



Extraordinary Meeting of the Hawke's Bay Regional Council

LATE ITEM

Date: Wednesday 18 March 2020
Time: 3.00pm
Venue: Council Chamber
Hawke's Bay Regional Council
159 Dalton Street
NAPIER

Agenda

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5.	Standing Orders Provisions for Meeting Quorum in the Event of an Emergency	3

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 18 March 2020

Subject: STANDING ORDERS PROVISIONS FOR MEETING QUORUM IN THE EVENT OF AN EMERGENCY

Item 5

Reason for Report

1. This item seeks a resolution of Council to enable the establishment of a Regional Council and/or committee meeting in the absence of a quorum being physically present.

Officers' Recommendation(s)

2. In the absence of a Central Government Order in Council to remove the requirement for a quorum to be "physically present" staff recommend that Council resolves to temporarily re-set the quorum for the Environment & Integrated Catchments Committee, Corporate & Strategic Committee, Hearings Committee, the Finance, Audit & Risk Subcommittee and the CDEM Group Joint Committee to be two members physically present.

Executive Summary

3. There is no precedent for Council to refer to in this circumstance, as current events are unprecedented in Council's history. Because of that, staff are proposing untested potential solutions for use should the necessity arise.

Background and Discussion

4. Council's Standing Orders (SO) provide provisions to temporarily suspend Standing Orders, and the Quorum required for a meeting to be 'constituted' as follows.

3.1 Temporary suspension of standing orders

Any member of a council, committee, subcommittee and subordinate body may move a motion to suspend standing orders at a meeting of which they are a member. Any such motion must also include the reason for the suspension. If seconded, the Chairperson must put the motion without debate and at least 75 per cent of the members present and voting must support the motion for it to be carried.

cl. 27(4), Schedule 7, LGA 2002.

A motion to suspend standing orders may also identify the specific standing orders to be suspended. In the event of suspension those standing orders prescribed in statute will continue to apply, such as the quorum requirements.

10. Quorum

10.1 Councils

The quorum for a meeting of the council is:

- (a) half of the members physically present, where the number of members (including vacancies) is even; and
- (b) a majority of the members physically present, where the number of members (including vacancies) is odd.

cl. 23 (3)(a) Schedule 7, LGA 2002.

10.2 Committees and subcommittees

A council sets the quorum for its committees and subcommittees, either by resolution or by stating the quorum in the terms of reference. Committees may set the quorums for their subcommittees by resolution provided that it is not less than two members.

In the case of sub-committees the quorum will be two members unless otherwise stated. In the case of committees at least one member of the quorum must be a member of the council.

cl. 23 (3)(b) Schedule 7, LGA 2002.

10.3 Joint Committees

The quorum at a meeting of a joint committee must be consistent with Standing Order 10.1. Local authorities participating in the joint committee may decide, by agreement, whether or not the quorum includes one or more members appointed by each local authority or any party.

cl. 30A (6)(c) Schedule 7, LGA 2002.

10.4 Requirement for a quorum

A meeting is constituted where a quorum of members is present, whether or not they are all voting or entitled to vote. In order to conduct any business at a meeting, a quorum of members must be present for the whole time that the business is being considered.

cl. 23(1) & (2) Schedule 7, LGA 2002.

10.5 Meeting lapses where no quorum

A meeting must lapse, and the Chairperson vacate the chair, if a quorum is not present within 30 minutes of the advertised start of the meeting. Where members are known to be travelling to the meeting, but are delayed due to extraordinary circumstance, the Chairperson has discretion to wait for a longer period.

No business may be conducted while waiting for the quorum to be reached. Minutes will record when a meeting lapses due to a lack of a quorum, along with the names of the members who attended.

5. Although there are provisions to temporarily suspend one or more of the Standing Orders, the Local Government Act specifies that:
 - 5.1. "Schedule 7 cl. 23(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."
 - 5.2. And SO 3.1 "... In the event of suspension those Standing Orders **prescribed in statute will continue to apply**, such as the **quorum** requirements."
6. Standing Orders cannot contravene the Act, and there is potential for the suspension of the SO 10.1 requirement for members to be "physically present" to do just that.
7. There has been discussion at the National level, between the Society of Local Government Managers (SOLGM), Local Government NZ (LGNZ), and the Department of Internal Affairs (DIA) about potential solutions, including:
 - 7.1. Removal of the requirement for a quorum to be "physically present" for a specified period by Order in Council under emergency legislation.
 - 7.2. Councils changing their Standing Orders to re-set (temporarily) committee and sub-committee meeting quorums to be two members physically present, thereby enabling meetings to happen with just two members (councillors) present and everyone else joining in via audio-visual link.

Options Assessment

8. Council has the option of not taking any proactive measures to circumvent the possibility of Council or Council committee meetings not being able to be held due to a failure of quorum.
9. In the event that Council does want to take some preventative measure "just in case" circumstances are such that a meeting must be held and cannot be delayed until such time as a majority of members is able to physically attend, staff understand that there are two options, being:
 - 9.1. Resolve to temporarily suspend SO 10.1, requiring that a majority of members **must be physically present** to establish the quorum.
 - 9.2. Resolve to temporarily specify the quorum for Council's Environment & Integrated Catchments Committee, Corporate & Strategic Committee, Hearings Committee, the Finance, Audit & Risk Sub-committee and the CDEM Group Joint Committee as being two elected representatives.

10. The first option to suspend the SO requirement for the quorum to be physically present appears, at first glance, to be the simplest solution. However, as this would contravene the Local Government Act 2002 (the Act) provisions specifying that requirement, doing so (suspension) could be deemed illegal and put any Council or committee decisions made at such meetings at risk of judicial review and/or being overturned.
11. The second option to specify the quorum for specific committees to be two members meets the Act requirements so that, if needs be, meetings can be constituted with just two elected representatives present, and everyone else joining in via audio link.

Financial and Resource Implications

12. Although there are no financial implications expected as a result of today's decisions, potential implications for the provision of audio and/or audio-visual facilities are currently under investigation by Council's Information Technology team.

Decision Making Process

13. Council and its committees are required to make every decision in accordance with the requirements of the Act. Staff have assessed the requirements in relation to this item and have concluded:
 - 13.1. The decision does not significantly alter the service provision or affect a strategic asset.
 - 13.2. The use of the special consultative procedure is not prescribed by legislation.
 - 13.3. The decision is not significant under the criteria contained in Council's adopted Significance and Engagement Policy.
 - 13.4. Given the nature and significance of the issue to be considered and decided, and also the persons likely to be affected by, or have an interest in the decisions made, Council can exercise its discretion and make a decision without consulting directly with the community or others having an interest in the decision.

Recommendations

That Hawke's Bay Regional Council:

1. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted Significance and Engagement Policy, and that Council can exercise its discretion and make decisions on this issue without conferring directly with the community or persons likely to have an interest in the decision.
2. Temporarily, for the period 18 March through to 24 June 2020, specifies the quorum for the Environment & Integrated Catchments Committee, Corporate & Strategic Committee, Hearings Committee, the Finance, Audit & Risk Sub-committee and the CDEM Group Joint Committee to be two members physically present
3. Reviews the quorum requirements for all Council committees, including joint committees, on or before 24 June 2020.

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GOVERNANCE LEAD

Approved by:

Joanne Lawrence
GROUP MANAGER OFFICE OF THE
CHIEF EXECUTIVE AND CHAIR

Attachment/s

There are no attachments for this report.