pandemic. Otherwise, Council's decision-making processes (as appropriate to the situation) will continue to apply.

Proposed scope

10. The proposed scope of the delegation covers:
 - a Delegating to the Chief Executive all of Council's powers, duties and responsibilities, except for those that Council cannot legally delegate. This scope enables the fullest ambit of action by the Chief Executive, whilst retaining the appropriate legislative parameters.
 - b 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. This scope focuses on unplanned and unexpected situations. It also allows decisions like the recent one to move to the sole use of Snapper on Metlink public transport services (with the resulting loss of revenue).
 - c Restricting this approval to actions necessary for Greater Wellington to maintain Metlink public transport services and/or maintain necessary business continuity. We consider, based on current information, that it is likely that public transport will need to be maintained, but there may also be other services that we provide or fund that are considered critical and may require urgent preventive and responsive action.

Conditions on the delegation

11. To ensure appropriate safeguards, Greater Wellington also proposes a range of conditions, namely:
 - a An urgent decision is required in specified situations.
 - b It is impractical or impossible for an Emergency or Extraordinary meeting of the Council to be convened to make the decision.
 - c The Chief Executive will obtain prior endorsement of the proposed decision from two Chairs on a specified list.

- d The exercise of the delegation and the decision made will be reported promptly to Councillors and Council (and therefore to the public).

Urgent decision in specified situations

- 12. Greater Wellington proposes the following situations as appropriate, namely to:
 - a Enable the discharge of Greater Wellington’s health and safety duties – this is of particular importance and relevance during the COVID-19 pandemic.
 - b 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.

Impractical for an Emergency or Extraordinary meeting of Council

- 13. Council can currently call an:
 - a Emergency meeting, with 24 hours’ notice
 - b Extraordinary meeting, with three days’ notice.
- 14. In certain circumstances, it may be impractical to convene either of these meetings due to the imperatives of the situation.

Chief Executive to obtain prior endorsement from two Chairs

- 15. As the proposed delegation is significant, it is appropriate that the Chief Executive engages with relevant Councillors before making a decision. However, the condition of urgency also envisages that it is impractical to seek the endorsement of a wider group of Councillors (e.g. a decision is needed within a few hours). We recommend that endorsement of two Chairs is needed from the following hierarchy – Council Chair, Council Deputy Chair, relevant Council Chair (e.g. of the Transport Committee for Metlink public transport services), and any Committee Chair.
- 16. Where practicable, the Chief Executive would seek to inform Councillors of the proposed decision before exercising the approved delegation.

Transparency and accountability

- 17. It is important and appropriate that Council decision-making remains transparent. Given the significant scope of the matters covered by the proposed delegation, and that not all Councillors are involved in related decision-making, continued transparency is important. We recommend that the Chief Executive report the exercise of the delegation and the decision to:
 - a All Councillors, as soon as practicable
 - b Council, at the first available meeting, in the public section of the meeting agenda.
- 18. This approach is consistent with that being taken by other local authorities.

Revocation of the delegation

- 19. Council can, by resolution, revoke the delegation:
 - a When the emergency situation relating to COVID-19 has clearly passed
 - b If legislation is amended to simplify Council meeting procedures, or

- c At any time.

Contingency for the Chief Executive

20. If the Chief Executive is unable to exercise the delegation (e.g. due to his incapacity), then he has, at all times, a standing delegation which reassigns his responsibilities to senior officers.

Ngā hua ahumoni

Financial implications

21. There are no specific financial implications arising from the matter for decision. Any financial implications of decisions made under the delegation will be addressed as part of that decision-making process.

Te huritao ki te huringa o te āhuarangi

Consideration of climate change

22. The matter for decision in this report was considered by officers in accordance with the process set out in Greater Wellington's *Climate Change Consideration Guide*.

Mitigation and adaptation assessments

23. The matter for decision in this report is of a procedural nature, and there is no need to conduct climate change assessments.

Ngā tikanga whakatau

Decision-making process

24. The matter requiring decision in this report was considered by officers against the decision-making requirements of Part 6 of the Local Government Act 2002.

Te hiranga

Significance

25. Officers considered the significance (as defined by Part 6 of the Local Government Act 2002) of the matter, taking into account Council's *Significance and Engagement Policy* and Greater Wellington's *Decision-making Guidelines*. Officers consider that the matter is of low significance due to its procedural nature.

Te whakatūtakitaki

Engagement

26. Due to the low significance of the matter for decision, no external engagement was required.

Ngā tūāoma e whai ake nei

Next steps

27. Once adopted, the delegation will take effect immediately.

**Ngā āpitihanga
Attachment**

Number	Title
1	Delegation to Chief Executive during COVID-19 pandemic

**Ngā kaiwaitohu
Signatories**

Writer	Will Ogier, Senior Democratic Services Advisor
Approvers	Francis Ryan, Manager Democratic Services Luke Troy, General Manager Strategy

**He whakarāpopoto i ngā huritaonga
Summary of considerations**

Fit with Council's roles or Committee's terms of reference

Council has authority under the Local Government Act 2002 to issue delegations, and specify conditions, except on matters it is not legally able to delegate.

Implications for Māori

There are no known implications for Māori.

Contribution to Annual Plan / Long term Plan / Other key strategies and policies

There are no specific contributions from the matter for decision.

Internal consultation

There was consultation with the Legal and Finance departments, and the Public Transport group.

Risks and impacts: legal / health and safety etc.

We consider that any risks related to a decision made under this delegation are managed by requiring the prior endorsement of two Chairs (paragraph 15) and prompt reporting (paragraph 17).

*Updated recommendations for Report 20.107***Delegation for urgent decision-making during the Government's COVID-19 pandemic response**

1. For the duration of the Government's response to the COVID-19 pandemic the Council:
 - a Delegates (subject to the conditions in section 2) to three specified Councillors (as stated in section 1c) 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.
 - b Authorises those three specified Councillors, by agreement, to:
 - i Approve expenditure, or
 - ii Approve the foregoing of revenue, or
 - iii Take any other steps

not provided for in the Long Term Plan or Annual Plan, that is/are necessary for Greater Wellington Regional Council to maintain Metlink public transport services and/or to maintain necessary business continuity within Greater Wellington Regional Council.
 - c The three specified Councillors authorised to exercise the delegation are specified in the following order of precedence:
 - i Council Chair, Deputy Chair and relevant Committee Chair
 - ii Council Deputy Chair, relevant Committee Chair and another Committee Chair
 - iii Relevant Committee Chair and two other Committee Chairs
 - iv Two Committee Chairs and any other Councillor
 - v Any three Councillors.
2. The exercise of this delegation is subject to the following conditions:
 - a An urgent decision is required to:
 - i Enable the discharge of health and safety duties, and/or
 - ii 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.
 - b The Chief Executive's prior recommendation that there is an urgent matter for decision warranting the exercise of the delegation.
 - c It is impractical for an Emergency or Extraordinary meeting of the Council to be convened to make the decision.
 - d The exercise of the delegation and the decision must be reported by the Chief Executive to all Councillors as soon as practicable and reported to the first available Council meeting.

For Decision

REDUCTION IN QUORUM FOR SPECIFIC COMMITTEES

Te take mō te pūrongo

Purpose

1. To seek Council's approval, as a prudent step, to reduce the quorum of specified Council committees during the COVID-19 pandemic.

He tūtohu

Recommendations

That the Council:

- 1 **Notes** the Government is currently at Alert level 3 for the COVID-19 pandemic, and intends moving to Alert level 4 by 12 noon Wednesday 25 March 2020; with Council unable to meet during the latter as it cannot form a quorum.
- 2 **Notes** that, whilst Committee meetings are currently cancelled, approving a reduced quorum for specific Committees would enable recommencement of these meetings as soon as practicable (once the Government's Alert level allows for this).
- 3 **Notes** that, due to statutory requirements it is not possible for Council to reduce the quorum of Council; also it is not possible to reduce the quorum of Wellington Regional Strategy Committee without the agreement of the Region's territorial authorities.
- 4 **Notes** that, as the quorum is already minimal, it is not proposed to amend the quorum for the Wairarapa Committee or the Hutt Valley Flood Management Subcommittee.
- 5 **Agrees** to amend the quorum requirements for other Committees as follows:
 - a Two Committee members for the:
 - i Environment Committee
 - ii Transport Committee
 - iii Climate Committee
 - iv Finance, Risk and Assurance Committee
 - b The Chair or Deputy Chair, and one other Committee member, for the Regional Transport Committee
 - c Two Councillors for the Chief Executive Expenditure Review Committee

- d Two Councillor and two non-Councillor members of the Committee for Te Upoko Taiao – Natural Resources Plan Committee.

Te horopaki

Context

Impact of the Government's Alert level decisions

2. On 20 March 2020 Committee meetings for the current cycle were cancelled and moved to Council-only meetings.
3. On 23 March 2020 the Government moved to Alert level 3 for the COVID-19 pandemic, and intends moving to Alert level 4 by 12 noon Wednesday 25 March 2020.
4. Greater Wellington Regional Council (Greater Wellington) notes that at Alert level 4 Council is unable to meet because Council cannot form a quorum as Councillors are instructed to stay at home.
5. However, in anticipation of the Alert level being reduced, Greater Wellington considers it prudent to reduce the quorum for applicable Committees so related meetings can recommence as soon as practicable. This approach would ease the burden on Council meetings and support the restoration of normal business.

Legislative constraints

6. The Local Government Act 2002 (LGA) requires Council to have a quorum for all meetings of Council and Committees where decisions are made. The LGA requires meeting attendees to physically be present in the room in order to achieve a quorum¹.
7. Although the LGA allows for attendance by members at meetings by audio or audio-visual links, and Council's Standing Orders provide for this to occur, those attending by these links do not count toward the quorum². Councillors participating remotely retain their voting rights.
8. All councils across New Zealand are considering a range of approaches to ensure ongoing decision-making. Our advice is informed by the work of Local Government NZ (LGNZ) and the NZ Society of Local Government Management (SOLGM).

Possible legislative change

9. Representatives of LGNZ and SOLGM are liaising with the Department of Internal Affairs to progress an amendment to the LGA that would allow a meeting quorum to be satisfied through audio or audio-visual link alone. If this law change occurred, then the regular decision-making processes of Council and Committees could be implemented remotely. The timeframe for this law change is uncertain.
10. Under the Epidemic Preparedness Act 2006, Orders in Council could be obtained that 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

¹ Clause 23(2) of Schedule 7 to the LGA.

² Clause 25A(4) of Schedule 7 to the LGA.

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.

Te tātaritanga Analysis

11. The LGA provides that the quorum for committees can be reduced to a minimum of two elected members (who would still be required to be physically present for all meetings)³. Other Councillors could attend and vote by audio or audio-visual link.
12. The current and proposed quorum provisions for Council and each Committee are set out below:

Governance body	Current quorum	Proposed quorum
Council	Seven Councillors.	Seven Councillors. <i>No change as this is a statutory requirement under the Local Government Act 2002</i>
Environment Committee	Eight committee members.	Two committee members.
Transport Committee	Seven committee members.	Two committee members.
Chief Executive Expenditure Review Committee	Three Councillors.	Two Councillors.
Climate Committee	Five committee members.	Two committee members.
Finance, Risk and Assurance Committee	Four committee members.	Two committee members.
Regional Transport Committee	The Chair or Deputy Chair, and at least 50 percent of the remaining voting members.	The Chair or Deputy Chair, and one other Committee member.
Te Upoko Taiao – Natural Resources Plan Committee	Three Councillors and three non-Councillor members of the Committee.	Two Councillor and two non-Councillor members of the Committee

³ Clause 23(3)(b) of Schedule 7 to the LGA.

Governance body	Current quorum	Proposed quorum
Wairarapa Committee	Four members, including two Councillors.	Four members, including two Councillors. <i>No change, as the quorum is already minimal.</i>
Wellington Regional Strategy Committee	Five members, of which one must be the Councillor member and one must be the Chair or Deputy Chair.	Five members, of which one must be the Councillor member and one must be the Chair or Deputy Chair. <i>No change, as this would need territorial authorities' agreement in accordance with the multilateral agreement.</i>
Hutt Valley Flood Management Subcommittee	Two Councillors, one Hutt City Council member, and one Upper Hutt City Council member.	Two Councillors, one Hutt City Council member, and one Upper Hutt City Council member. <i>No change, as the quorum is already minimal.</i>

13. Council can review these requirements as the Government's Alert levels changes, or at any time.

Ngā hua ahumoni

Financial implications

14. There are no specific financial implications arising from the matter for decision.

Te huritao ki te huringa o te āhuarangi

Consideration of climate change

15. The matter for decision in this report was considered by officers in accordance with the process set out in Greater Wellington's *Climate Change Consideration Guide*.

Mitigation and adaptation assessments

16. The matter for decision in this report is of a procedural nature, and there is no need to conduct climate change assessments.

Ngā tikanga whakatau Decision-making process

17. The matter requiring decision in this report was considered by officers against the decision-making requirements of Part 6 of the Local Government Act 2002.

Te hiranga Significance

18. Officers considered the significance (as defined by Part 6 of the Local Government Act 2002) of the matter, taking into account Council's *Significance and Engagement Policy* and Greater Wellington's *Decision-making Guidelines*. Officers consider that the matter is of low significance due to its procedural nature.

Te whakatūtakitaki Engagement

19. Due to the low significance of the matter for decision, no external engagement was required.

Ngā tūāoma e whai ake nei Next steps

20. Once adopted, we will update Approved Terms of Reference for the 2019—22 triennium and Greater Wellington's website.

Ngā kaiwaitohu Signatories

Writer	Will Ogier – Senior Advisor, Democratic Services
Approvers	Francis Ryan, Manager – Democratic Services Luke Troy, General Manager - Strategy

**He whakarāpopoto i ngā huritaonga
Summary of considerations**

Fit with Council's roles or Committee's terms of reference

Council has authority under the Local Government Act 2002 to make the proposed changes to the quorum requirements for its Committees.

Implications for Māori

There are no particular implications for Māori.

Contribution to Annual Plan / Long term Plan / Other key strategies and policies

There are no specific contributions from the matter for decision.

Internal consultation

There was no internal consultation on this report.

Risks and impacts: legal / health and safety etc.

There are no particular risks arising from the matter for decision. The impact is to enable greater flexibility for Committee meetings during the COVID-19 pandemic (as the Government's Alert level allows).