

I hereby give notice that an emergency meeting of the Governing Body will be held on:

**Date:** Friday, 10 February 2023  
**Time:** 2.15pm  
**Meeting Room:** Reception Lounge  
**Venue:** Auckland Town Hall  
301-305 Queen Street  
Auckland

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## Tira Hautū / Governing Body OPEN AGENDA

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### MEMBERSHIP

<b>Mayor</b>	Wayne Brown	
<b>Deputy Mayor</b>	Cr Desley Simpson, JP	
<b>Councillors</b>	Cr Andrew Baker	Cr Mike Lee
	Cr Josephine Bartley	Cr Kerrin Leoni
	Cr Angela Dalton	Cr Daniel Newman, JP
	Cr Chris Darby	Cr Greg Sayers
	Cr Julie Fairey	Cr Sharon Stewart, QSM
	Cr Alf Filipaina, MNZM	Cr Ken Turner
	Cr Christine Fletcher, QSO	Cr Wayne Walker
	Cr Lotu Fuli	Cr John Watson
	Cr Shane Henderson	Cr Maurice Williamson
	Cr Richard Hills	

(Quorum 11 members)

**Sandra O'Toole**  
**Kaiarataki Kapa Tohutohu Mana Whakahaere /**  
**Team Leader Governance Advisors**

**9 February 2023**

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**1 Ngā Tamōtanga | Apologies**

An apology from Cr G Sayers has been received.

**2 Te Whakapuaki i te Whai Pānga | Declaration of Interest**

**3 Ngā Kōrero a te Marea | Public Input**

There is no public input section.

**4 Ngā Kōrero a te Poari ā-Rohe Pātata | Local Board Input**

There is no local board input section.

**5 Ngā Pakihi Autaia | Extraordinary Business**



## Provision for decision-making continuity by Governing Body in periods of emergency

File No.: CP2023/00826

Item 6

### Te take mō te pūrongo

#### Purpose of the report

1. To enable continuity of decision making by the Governing Body and its committees during periods of a declared State of Emergency, or other exceptional circumstances where achieving an in-person quorum would be impossible or unsafe.

### Whakarāpopototanga matua

#### Executive summary

2. Forecast upcoming extreme weather is likely to impact necessary decision making by the governing body and its committees. Tight decision-making timelines have already been exacerbated by the unprecedented weather events and recovery over the last two weeks.
3. Currently, the law does not allow for all members to attend governing body meetings electronically. The quorum is half the membership physically present.
4. The terms of reference for other committees also require that members are present in person to contribute to the quorum.
5. Any change to a committee's quorum or the establishment of a new committee with a lower quorum would require a meeting of the governing body to pass a resolution to do so.
6. This report and recommendations ensure that meetings of both the governing body and its committees can continue throughout a declared State of Emergency or other significant extreme event where meeting in person (and travelling to do so) would be impossible or unsafe for staff or members.
7. To ensure ongoing decision making by the governing body where a physical quorum cannot be reached, the formation of a temporary Emergency Committee with a reduced quorum of two members is recommended.
8. For other committees this can be addressed by an amendment to the terms of reference to reduce listed quorums to two members.
9. All other members can attend electronically (and whilst not counted in the quorum), can vote normally as provided for currently.
10. The proposal for a temporary Emergency Committee is not the same as the committee of the same name that was in place during the Covid-19 pandemic. That committee was in place to deal with longer term reconsideration of committee wide work programmes. This Emergency Committee is proposed purely to provide for Governing Body decision making with a reduced quorum where meeting in person might be unachievable.

#### Background

11. A meeting is duly constituted if a quorum is *present*, whether or not all of the members are voting or entitled to vote (clause 23(1) of Schedule 7 of the Local Government Act 2002). *Present* is not defined, but in terms of the history of local government decision-making and the context of Schedule 7, it means physically present.
12. The modification of these requirements made for Covid-19 (which allowed a member attending by electronic link to be treated as present) expired on 20 October 2022 and is therefore no longer available for use in emergencies such as this.

13. The quorum for the Governing Body is 11 members as required by legislation and this cannot be altered by resolution.
14. The Governing Body has also determined that its committees will have a similar quorum, however can amend or set the quorum however it deems appropriate.
15. Members of a local authority can attend a meeting by audio link or audiovisual link if a local authority's standing orders permit such attendance (clause 25A(1) of the Local Government Act 2002). However, a member not physically present at a meeting is not to be counted as present for the purposes of assessing whether there is a quorum (clause 25A(4)).
16. In order to ensure that decision making can continue, and that staff and members are not required to travel into the CBD and be physically present, two aspects need to be addressed.
17. The first is to ensure that where a quorum of the Governing Body cannot be reached that a temporary Emergency Committee with all of the functions and powers of the Governing Body be formed (aside from those that cannot be legally delegated).
18. A lowered quorum of two members physically present in the room (proposed to be the mayor as chairperson, and another councillor) will enable the meeting to occur and most decision-making to continue.
19. All other members can attend electronically, and votes be counted as provided for by existing provisions in the terms of reference.
20. The Emergency Committee will take the place of the governing body temporarily in emergency situations only, and deal with the business included on its agenda or as scheduled. However, it cannot make decisions that are not able to be delegated as listed in the Local Government (Auckland Council) Act 2009, such as approving the budget.
21. The second action required is for all other committees (other than Governing Body) where currently a quorum is listed in the terms of reference. This is typically at least half of the membership.
22. In this regard, an amendment to the Terms of Reference is proposed to lower the quorum to two members during the same State of Emergency circumstances. All other members can attend electronically, and votes be counted, as provided for by existing provisions in the terms of reference.

## Ngā tūtohunga Recommendation/s

That the Governing Body:

- a) whakaae / agree to establish an Emergency Committee of the whole of the governing body, to assume the additional responsibilities retained by the governing body at section 2(h) to (r) of the Governing Body Terms of Reference.
- b) whakaae / agree that the Terms of Reference for the Emergency Committee will include the following:
  - i) all councillors will be members
  - ii) the quorum will comprise two members of the governing body. All of the governing body may participate in the meeting by audio or audio-visual link
  - iii) the Mayor and Deputy Mayor will be the chair and deputy chair of the committee respectively



- iv) that meetings of the Emergency Committee will be held only at the discretion of the Mayor and Chief Executive in emergency or exceptional circumstances (and where they consider transport, travel or attendance may be dangerous, unsafe or impractical)
- v) the Independent Māori Statutory Board may appoint up to two members to sit on the temporary Emergency Committee
- c) whakaae / agree that the Emergency Committee be established immediately.
- d) whakaae / agree that the committee will only be convened on a temporary basis in the event of a:
  - i) State of Emergency; or
  - ii) another exceptional circumstance as agreed by the Mayor and Chief Executive where transport, travel or attendance may be dangerous, unsafe or impractical and where a quorum cannot be achieved
- e) tautapa / delegate the decision to convene a meeting of the Emergency Committee to the Mayor and Chief Executive in emergency or exceptional circumstances and where they consider transport, travel or attendance may be dangerous, unsafe or impractical
- f) tautapa / delegate all of the additional responsibilities retained by the governing body at section 2(h) to (r) of the Governing Body Terms of Reference
- g) whakamana / authorise the Mayor and Deputy Mayor, on recommendation of the Chief Executive, to decide when the emergency or other circumstances no longer require Emergency Committee to be convened
- h) whakaae / agree that the addition of the following words to the Governing Body Terms of Reference to section 1.2 Quorum:
  - i) when a committee is held during a declared State of Emergency or another exceptional circumstance (as agreed by the Mayor and Chief Executive) the quorum is two members physically present. For the avoidance of doubt, this clause will override the listed quorum requirements of each committee in these circumstances and all other members may attend online.

## Ngā tāpirihanga Attachments

There are no attachments for this report.

## Ngā kaihaina Signatories

Author	Steve van Kampen - Governance Support Manager
Authorisers	Phil Wilson - Director, Governance & CCO Partnerships Jim Stabback - Tumu Whakarae / Chief Executive