
END OF TRIENNIUM MATTERS

1. Purpose of Report

To set out for Council a number of matters on which decisions must be made in order to ensure the exercise of council responsibilities during the period from when current elected members leave office to when new elected members are able to act, and to avoid any procedural issues in relation to the operation of some committees and current District Plan hearings.

2. Executive Summary

Following good practice, the Council should set in place procedures to ensure the exercise of council functions during the period from when current elected members leave office to when new elected members are able to act, and to avoid any procedural issues in relation to the operation of some committees and current District Plan hearings. This should cover:

- delegations to the Chief Executive
- provisions to ensure the Wellington Civil Defence Emergency Management Group continues during this period
- provisions to ensure the continuation of the Wastewater Treatment Plant and Landfill Joint Committee
- delegations to the Mayor-elect in relation to making and supporting nominations for positions on various Local Government New Zealand (LGNZ) bodies
- procedural steps necessary to ensure those elected members currently sitting as commissioners on District Plan hearing panels can continue their functions immediately after the election.

3. Recommendations

It is recommended that the Council:

1. *Receive the information.*
2. *Agree that, from the day following the Electoral Officer's declaration until the new Council is sworn in, the Chief Executive be authorised to make decisions over and above his normal delegations in respect of urgent matters, in consultation with the Mayor-elect.*
3. *Note that any decisions made under this delegation will be reported to the first ordinary meeting of the Council.*

4. *Note that should any urgent decisions arise during this period, requiring significant political input, or at law must be made by Council, then an extraordinary Council meeting will be called.*
5. *Agree that pursuant to Clause 30(7) of Schedule 7 of the Local Government Act 2002, the Wellington Civil Defence Emergency Management Group and any subcommittee constituted by that Group shall not be deemed to be discharged on the coming into office of the members of the Council elected at a triennial election of members.*
6. *Agree that pursuant to Clause 30(7) of Schedule 7 of the Local Government Act 2002, the Wastewater Treatment Plant and Landfill Joint Committee shall not be deemed to be discharged on the coming into office of the members of the Council elected at a triennial election of members.*
7. *Delegate to the Mayor-elect, in consultation with the Chief Executive, the ability to nominate and/or second Wellington City and other council elected members for the following positions:*
 - a. *metropolitan sector representative positions on the National Council of Local Government New Zealand*
 - b. *Chair of Zone 4 of Local Government New Zealand*
 - c. *Zone 4 representative on the National Council of Local Government New Zealand.*
8. *Agree to include the following names on the Council's approved list of independent hearings commissioners for the period required to enable them to continue as commissioners on the District Plan hearing panels they are currently appointed to:*
 - a. *Ray Ahipene-Mercer*
 - b. *Andy Foster*
 - c. *Alick Shaw*
 - d. *Celia Wade-Brown*
 - e. *Hayley Wain*

5. Discussion

4.1 Delegation to the Chief Executive

Newly elected members come into office the day after the Electoral Officer's declaration but are not able to act formally until they have sworn a declaration at the first Council meeting of the triennium. Under statute the Chief Executive cannot call the first Council meeting until after the formal declaration of results and he normally must give seven days notice of this meeting.

The timetable for the declaration and the first Council meeting is:

- Declaration (and public notice) – 18 October 2007
- First Council meeting (including swearing in ceremony) – 30 October 2007

The current Council is able to make urgent decisions from election day (13 October 2007) until the day of the Electoral Officer's declaration of the results of the election (18 October 2007).

There is a period from 19 October to 30 October 2007 (that is, when the new Council is sworn in) when it will be necessary to have a process in place to enable urgent decisions to be made. The best practice, and that adopted by other local authorities, is to authorise the Chief Executive to deal with urgent matters, in consultation with the Mayor-elect. The previous Council adopted this approach.

It is envisaged that the nature of any issues on which the Chief Executive may have to make a decision would be those normally requiring formal Council approval, under the current delegations, but no significant political debate. The delegation is also limited to those issues requiring an urgent decision, and can not, as a matter of law, include decisions that legislation requires must be made by Council.

Should there be a need for an urgent decision that requires political input of a significant nature, or must at law be decided by Council, during the period in question, then an extraordinary meeting can be called at 24 hours notice. The Mayor-elect and Councillors-elect could be sworn in, and then Council could consider the item.

4.2 Civil Defence Emergency Management Group

Wellington City Council is a member of the regional Civil Defence Emergency Management Group (CDEMG). The Group has been established as a joint standing committee under the Local Government Act 2002.

Section 12(2) of the Civil Defence Emergency Management (CDEM) Act 2002 states that "Clause 30(5) of Schedule 7 of the Local Government Act 2002 [which provides that a local authority may discharge a committee or subcommittee] must not be read as permitting, during a term of local government or as a consequence of a local government election, the discharge or reconstitution of a CDEMG." The purpose of this section is to ensure that a CDEMG remains in existence following local elections, to ensure that political oversight can be provided should an emergency occur between the time when elected members go out of office and the subsequent appointment of local authority members to their CDEMG.

However Clause 30(7) of Schedule 7 of the Local Government Act creates a potential conflict with section 12(2) of the CDEM Act 2002. Under Clause 30(7), all committees are, unless a Council resolves otherwise, deemed to be discharged on the coming into office of the members of the local authority elected at the election. In order to avoid any uncertainty, it is proposed that Council agree that the Wellington CDEMG shall not be deemed to be discharged on the coming into office of the members of the Council following the election. Under the CDEM Act 2002, only the Mayor or the Mayor's delegated

representative can represent Wellington City Council on the Wellington CDEMG. The existing members of the Wellington CDEMG shall be deemed not to have vacated office until new appointments are made. In the event of the Council's current representative not being re-elected, the Mayor shall by default be the Council's representative on the Wellington CDEMG until the incoming Council has appointed a new representative.

4.3 Wastewater Treatment Plan and Landfill Joint Committee

The Wastewater Treatment Plant and Landfill Joint Committee provides governance for the joint services entered into by the Porirua and Wellington City Councils through the joint venture agreements for the Wastewater Treatment Plant and the Spicer Valley Landfill. It has four members, three from Porirua City Council, and one from Wellington City Council.

At its last meeting, the Joint Committee resolved to recommend to both Councils that they resolve to not discharge it, and that the Councils make the appointments to the Joint Committee as soon as possible following the election. Officers agree that the Joint Committee will need to continue in the new triennium, and note that establishing joint committees is a little more complex than establishing single-Council committees. For these reasons, officers recommend that the Council agree that the Joint Committee not be discharged.

4.4 Nominations for Positions on Various LGNZ Bodies

LGNZ has written to all councils, noting that nominations for positions on various LGNZ bodies are due by 30 October 2007, and that late nominations will not be accepted. The positions that are of interest to this Council are:

- metropolitan sector representative positions (three) on the National Council of LGNZ
- Chair of Zone 4 of LGNZ
- Zone 4 representative on the National Council of LGNZ.

National Council is the governing body of LGNZ, and is made up of elected members from the various sectors and zones. Zone 4 is a regional forum developed by LGNZ that allows local authorities to address matters of common interest in the area. Zone 4 comprises all member local authorities within the area bounded by the Wellington Region with the exception of a portion within the Tararua District.

In the past, the Council has both put forward individuals for these positions and supported the nominations of other Councils. Given the timeframe set by LGNZ for the nomination round, it will not be possible to seek Council approval for any proposed nominations, or seconding of nominations made by others. It is proposed, therefore, that the Council delegate to the Mayor-elect, in consultation with the Chief Executive, the ability to nominate and/or second Wellington City and other council elected members for these positions.

Council will still, at a Council meeting following the election, need to approve its own representatives for Zone 4 and, if necessary, decide who to support in any vote required for the positions if more than one (or three in the case of the metro sector positions) nomination is received for them.

4.5 Appointment of Elected Members as Independent Hearings Commissioners

The Council is in the middle of an intense period of hearings and deliberations on a range of District Plan changes. A number of those will be reported to the 10 October 2007 Council meeting, but some will continue into the new triennium. Five members of the current Council (Councillors Foster, Ahipene-Mercer, Shaw, Wade-Brown and Wain) plus an independent commissioner are on District Plan hearing panels (DPC45/46, DPV2, DPC56) that will not have completed their functions by the end of the triennium.

Those sitting on a hearing must hear all submissions, undertake the deliberations, and make a recommendation to Council, or the process will need to start all over again. It is therefore important that the members of each hearing panel remain validly appointed after the election. This is particularly necessary for some of these plan changes, as work on them must recommence as soon as possible after the election (for example, site visits are planned before the incoming Council is sworn in). For these reasons, officers recommend that those five current elected members sitting on these hearing panels be included on the Council's approved list of independent hearings commissioners, in their own name, for the purposes of enabling them to complete their functions on DPC45/46, DPV2, and DPC56. This will ensure that they can continue to take part in the hearing panel functions as required.

5. Conclusion

Following good practice, the Council should set in place procedures to ensure the exercise of council responsibilities during the period from when current elected members leave office to when new elected members are able to act. This should cover delegations to the Chief Executive, provisions to ensure the Wellington Civil Defence and Emergency Management Group continues during this period, provisions to ensure the continuation of the Wastewater Treatment Plant and Landfill Joint Committee, delegations to the Mayor-elect in relation to making and supporting nominations for positions on various Local Government New Zealand (LGNZ) bodies, and procedural steps necessary to ensure those elected members currently appointed to District Plan hearing panels can continue with their functions immediately after the election.

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Supporting Information

1) Strategic Fit / Strategic Outcome

This project supports Outcome 7.2.B – More actively engaged: Wellington will operate an open and honest decision making process that generates confidence and trust in the democratic system.

2) LTCCP/Annual Plan reference and long term financial impact

The project relates to C534: Elections, Governance and Democratic Process.

3) Treaty of Waitangi considerations

Not applicable

4) Decision-Making

This is not a significant decision.

5) Consultation

a) General Consultation

Not applicable

b) Consultation with Maori

Not applicable

6) Legal Implications

The advice in this report has been discussed with the Council's legal advisors.

7) Consistency with existing policy

This report is consistent with existing policy.