



PALMERSTON NORTH CITY COUNCIL

**AGENDA
COUNCIL
LATE ITEMS**

9AM, WEDNESDAY 25 MARCH 2020
COUNCIL CHAMBER, FIRST FLOOR, CIVIC ADMINISTRATION BUILDING
32 THE SQUARE, PALMERSTON NORTH



MEMBERSHIP

Grant Smith (Mayor)

Tangi Utikere (Deputy Mayor)

Brent Barrett

Susan Baty

Rachel Bowen

Zulfiqar Butt

Vaughan Dennison

Renee Dingwall

Lew Findlay QSM

Patrick Hancock ONZM

Leonie Hapeta

Lorna Johnson

Billy Meehan

Karen Naylor

Bruno Petrenas

Aleisha Rutherford

Agenda items, if not attached, can be viewed at:

pncc.govt.nz | Civic Administration Building, 32 The Square
City Library | Ashhurst Community Library | Linton Library

Heather Shotter

Chief Executive, Palmerston North City Council

Palmerston North City Council

W pncc.govt.nz | E info@pncc.govt.nz | P 356 8199

Private Bag 11034, 32 The Square, Palmerston North



COUNCIL MEETING

25 March 2020

LATE ITEMS

REPORTS

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Memorandum, presented by Hannah White, Democracy and Governance Manager and Nicholas Jessen, Acting Legal Counsel.
- 17. Establishment of Business Continuity Committee** Page 9
Memorandum, presented by Hannah White, Democracy and Governance Manager and Nicholas Jessen, Acting Legal Counsel.
- 18. Delegation Changes for emergency purpose** Page 13
Memorandum, presented by Stuart McKinnon, Chief Financial Officer; Nicholas Jessen, Acting Legal Counsel.

MEMORANDUM

TO: Council

MEETING DATE: 25 March 2020

TITLE: Alteration to Standing Orders

PRESENTED BY: Hannah White, Democracy and Governance Manager;
Nicholas Jessen, Acting Legal Counsel

APPROVED BY: Sheryl Bryant, General Manager - Strategy & Planning

RECOMMENDATION(S) TO COUNCIL

1. That the report entitled “Alteration to Standing Orders”, of Council meeting 25 March 2020, is received.
 2. That the Standing Orders are altered by removal of SO 2.4.5 and SO 3.4.5 “Definition of quorum for committee meetings” at all times that the New Zealand or Palmerston North alert level for Coronavirus is at “Level 3” or higher.
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1. ISSUE

In the current environment, we cannot rule out the likelihood of committees unable to make quorum. A Council Committee that is required to operate during New Zealand’s Covid-19 alert “Level 3” or higher may require greater flexibility to achieve quorum in circumstances where Committee Members may not be available to attend the meeting.

Under central government emergency provisions, Order in Council may be used to suspend legislation, however as at 24 March 2020 there has not been any announcement re: provisions for the Local Government Act Schedule 7 Clause 25A(4), which requires the quorum to be physically present for a meeting to take place; and Schedule 1 Clause 23(2), which notes that business may not be transacted at any meeting unless at least a quorum of members is present.

2. BACKGROUND

At present, Palmerston North City Council Standing Orders 2.4.5 and 3.4.5 require a higher number of members to be present at a committee meeting (a majority) to meet quorum than the law requires. Local Government Act Schedule 7, Clause 23(3) only requires two elected members to be present for committee quorum to be met.

Standing Order 2.4.5 and 3.4.5 state:

The quorum at any meeting of a committee or subcommittee shall consist of half the members (including vacancies) if the number of members is even and a majority if the number is odd, and in the case of a committee (other than a sub-committee) shall include at least one member of the local authority. This order shall apply to committees and sub-committees regardless of whether or not existing at the time this order was adopted.

In order to safeguard Council committees' ability to meet to make decisions during the pandemic, it is recommended that Council alter (by removal) **Standing Order 2.4.5 and 3.4.5 Definition of quorum for committee meetings** so that the Standing Orders are in line with the LGA minimum requirement, ie. to make the quorum for committees 2 members.

Reducing the quorum does not restrict members from attending committee meetings. However, it does allow for decisions to be made if less members are unable to attend in person.

Note, a change in Standing Orders requires 75% of Members present at the meeting to approve it (according to the process for alteration of Standing Orders noted into SO 2.1.2).

3. COMPLIANCE AND ADMINISTRATION

Does the Committee have delegated authority to decide?	Yes
Are the decisions significant?	No
If they are significant do they affect land or a body of water?	No
Can this decision only be made through a 10 Year Plan?	No
Does this decision require consultation through the Special Consultative procedure?	No
Is there funding in the current Annual Plan for these actions?	No
Are the recommendations inconsistent with any of Council's policies or plans?	No
The recommendations contribute to Goal 5: A Driven and Enabling Council	
The recommendations contribute to the outcomes of the Driven and Enabling Council Strategy	
The recommendations contribute to the achievement of action/actions in Not Applicable	

Contribution to strategic direction and to social, economic, environmental and cultural well-being	A decision of this nature would allow Council Committees greater flexibility to continue to discharge the duties of the Local Authority during an emergency period.
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ATTACHMENTS

Nil

MEMORANDUM

TO: Council

MEETING DATE: 25 March 2020

TITLE: Establishment of Business Continuity Committee

PRESENTED BY: Hannah White, Democracy and Governance Manager;
Nicholas Jessen, Acting Legal Counsel

APPROVED BY: Sheryl Bryant, General Manager - Strategy & Planning

RECOMMENDATION(S) TO COUNCIL

1. That the report entitled “Establishment of Business Continuity Committee”, of Council meeting 25 March 2020, is received.
 2. That a new Standing Committee, “Business Continuity Committee” is established as of 25 March 2020 and remains in place at all times that the New Zealand or Palmerston North alert level for Coronavirus is at “Level 3” or higher.
 3. That all current Standing Committees except the Hearings Committee and Hearings by Commissioner are suspended as of 25 March 2020 and that this suspension remains in place at all times that the New Zealand or Palmerston North alert level for Coronavirus is at “Level 3” or higher.
 4. That the Council adopts the Terms of Reference (attached) of the Business Continuity Committee.
 5. That the Council approve Delegation 170A (attached) for the period of the establishment of the Business Continuity Committee.
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1. ISSUE

From 26 March 2020 New Zealand will be at Coronavirus Alert Level 4. This brings unprecedented restrictions on freedom of movement for at least the next four weeks, and considerable uncertainty as to how Elected Members, together with essential Council officers and will be able to resource, report, discuss and debate matters during Council and Committee meetings in this period, while at the same time protecting the health and safety of members and officers.

It is also recognised that most functions currently given to existing committees through delegation and terms of reference, while important to the Palmerston North Community, do

not relate to functions, powers, and duties that are essential to the continuation of essential services or statutory requirements of the Council while a Level 3 or higher alert level is in place.

Accordingly, there is good reason to ensure that the core functions, powers and duties of the Council are streamlined as much as possible through an emergency committee, and that the Council's business is limited to the core functions, powers and duties of local government.

2. BACKGROUND

In order to protect the safety and wellbeing of Elected Members and to safeguard Council's capacity to meet legislative requirements and to ensure committees' ability to meet to make decisions for the continuous functioning of the Local Authority, it is recommended that Council establish a Business Continuity Committee with the attached terms of reference for the period of Coronavirus Alert Level 3 or higher.

The first objective of the business continuity committee is to receive Delegation from the Council for all those functions, powers, and duties that the Council may lawfully delegate. Note that there are several functions, powers, and duties that may not be lawfully delegated, including, among other statutory exclusions, those matters listed at Schedule 7, clause 32, of the Local Government Act 2002. If the Recommendation is approved and business is primarily conducted through Committee, Members will be encouraged to exercise vigilance in relation to the exercise of their lawful functions.

The second objective of the Business Continuity Committee will be to adopt the functions, powers and duties of the existing Finance and Audit Committee where performance will be essential during Alert Level 3 or higher.

The District Licensing Committee will not meet during this period.

While it is not anticipated that the Hearings Committee, will be required to convene and progress to schedule hearings during the Alert Level 3 or higher, the Hearings Committee will require its current delegation to stay in place in order to give any direction as appropriate in respect of any hearings currently Scheduled or in progress.

Other Committees, while important to the Council and achievement of its statutory function under the Local Government Act 2002 (and other legislative sources), are not identified as essential to the continuity of the Local Authority's during Alert Level 3 or higher.

3. COMPLIANCE AND ADMINISTRATION

Does the Committee have delegated authority to decide?	Yes
Are the decisions significant?	No

If they are significant do they affect land or a body of water?	No
Can this decision only be made through a 10 Year Plan?	No
Does this decision require consultation through the Special Consultative procedure?	No
Is there funding in the current Annual Plan for these actions?	No
Are the recommendations inconsistent with any of Council’s policies or plans?	No
Delegations Manual will need to be updated.	
The recommendations contribute to Goal 5: A Driven and Enabling Council	
The recommendations contribute to the outcomes of the Driven and Enabling Council Strategy	
The recommendations contribute to the achievement of action/actions in Not Applicable	
Contribution to strategic direction and to social, economic, environmental and cultural well-being	Allows for business continuity during emergency situation.

ATTACHMENTS

- Schedule of alterations to delegations - Business Continuity Committee



Proposed changes are underlined

Schedule of alterations to Delegations Manual

[insert new clause 170A]

Business Continuity Committee

170A The Committee has delegated authority to:

- (a) exercise all functions, powers and duties of the Local Authority, which it would otherwise exercise in a Council Meeting;
- (b) Exercise the delegations given under clause 173-178 to the Finance & Audit Committee.

This Delegation does not include all those functions, powers, and duties which the Council is not entitled by law to delegate.

Business Continuity Committee

Terms of Reference:

1. The Committee and delegation is provided to ensure that the Council can continuously perform critical functions and services and to otherwise exercise the Council's functions powers and duties during Coronavirus Alert Levels 3 and 4.
2. The Chair of the Committee will be the Mayor.
3. The Deputy Chair of the Committee will be the Deputy Mayor.
4. The members of the Committee will be all current Councillors.
5. The Committee will meet at the request of the Chair.
6. The Committee will exercise all functions, powers and duties granted to the Council, which it would otherwise exercise in a Council Meeting, except for those functions, powers, and duties which the Council is not entitled by law to delegate.
7. The Committee will assume the delegated authority to undertake essential business of the Finance and Audit Committee.
8. The Committee may receive any reports from the Chief Executive on any expenditure or transactions that may be required or incurred as a result of an Emergency.
9. Notwithstanding any provision to the contrary, the Committee may hear oral or written submission on any matter, relating to any consultation that the Local Authority may undertake.

MEMORANDUM

TO: Council

MEETING DATE: 25 March 2020

TITLE: Delegation Changes for emergency purpose

PRESENTED BY: Stuart McKinnon, Chief Financial Officer;
Nicholas Jessen, Acting Legal Counsel

APPROVED BY: Sheryl Bryant, General Manager - Strategy & Planning

RECOMMENDATION(S) TO COUNCIL

1. That the report entitled “Delegation Changes for emergency purpose”, of Council meeting 25 March 2020, is received.
 2. That the “Specified Sum” as identified at clause 102 of the Delegation be temporarily set at \$3.2 million at all times that the New Zealand or Palmerston North alert level for Coronavirus is at “Level 3” or higher, in accordance with recommended clause 102A.
 3. That the Council provide a temporary delegation, “the Coronavirus Emergency Expenditure,” to the Chief Executive to empower the Chief Executive to enter transactions of up to \$3,200,000 subject to appropriate constraints as identified in the recommended clause 211A.
 4. That all spending related to the Coronavirus (COVID-19) response be reported to the Finance and Audit Committee within 6 months after the lowering of the alert levels.
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1. ISSUE

There is a concern that the Chief Executive’s existing financial delegations may not provide appropriate flexibility to ensure financial obligations are met during the Coronavirus outbreak, in particular during the period of Alert Level 3 or higher. This may include allowance for any contingency spending that may arise during the Council’s restricted functionality in circumstances where there may be irregular meetings of the Business Continuity Committee.

The Council must ensure that the Chief Executive has the necessary financial authority to deal with urgent financial concerns if the Business Continuity Committee or Council are unable to meet quorum or unable to meet within the timeframes required to give notice of meeting.

2. BACKGROUND

Specified Sum

The Financial Delegation to the Chief Executive is subject to specific limitations, which are set according to an identified “Specified sum” in the Delegations. The Specified Sum is currently set at \$1,600,000, and was last updated in 2017. It is recommended that the Specified Sum is increased to \$3,200,000 for this emergency period.

The figure selected is twice the existing specified sum. The figure is recommended on the basis that it ought to be sufficient to allow for all reasonably foreseeable expenditure that may be required, while allowing for potential expenditure that may not be foreseeable but for which financial flexibility (subject to the limits specified in the existing delegation) may become necessary.

It is acknowledged that the Specified Sum is a base sum that is used to calculate limits in a range of delegations to the Chief Executive. For example delegation 164, which provides for contracts under 20% of the Specified sum; delegation 213, concerning the Chief Executive power to settle claims to a percentage of the Specified Sum; and delegation 221, concerning the Chief Executive power to write off bad debts to a value of 0.5% of the Specified Sum.

In relation to the delegation to write off bad debts (Delegation 221), it would be appropriate to retain the existing limits until the legal liability implications can be more fully investigated. In that case, the calculation of the limit for the purposes of Delegation 221 will be kept to the current Specified Sum. Otherwise, there are not any specific concerns regarding unintended or undesirable consequences from this change.

Coronavirus Emergency Expenditure

It is recommended that a temporary delegation is provided to the Chief Executive in the first instance (or if the Chief Executive is unavailable, the Deputy Chief Executive, or a General Manager, or the Infrastructure Manager in order of organisational hierarchy) to allow the Chief Executive to enter transactions up to \$3,200,000.

The purpose of this emergency expenditure delegation is to enable the flexibility for the Chief Executive to enter into transactions up to a limit higher than what is otherwise afforded by the financial delegations. There is a defined list of delegates who may exercise the power as set out in the Manual.

The purpose for which the higher expenditure may be required cannot precisely identified, and it is appropriate that the delegations accounts for reasonable flexibility in terms of the nature of the transaction. Appropriate checks and balances are incorporated within the recommended delegation clause.

The existing clause for emergencies remains unaffected, but for the increase to the Specified sum. The definition of “emergency” in the Delegations Manual, could not be used for pandemic responses.

In addition to the checks and balances within the temporary delegation, it is also recommended that any expenditure in relation to the Coronavirus response is reported to the Finance and Audit Committee at the recommencement of normal Council business.

3. COMPLIANCE AND ADMINISTRATION

Does the Committee have delegated authority to decide?	Yes
Are the decisions significant?	No
If they are significant do they affect land or a body of water?	No
Can this decision only be made through a 10 Year Plan?	No
Does this decision require consultation through the Special Consultative procedure?	No
Is there funding in the current Annual Plan for these actions?	No
Are the recommendations inconsistent with any of Council’s policies or plans?	Yes
Recommended changes to the delegations noted above.	
The recommendations contribute to Goal 5: A Driven and Enabling Council	
The recommendations contribute to the outcomes of the Driven and Enabling Council Strategy	
The recommendations contribute to the achievement of action/actions in Not Applicable	
Contribution to strategic direction and to social, economic, environmental and cultural well-being	Making these changes to the Delegations will allow the CE greater flexibility during the emergency period while still retaining an oversight role for governance.

ATTACHMENTS

- Schedule of alteration to delegations - Financial delegations [↓](#) 

Proposed changes are underlined

Schedule of alterations to Delegations Manual

Specified Sum

101. On 1 July 2013 and on 1 July in every succeeding year, the Chief Executive will adjust the Specified Sum by increasing it or decreasing it in proportion to movements in the officially published Consumers Price Index (CPI) in the manner set out in the following formula:

SPECIFIED SUM

(1 July, year of review) = \$1,500,000 x CPI March, year of review / CPI 31 March 2012

and the figure so derived shall be rounded to the nearest \$50,000 and reported to Council and at the time of such report clause 142 shall be amended as required.

102. The current Specified Sum is \$1,600,000.

Specified sum during Palmerston North or New Zealand Covid-19 alert "Level 3" or higher

- 102A. Notwithstanding Clause 102, during the period that the Palmerston North or New Zealand Alert Level for Covid-19 (Coronavirus) is at "Level 3" or higher as determined by the New Zealand Government, the Specified Sum is \$3,200,000.

Coronavirus Emergency Expenditure

- 211A This delegation has effect during the period that the Palmerston North or New Zealand Alert Level for Covid-19 (Coronavirus) is at "Level 3" or higher, as determined by the New Zealand Government.

Notwithstanding anything else in these financial delegations, the Chief Executive or, in his or her absence or unavailability, the Deputy Chief Executive, and in the absence or unavailability of both those office-holders any General Manager, and in the absence of all the preceding officers the Infrastructure Manager, may take steps to enter into, approve, execute, complete or otherwise authorise any Transaction requiring Expenditure up to \$3,200,000, regardless of whether any provision has been made for the Expenditure in an Operating Budget or Capital Programme Budget.

The exercise of this delegation is conditional upon the following:

- (a) The Transaction must be reasonably necessary for the Council to enter into, approve, execute, complete or otherwise authorise on an urgent basis, in

circumstances where it is impractical to convene a meeting of the Business Continuity Committee.

- (b) The Transaction must be for the purpose of:
 - (i) The continuation of critical functions and services of the Council during Coronavirus Alert Level 3 or higher; or
 - (ii) The Council's response to the effects of the Coronavirus on the Palmerston North Community.
 - (c) Prior to exercise of the delegation, the delegate must first consult with the Chair of the Business Continuity Committee in the first instance, and if the Chair is not available the Deputy Chair, and if the Deputy Chair is not available, the Chair of the Finance and Audit Committee providing all reasonable information in relation to the proposed exercise of the delegation as may be required by the Member consulted.
 - (d) After the exercise of the delegation, the delegate must report to the Business Continuity Committee. Without limitation, the report must include the background to the Transaction, and the reasons for urgency, and the purpose of the Transaction, to the satisfaction of the Business Continuity Committee.
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