

1. FORMATION OF CANTERBURY CIVIL DEFENCE EMERGENCY MANAGEMENT GROUP JOINT STANDING COMMITTEE

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The purpose of this report is to bring the Council up to date on developments in the formation of a joint Canterbury Civil Defence Emergency Management (CDEM) Group, and to enable the Council to pass the necessary resolutions to establish a joint standing committee to meet the Council's obligations under section 12 of the Civil Defence Emergency Management Act 2002 (CDEM Act 2002).

The current round of changes to CDEM are intended to bring about more effective regional and national co-ordination of planning for, and response to, risks and actual emergency events. Canterbury's local authorities have led the way in terms of regional Civil Defence co-operation, both prior to and during the development of the CDEM Bill and its eventual enactment in October 2002.

The CDEM Act 2002 (section 17) compels all Canterbury councils, and the CDEM Group they are required to establish, to:

- Take a rigorous approach to assessing and responding to risks
- Make adequate personnel and material provision for effective CDEM responses in its area
- Respond to and manage adverse effects of emergencies
- Carry out recovery activities
- Assist other CDEM groups
- Promote and raise awareness of CDEM and compliance with the CDEM Act within its area
- Develop, approve, implement, monitor and regularly review a CDEM Group Plan
- Participate in the development of the National CDEM Strategy and Plan

BACKGROUND

The formation of the CDEM Group joint committee has been the subject of several Canterbury Forums and Trial CDEM Group Strategy Working Party meetings in recent years. The need for, and value of, a CDEM Group has been widely recognised and agreed to at those meetings.

All parties have agreed to principles of co-operation and openness as partners in the CDEM GROUP – these principles have been enshrined in the Draft Terms of Reference.

PROPOSAL

This report proposes that:

- A joint standing committee be established by the Council, under the provisions of section 30 of schedule 7 of the Local Government Act 2002 (LG Act 2002), to meet the Council's obligations under section 12 of the CDEM Act 2002, with agreed Terms of Reference,
- The Council appoint a representative to the CDEM Group, and
- The CDEM Group be empowered to delegate its functions, obligations and powers to a subcommittee, to avoid the 100% quorum problem of section 31(1)(4)(a) of schedule 7 of the LG Act 2002.

CONSIDERATION OF OPTIONS

Terms of Reference

Given the requirements of the CDEM Act 2002, the Council has few options available with regard to forming a CDEM Group joint standing committee. The attached Terms of Reference (Attachment 1) represent the least the Council is able to do to meet its obligations to form a Group under section 12 of the CDEM Act 2002.

Constituting Agreement

An option considered by the Trial CDEM Group's Strategy Working Party and CEOs of Canterbury councils was a more in-depth draft constituting agreement. That option was developed in considerable detail over the past two years.

The objective of that relatively detailed agreement was to have as many organisational and funding issues dealt with in the agreement, prior to the CDEM Group joint committee being formed.

The draft constituting agreement was adopted, at least in principle, by 8 of the 11 Canterbury councils in 2002 (including by the Christchurch City Council in December 2001). However, at a 27 January 2003 meeting of CEOs, the CEOs of several councils expressed the view that the constituting agreement approach was unnecessarily restrictive and possibly prejudicial to the CDEM Group determining its own policies, priorities and activities.

The compromise option, agreed to by all of the CEOs present at that meeting, is the Terms of Reference recommended in this report (Attachment 1).

The thrust of the terms of reference is not dissimilar to that of the draft constituting agreement, as it has been prepared under the same statutory provisions. The terms of reference do, however, leave more issues unresolved than the earlier draft constituting agreement. In particular, the CDEM Group will itself now have to agree:

- A funding model for its administrative and operational activities, and
- How decision-making within the Group, particularly casting votes, will be managed

Do Nothing

A “do nothing” option was not available for consideration in this instance. Section 12(1) of the CDEM Act 2002 is quite specific, in that:

“Within 6 months after the date of the commencement of this Act (1 December 2002),

- (a) *every regional council and **every territorial authority** within that region **must** unite to establish a Civil Defence Emergency Management Group...* (emphasis added).

FINANCE

The only immediate financial matters relevant to Council raised by this report are:

- (a) The costs, including remuneration, of the Council’s representation on the CDEM Group. These costs are likely to be limited to travel and meeting allowances, although a very limited amount of administrative costs are also likely to be incurred.
- (b) The cost of input from officers, particularly those with Civil Defence responsibilities, but also some of those with planning, engineering, policy and service delivery responsibilities, in the development of the CDEM group plan.

No agreement has been reached by CEOs as to a preferred model of funding for CDEM Group activities. Sections 16(d) and 24(3) of the CDEM Act require that the Group determine these matters in relation to “administrative and related services” and section 16(e) of the CDEM Act requires each council to meet the costs of agreed CDEM activities.

Regional CDEM facilities and functions are currently provided and rated for by Environment Canterbury. Those activities are likely to continue at least until a new Canterbury CDEM Group Plan is finalised - before June 2005. It is anticipated that CDEM Group activities will be funded by a separate CDEM rate collected by Environment Canterbury, on behalf of the CDEM Group, from 1 July 2003. That rate will appear separately in Environment Canterbury’s annual plan and in its rate assessments across the region.

If the CDEM Group is eventually unable to decide on a funding model, the default model, provided for in section 24(4) of the CDEM Act 2002, would require all member councils to meet the “administrative and related” costs of the Group on an equal, 1/11 share basis. This would be likely to result in all Canterbury councils, other than Christchurch City Council and Environment Canterbury, having to make substantial additional provision in their annual plans for CDEM Group costs and would result in their ratepayers making appreciably higher contributions to regional CDEM activities than they do at present.

SOCIAL, ECONOMIC, CULTURAL AND ENVIRONMENTAL BOTTOM LINES

The purpose (section 3) of the CDEM Act 2002, "... to:

- (a) *improve and promote the sustainable management of hazards (as that term is defined in this Act) in a way that contributes to the social, economic, cultural, and environmental well-being and safety of the public and also to the protection of property ...",*

echoes and focuses the Council's responsibilities under the purpose of the Local Government Act 2002. The "all hazards" and risk management approaches required under the CDEM Act 2002 are intended to result in better outcomes for the social, economic, cultural and natural environments. The more co-operative, rigorous, effective and efficient structural, planning and operational opportunities provided by the establishment of CDEM Groups will assist the Council in meeting its obligations under both acts.

CONSULTATION

The CDEM Act 2002 does not provide for consultation with the community on the matter of the formation of the CDEM Group, although it does require substantive consultation during the development and adoption of the CDEM Group Plan. Members of the Regional Civil Defence Committee, CEOs and officers have had opportunities to keep their councils up to date on the development of the CDEM bill and activities undertaken by working parties of the Trial CDEM Group over the past five years.

IMPLEMENTATION PLAN

Subject to the passing of the various resolutions by the member councils to form the CDEM Group joint committee, the inaugural meeting of the CDEM Group is planned for 28 April. It is anticipated that that meeting will deal with several administrative matters, but that the main substantive matters for the meeting will be the:

- (a) Determination of funding principles for the CDEM Group, and
- (b) Establishment of a Co-ordinating Executive Group, required by section 20 of the CDEM Act 2002, consisting of CEOs or senior officers of member councils, senior representatives of emergency services, and any additional co-opted members.

It is anticipated that a second meeting of the CDEM Group would follow shortly thereafter. The second meeting will cover more detailed consideration of Group activities, budgets and funding.

DELEGATIONS AND AUTHORITIES

Establishment of CDEM Group Subcommittee

Legal advice, provided to the Trial CDEM Group Strategy Working Party by solicitors Buddle Findlay, puts the case that standard, majority based-quorum provisions for committees cannot apply to joint committees, such as the CDEM Group joint committee, by virtue of section 31(1)(4)(a) of schedule 7 of the LG Act 2002.

That section requires that "... at least 1 member of a committee must be an elected member of **the local authority**" (emphasis added). This imposes a quorum of all 11 member Councils on the CDEM Group that would be difficult, if not often impossible, to meet – given the vagaries of attendance at regional-level meetings, even with the best will of members.

The solution proposed by Buddle Findlay is that the member councils empower the CDEM Group to establish a fully-delegated subcommittee. The subcommittee would be able to work on a standard, majority quorum provided for in Model Standing Orders (NZS 9202:2001), therefore ensuring that the CDEM Group can make progress.

Council's representative on CDEMG

Section 13(4) of the CDEM Act states that:

"Each local authority that is a member of a Group with other local authorities must be represented on the Group by one, and only one person, being the Chairperson of that local authority or an elected person from that local authority who has delegated authority to act for the Chairperson."

The Council will therefore need to appoint either the Mayor, or another Councillor, as the Christchurch City Council representative on the CDEMG.

Authority Delegated to Representatives

For the CDEM Group to carry out its functions and duties effectively, it is preferable that the Council's representative to the CDEM Group be regarded as having been given full delegated authority to act for and on Council's behalf in relation to CDEM Group matters. This is the approach recommended in the CDEM Director's guidelines - although an explicit clause in the terms of reference providing for such delegation is not necessary, as the delegation is implicit in the appointment itself.

- Recommendation:**
1. That the report be received.
 2. That, pursuant to section 12 of the Civil Defence Emergency Management Act 2002, the Council establish a joint standing committee to be known as the Canterbury Civil Defence Emergency Management Group (the Group).
 3. That the terms of reference for the Group, in the form produced to this meeting, be approved.
 4. That Councillor Sue Wells be appointed as the Council's representative on the Canterbury Civil Defence Emergency Management Group
 5. That the Council's representative be authorised, at any time and from time to time by notice in writing, to delegate to any other elected members of the Council authority to act as the Council's representative to the Canterbury Civil Defence Emergency Management Group.
 6. That the Group be authorised to delegate to a subcommittee, constituted of all of the representatives of the councils that are members of the Group, authority to carry out all of the functions, obligations and powers of the Group.