



## NOTICE OF A MEETING OF

**EXTRA ORDINARY COUNCIL**

to be held on Wednesday, 25 March 2020 at 8.30am  
in the Council Chamber, Rotorua Lakes Council

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Chairperson: Mayor Chadwick

Members: Cr Donaldson (Deputy Chair) Cr Bentley  
Cr Kumar Cr Kai Fong Cr Macpherson  
Cr Maxwell Cr Raukawa-Tait Cr Tapsell  
Cr Wang Cr Yates

Quorum: 6

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# A G E N D A

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- KARAKIA WHAKAPUAKI  
OPENING KARAKIA**
- NGĀ WHAKAPAAHA  
APOLOGIES**
- WHAKAPUAKITANGA WHAIPĀNGA  
DECLARATIONS OF INTEREST**

Members need to stand aside from decision-making when a conflict arises between their role as a Member of the Council and any private or other external interest they might have. This note is provided as a reminder to Members to review the matters on the agenda and assess and identify where they may have a pecuniary or other conflict of interest, or where there may be a perception of a conflict of interest.

If a member feels they do have a conflict of interest, they should publicly declare that at the start of the meeting or of the relevant item of business and refrain from participating in the discussion or voting on that item. If a member thinks they may have a conflict of interest, they can seek advice from the Chief Executive or the Corporate Planning & Governance Manager (preferably before the meeting). It is noted that while members can seek advice the final decision as to whether a conflict exists rests with the member.

- PŪRONGO KAIMAHI**

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**5. KA MATATAPU TE WHAKATAUNGA I TE TŪMATANUI  
RESOLUTION TO GO INTO PUBLIC EXCLUDED**

(to consider and adopt confidential items)

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987, for the passing of this resolution are as follows:

<u>General subject of each matter to be considered</u>	<u>Reason for passing this resolution in relation to each matter</u>	<u>Ground(s) under Section 48(1) for passing of this resolution</u>
RECOMMENDATION 1: CHIEF EXECUTIVE RECRUITMENT	Protect the privacy of natural persons, including that of deceased natural persons.	Section 48(1)(a) Section 7(2)(a)

This resolution is made in reliance on Section 48(1) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Sections 6 or 7 of the Act or Sections 6, 7 or 9 of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as shown above (in brackets) with respect to each item.

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STAFF REPORT**

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# NGĀ TUKUNGA HAEPAPA A TE KAUNIHERA

## COUNCIL DELEGATIONS

<b>Type of Committee</b>	Council
<b>Subordinate to</b>	
<b>Subordinate Committees</b>	<ul style="list-style-type: none"> <li>• Strategy, Policy and Finance committee</li> <li>• Operations and Monitoring committee</li> <li>• District Licencing committee</li> <li>• CEO performance committee</li> <li>• RMA Policy Committee</li> <li>• Audit and Risk Committee</li> </ul>
<b>Legislative Basis</b>	Schedule 7 S30 (1) (A), Local Government Act 2002 Committee delegated powers by the Council as per Schedule 7, S32, Local Government Act 2002
<b>Purpose</b>	The purpose of the Council is to make decisions on all matters that cannot be delegated, that it has not delegated or that it has had referred to it by staff or a committee.
<b>Reference</b>	01-15-010
<b>Membership</b>	Mayor Steve Chadwick (Chair) Deputy Mayor Councillor Dave Donaldson (Deputy Chair) All councillors
<b>Quorum</b>	6
<b>Meeting frequency</b>	Monthly
<b>Delegations</b>	<ul style="list-style-type: none"> <li>• the power to make a rate</li> <li>• the power to make a bylaw</li> <li>• the power to borrow money, or purchase or dispose of assets, other than in accordance with the Long-term Plan</li> <li>• the power to adopt a long-term plan, annual plan, or annual report</li> <li>• the power to appoint a chief executive</li> <li>• the power to adopt policies required to be adopted and consulted on under the LGA 2002 in association with the long-term plan, or developed for the purpose of the local governance statement; and</li> <li>• the power to adopt a remuneration and employment policy</li> <li>• the power to set and support strategies in measures related to emergency matters.</li> <li>• all the powers, duties and discretions under the Civil Defence Act for the proper operation and administration of the approved Civil Defence Plan; such delegation to be executed solely within the defined policy guidelines as determined from time to time by the Council and subject to the Financial limits imposed by the approved</li> </ul>

	Council estimates.
<b>Relevant Statutes</b>	All the duties and responsibilities listed above must be carried out in accordance with the relevant legislation.
<b>Limits to Delegations</b>	Powers that cannot be delegated to committees a per the Local Government Act 2002 Schedule 7 S32



# **PŪRONGO KAIMAHI STAFF REPORTS**

ROTORUA LAKES COUNCIL

The Mayor  
Members  
EXTRA ORDINARY COUNCIL

**COUNCIL STANDING ORDERS AMENDMENT**

**Report prepared by:** Rick Dunn, Governance Lead

**Report reviewed by:** Oonagh Hopkins, Manager Corporate Planning & Governance

**Report approved by:** Geoff Williams, Chief Executive

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**1. TE PŪTAKE  
PURPOSE**

The purpose of this report is for Council to amend Standing Orders for meetings of local Authorities to include provisions for members to attend meetings by audio or audio visual link.

**2. HE TŪTOHUNGA  
RECOMMENDATION:**

- 1. That the report “Council Standing Orders Amendment” be received.**
- 2. That Council amends the Standing Orders to include the provision for elected members to attend any Council or Committee meeting by audio or audio visual link.**

**3. TE TĀHUHU  
BACKGROUND**

Standing orders contain rules for the conduct of the proceedings of local authorities, committees, subcommittees and subordinate decision-making bodies, and community boards. Their purpose is to enable local authorities to exercise their decision-making responsibilities in a transparent, inclusive and lawful manner.

They fulfil the requirements of the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987 with regard to the conduct of meetings.

Please note standing orders do not apply to advisory bodies, workshops or forums’ unless incorporated in their specific terms of reference.

Local Authorities require the approval of at least 75% of members present at a meeting to adopt and amend standing orders.

The Local Government Act 2002 (LGA 2002) allows members of a local authority to participate in meetings if they are not physically present by audio or audio visual means. The provisions were made in response to requests from councils that represent large geographic areas in which it is often difficult for some members to attend meetings at short notice.

At the Council meeting on held on 5 December 2019, Council resolved not to include the provision to allow elected members to attend council meetings via audio or audio visual link due to the Rotorua

District being relatively compact and elected members not having any concerns regarding meeting attendance. Previous councils have not adopted this standing order.

#### **4. TE MATAPAKI ME NGĀ KŌWHIRINGA DISCUSSION AND OPTIONS**

We have reviewed the Standing Orders due to the COVID-19 pandemic. In the event that elected members are unable to physically attend council meetings, it is recommended that council amend the Standing Orders giving elected members the right to attend meetings by audio or audio visual link. (see S.O. 13.8 to 13.16 below)

### **13.7 Right to attend by audio or audio visual link**

Provided the conditions in standing orders 13.11 and 13.12 are met, members of the local authority and its committees (and members of the public for the purpose of a deputation approved by the Chairperson) have the right to attend meetings by means of an electronic link, unless they have been lawfully excluded.

### **13.8 Member's status: quorum**

Members who attend meetings by electronic link will not be counted as present for the purposes of a quorum.

*cl.25A (4), Schedule 7 LGA 2002*

### **13.9 Member's status: voting**

Where a meeting has a quorum, determined by the number physically present, the members attending by electronic link can vote on any matters raised at the meeting.

### **13.10 Chairperson's duties**

Where the technology is available and a member is attending a meeting by audio or audio visual link, the Chairperson must ensure that:

- (a) The technology for the link is available and of suitable quality;
- (b) Procedures for using the technology in the meeting will ensure that:
  - i. Everyone participating in the meeting can hear each other;
  - ii. The member's attendance by audio or audio visual link does not reduce their accountability or accessibility of that person in relation to the meeting;
  - iii. The requirements of Part 7 of LGOIMA are met; and
  - iv. The requirements in these standing orders are met.

If the Chairperson is attending by audio or audio visual link, the chairing duties will be undertaken by the deputy chair or a member who is physically present.

*cl. 25A (3) schedule 7, LGA 2002.*

### **13.11 Conditions for attending by audio or audio visual link**

Noting standing order 13.7, the Chairperson may give approval for a member to attend meetings by electronic link, either generally or for a specific meeting. Examples of situations where approval can be given include:

- (a) Where the member is at a place that makes their physical presence at the meeting impracticable or impossible;
- (b) Where a member is unwell; and
- (c) Where a member is unable to attend due to an emergency.

### **13.12 Request to attend by audio or audio visual link**

Where possible, a member will give the Chairperson and the chief executive at least 2 working days' notice when they want to attend a meeting by audio or audio visual link. Should, due to illness or emergency, this is not possible the member may give less notice.

Where such a request is made and the technology is available, the chief executive must take reasonable steps to enable the member to attend by audio or audio-visual link. However, the council has no obligation to make the technology for an audio or audio-visual link available.

If the member's request cannot be accommodated, or there is a technological issue with the link, this will not invalidate any acts or proceedings of the local authority or its committees.

### **13.13 Chairperson may terminate link**

The Chairperson may direct that an electronic link should be terminated where:

- (a) Use of the link is increasing, or may unreasonably increase, the length of the meeting;
- (b) The behaviour of the members using the link warrants termination, including the style, degree and extent of interaction between members;
- (c) It is distracting to the members who are physically present at the meeting; and
- (d) The quality of the link is no longer suitable.

### **13.14 Giving or showing a document**

A person attending a meeting by audio or audio visual link may give or show a document by:

- (a) Transmitting it electronically;
- (b) Using the audio visual link; or
- (c) Any other manner that the Chairperson thinks fit.

*cl. 25(A) (6) schedule 7, LGA 2002.*

### **13.15 Link failure**

Where an audio or audio visual link fails, or there are other technological issues that prevent a member who is attending by link from participating in a meeting, that member must be deemed to be no longer attending the meeting.



## **13.16 Confidentiality**

A member who is attending a meeting by audio or audio visual link must ensure that the meeting's proceedings remain confidential during any times that the public are excluded. At such times, the Chairperson may require the member to confirm that no unauthorised people are able to view or hear the proceedings.

### **5. TE TINO AROMATAWAI ASSESSMENT OF SIGNIFICANCE**

The decision or matters of this report are not considered significant in accordance with the Council's Policy on Determining Significance.

### **6. NGĀ KŌRERO O TE HAPORI ME TE WHAKATAIRANGA COMMUNITY INPUT/ENGAGEMENT AND PUBLICITY**

Community consultation is not considered necessary in relation to this item.

### **7. HE WHAIWHAKAARO CONSIDERATIONS**

#### **7.1 Mahere Pūtea Financial/budget considerations**

Not applicable.

#### **7.2 Kaupapa Here me ngā Hiraunga Whakariterite Policy and planning implications**

Standing Orders are required by the Local Government Act 2002 (cl. 27 Schedule 7) and the Local Government Official Information and Meetings Act 1987 with regard to the conduct of meetings.

#### **7.3 Tūraru Risks**

No risks have been identified.

#### **7.4 Te Whaimana Authority**

Standing Orders are required by the Local Government Act 2002 (cl. 27 Schedule 7) and the Local Government Official Information and Meetings Act 1987 with regard to the conduct of meetings.

ROTORUA LAKES COUNCIL

The Mayor  
Chairperson and Members  
EXTRA ORDINARY COUNCIL

**DECISION MAKING DURING COVID-19: DELEGATIONS TO CHIEF EXECUTIVE**

**Report prepared by:** Rick Dunn, Governance Lead

**Report reviewed by:** Oonagh Hopkins, Corporate Planning and Governance Manager

**Report approved by:** Jean Paul Gaston, Strategy Manager

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**1. TE PŪTAKE  
PURPOSE**

To seek approval for Council to delegate all of its functions (except those which cannot be delegated under legislation) to the Chief Executive until Council next meets, in light of disruptions to business arising from New Zealand's response to Covid-19.

**2. HE TŪTOHUNGA  
RECOMMENDATION**

- 1. That the report 'Decision Making During Covid-19: Delegations to Chief Executive' be received.**
- 2. That the Council extends the Chief Executive's current delegations (detailed in the Council's *Delegations Manual*) to include all of Council's responsibilities, duties, and powers currently retained by Council or delegated to Council's standing committees (except the District Licensing Committee) (Extended Delegations), subject to the following requirements:**
  - a) The Extended Delegations will have effect only for the period from the date of this meeting until Council next meets at which time the Extended Delegations will automatically be revoked unless Council resolves otherwise at that meeting.**
  - b) The Extended Delegations do not include a delegation of any Council powers, duties and functions which are prohibited by law from delegation - including, without limitation, those set out in clause 32(1) of the Seventh Schedule to the Local Government Act 2002.**
- 3. That the Council approves, for the avoidance of doubt, that the Extended Delegations may and will be exercised by an acting Chief Executive, appointed from time to time by the Chief Executive, in the event the Chief Executive is unable to act.**
- 4. That the Council notes that the Chief Executive has committed to exercising the Extended Delegations in accordance with the following guideline process:**
  - a) The Chief Executive will exercise any one or all of the Extended Delegations from time to time only after first consulting with the Mayor (or Deputy Mayor) and Chair (or Deputy Chair) of the relevant committee where reasonably practicable and subject to their availability.**

- b) **The Chief Executive will not exercise the Extended Delegations unless he had first made all reasonable endeavors to achieve the consultation measures identified in (a) above.**
- c) **Where, in the reasonable opinion of the Chief Executive, a decision requiring the exercise of the Extended Delegations could be deferred without any material consequences, the Chief Executive may elect to not exercise the Extended Delegations, and instead defer the decision until the next full Council meeting.**
- d) **The Chief Executive will advise Councillors, Te Tatau o te Arawa and Community Board members appointed to the relevant committee of each decision to exercise of the Extended Delegations as soon as reasonably possible once it has been made.**
- e) **The Chief Executive shall keep a running record of all occasions where the Extended Delegations have been exercised and shall remain accountable to elected members for the proper and prudent exercise of the Extended Delegations.**
- f) **The Chief Executive shall provide an overall report of the exercise of the Extended Delegations at the next full meeting of Council as described in 4 (d) and (e) above.**

#### **4. TE TĀHUHU BACKGROUND**

The Local Government Act 2002 (**LGA**) sets out the obligations and functions of local authorities. Of relevance are the following provisions:

- Quorum of Council is the majority of members (that is, 6 members) (see cl 23 of Sched 7 to the LGA). Quorum must be maintained while business is conducted.
- To be counted as present for quorum purposes, an elected member must be physically present at the meeting (see cl 25A of Sched 7 to the LGA).
- If quorum requirements are satisfied, then remaining elected members may attend and vote remotely (see cl 25A of Sched 7 to the LGA). (If provided for in the Standing Orders)

These are legislative provisions. This means Council cannot amend these requirements by Council resolution.

Under current legislation, Council will not be able to meet and make decisions once the country moves to alert level 4 in the early afternoon of Wednesday 25 March (being 48 hours after the Prime Minister's announcement). Thereafter, it will also be unable to make decisions if it is still unable to meet quorum requirements.

Staff therefore recommend Council resolve to grant to the Chief Executive the Extended Delegations.

The Council's current delegations to the Chief Executive are set out in the Delegation Manual.

#### **5. TE MATAPAKI ME NGĀ KŌWHIRINGA DISCUSSION AND OPTIONS**

##### **Extended Delegations: necessity and scope**

1. Staff recommend that the Council extends the Chief Executive's current delegations to undertake all of the Council's responsibilities, duties, and powers (except as prohibited by clause [32\(1\)\(a\) to \(h\) of Schedule 7 to the LGA](#) and any other Act), by authorising the Extended Delegations.
2. This proposed extension to the CE's delegations is similar to the process that operates during the interregnum period i.e. between the election and the inaugural meeting of a new council.

3. Staff recommend that the Extended Delegations are unrestricted so as not to limit the Chief Executive's ability to respond to any novel circumstances that may arise. If restrictions are embedded as part of the resolution to delegate, the Chief Executive may be in a position where the restrictions function to limit the actions that can be taken by the Chief Executive. Because Council cannot amend the delegations until it next meets, which may not be for some time, essential actions may not be taken, or if they are take, would be outside delegated authority and therefore unlawful.
4. Understandably, creating such a broad delegation is a concern for elected members. Two important checks and balances are recommended;
  - First, the Extended Delegations will immediately expire upon the convening of the next full Council meeting. This way, the default position is expiry, and will require positive resolution of Council to be extended;
  - Secondly, the Chief Executive's acknowledgment that he will, where reasonably practicable, follow the guidelines set out in the recommendation part 4) the exercise of the Extended Delegations.

#### **Further matters for consideration**

5. At this stage, Council will not be able to meet until Alert Level 4 is lifted in at least four weeks' time (or later, depending on the public health situation at that time).
6. There is however a possibility that central government will make use of the provisions of the Epidemic Preparedness Act 2006, which would allow the Governor-General to issue an Order in Council modifying restrictions and requirements of legislation (such as the Local Government Act).
7. Under the Epidemic Preparedness Act, it is therefore possible that central government will use this mechanism to modify the quorum requirements in the Local Government Act, which may in turn allow Council to count remote participation for quorum purposes and make decisions through remote Council meetings.
8. Unless and until that happens, however, the Extended Delegations will be required. Staff understand that these restrictions are on central government's radar, however there has been no indication that steps will be taken.
9. If the recommendation is not approved then the matters covered by the Extended Delegations will not be able to be decided on or carried out until Council next meets, which may not be for at least four weeks, and in all likelihood, longer.

#### **6. TE TINO AROMATAWAI ASSESSMENT OF SIGNIFICANCE**

Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the recommendation(s) in this report has/have a medium level of significance.

#### **7. NGĀ KŌRERO O TE HAPORI ME TE WHAKATAIRANGA COMMUNITY INPUT/ENGAGEMENT AND PUBLICITY** N/A

RDC-999631

## **8. HE WHAIWHAKAARO CONSIDERATIONS**

### **8.1 Mahere Pūtea**

#### **Financial/budget considerations**

There are no financial or budget implications as a result of enacting the Extended Delegations. As stated above the exercising of the Extended Delegations is then in accordance with the guidelines as per part 4 of the recommendation.

### **8.2 Kaupapa Here me ngā Hiraunga Whakariterite**

#### **Policy and planning implications**

Staff confirm that the matters in this report comply with the Council's legal and policy requirements, and has been the subject of detailed review by Council's internal and external providers.

### **8.3 Tūraru**

#### **Risks**

The staff recommendation addresses the risk arising from Council's inability to satisfy quorum requirements in light of New Zealand's response to Covid-19.

The proposed guideline process to the Chief Executive to follow when exercising the Extended Delegations addresses any risk of Council delegating its functions to the executive level.

### **8.4 Te Whaimana**

#### **Authority**

Full Council have the authority to make decisions concerned the delegations to the Chief Executive and of the way in which the delegations (extended delegations) are to be exercised.

## **9.0 NGĀ ĀPITI HANGA ATTACHMENTS**

N/A

## ROTORUA LAKES COUNCIL

Mayor  
Members  
EXTRA ORDINARY COUNCIL

**COVID-19 AND ROTORUA LAKES COUNCIL RESPONSE**

**Report prepared by:** Oonagh Hopkins, Manager Corporate Planning and Governance  
**Report reviewed by:** Craig Tiriana, Manger CE Office  
**Report approved by:** Geoff Williams, Chief Executive

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**1. TE PŪTAKE  
PURPOSE**

The purpose of this report is to seek in principle a direction from Council to adopt the Government's COVID-19 strategy as the Rotorua Lakes Council strategy for the district and to seek approval to commence work on the development of an implementation plan for the organisation and the district.

**2. HE TŪTOHUNGA  
RECOMMENDATIONS:**

1. That the report 'Covid-19 and Rotorua Lakes Council Response' be received.
2. That the Council adopt in principle the Government's COVID-19 strategy and commence work on the development of a Rotorua Lakes Council approach.  
That the Rotorua Lakes Council approach be based upon:
  - Protecting our people and our community
  - Cushion economic and social impacts
  - Position our district for recovery

**3. TE TĀHUHU  
BACKGROUND**

Government have made the announcement that their COVID-19 strategy is a three phased approach:

1. Fight the virus
2. Cushion the impact
3. Position for recovery

A presentation at the meeting will lead a discussion for elected members that can set guidance to council officers towards the direction and development for a Rotorua Lakes Council approach.