



# Bay of Plenty Civil Defence Emergency Management Group

## CONSTITUTION

### Parties:

**Bay of Plenty Regional Council  
Kawerau District Council  
Opotiki District Council  
Rotorua District Council  
Tauranga City Council  
Western Bay of Plenty District Council  
Whakatane District Council**

July 2013

Bay of Plenty Civil Defence Emergency Management Group  
C/O Bay of Plenty Regional Council  
5 Quay Street  
PO Box 364  
Whakatāne 3158  
New Zealand

---

## Contents

---

Contents .....	2
1. Parties.....	3
2. Definitions .....	3
3. Membership of the Group.....	4
4. Adoption of Constitution .....	4
5. Purpose of Constitution .....	5
6. Documents Incorporated by Reference .....	5
7. Functions of the Group.....	5
8. General Powers of the Group.....	6
9. Obligations of Members .....	7
10. Administering Authority .....	7
11. Representatives to have full Delegated Authority .....	8
12. Meetings .....	8
13. Chairperson and Deputy Chairperson .....	8
14. Voting.....	9
15. Civil Defence Emergency Management Group Plan.....	9
16. Co-ordinating Executive Group .....	9
17. Group Emergency Management Office .....	9
18. Group Funding and Budget .....	10
19. Contracts.....	10
20. No Discharge Following a Triennial Election .....	10
21. Appointment of Group Controller .....	11
22. Appointment of Local Controllers .....	11
23. Appointment of Persons who may Declare a State of Local Emergency .....	11
24. Good Faith .....	12
25. Dispute Resolution .....	12
26. Variations .....	12

## 1. Parties

1.1 Each of the following local authorities is a Party to this Constitution and is a Member of the Bay of Plenty Civil Defence Emergency Management Group:

- (a) Bay of Plenty Regional Council;
- (b) Kawerau District Council;
- (c) Opotiki District Council;
- (d) Rotorua District Council;
- (e) Tauranga City Council;
- (f) Western Bay of Plenty District Council; and
- (g) Whakatane District Council.

## 2. Definitions

2.1 In this Constitution:

"Act" means the Civil Defence Emergency Management Act 2002 (as amended, supplemented or replaced from time to time).

"Administering Authority" means the Bay of Plenty Regional Council.

"Bay of Plenty Region" means the Bay of Plenty Region as defined in the Local Government (Bay of Plenty Region) Reorganisation Order 1989.

"Co-ordinating Executive Group" or "CEG" means the Co-ordinating Executive Group established pursuant to section 20(1) of the Act and clause 16 of this Constitution.

"Constitution" means this Constitution which sets out the obligations and rules of operation for the Group and which has been adopted by resolution of the Group.

"Founding Constitution" means the Bay of Plenty Civil Defence Emergency Management Group Constitution to which each Party listed in clause 1.1 is a party and which was adopted by the Group on 4 August 2003.

"Group" or "CDEM Group" means the joint standing committee of mayors/chairperson of local authorities within the Bay of Plenty Region established pursuant to section 12 of the Act and under the Founding Constitution.

"Group Emergency Management Office" means the Emergency Management Office established under clause 17 of this Constitution.

"Group Controller" means a person appointed under clause 21 of this Constitution and pursuant to section 26 of the Act to discharge and perform the functions, powers and duties of Group Controller of the Bay of Plenty Region as set out in section 28 of the Act.

"Group Plan" means the Bay of Plenty Civil Defence Emergency Group Plan prepared by the Group in accordance with the Act and clause 15 of this Constitution.

"Member" and "Members" means a local authority (including the Bay of Plenty Regional Council) that is a member of the Group.

"Party" or "Parties" means a party to this Constitution.

"Reference Documents" has the meaning set out in clause 6.1.

"Representative" has the meaning set out in clause 3.5.

"Service Level Agreement" has the meaning set out in clause 6.1(b).

"Standing Orders" means the New Zealand Standard Model Standing Orders for Meetings of Local Authorities and Community Boards (NZS 9202:2003), or any New Zealand Standard substituted for that standard.

### **3. Membership of the Group**

- 3.1 The Group was established in accordance with section 12 of the Act as a joint standing committee under clause 30(1)(b) of Schedule 7 of the Local Government Act 2002 pursuant to the Founding Constitution.
- 3.2 The Group is known as the Bay of Plenty Civil Defence Emergency Management Group.
- 3.3 Each local authority named in this Constitution is required to be a Member of the Group pursuant to section 13(1) of the Act.
- 3.4 The members of the Group are those local authorities named in clause 1.1 of this Constitution, and any other local authorities lying partly within the boundaries of the Bay of Plenty region who, by resolution of the Members, are permitted to join the Group.
- 3.5 Each local authority will be represented on the Group by one person only, being the mayor or chairperson of that local authority or an elected person from that local authority who has delegated authority to act for the mayor or chairperson ("Representative").
- 3.6 Pursuant to clause 30(9) of Schedule 7 of the Local Government Act 2002, the power to discharge any individual Representative and appoint his or her replacement must be exercised only by the Member that made that appointment.
- 3.7 Each Member's Representative must be reaffirmed by each Member as soon as practicable following each triennial Local Government election.

### **4. Adoption of Constitution**

- 4.1 This Constitution replaces the Founding Constitution and will come into force on the date that:
  - (a) The Group passes a unanimous resolution revoking the Founding Constitution and adopting this Constitution; and

(b) The last Member to sign signs this Constitution.

4.2 The Founding Constitution will be revoked and will cease to have effect from the date on which this Constitution is adopted.

4.3 The terms of this Constitution may only be amended by unanimous written resolution of the Group.

**5. Purpose of Constitution**

5.1 The purpose of this Constitution is to:

(a) Set out the purposes, functions, powers, and duties of the Group and its Members in accordance with the requirements of the Act,

(b) Provide for the administrative arrangements of the Group, and

(c) Set out the rules relating to the conduct and operation of the Group.

5.2 For the avoidance of doubt, in the event of any inconsistency between the terms of the Act and the terms of this Constitution, the Act will prevail.

**6. Documents Incorporated by Reference**

6.1 The following documents (as amended, supplemented or replaced by unanimous resolution of the Group) are incorporated by reference and form a part of this Constitution ("Reference Documents"):

(a) The Policy for the Appointment and Development of Controllers (January 2013).

(b) The Service Level Agreement between the Bay of Plenty Regional Council and the Bay of Plenty CDEM Group relating to the provision of administrative functions to the Group by the Bay of Plenty Regional Council ("Service Level Agreement").

(c) The Co-ordinating Executive Group's Terms of Reference.

6.2 The Parties acknowledge that nothing in the Reference Documents may derogate from, or be inconsistent with, the Act or the terms of this Constitution. In the event of any inconsistency between the Reference Documents and:

(a) The Act, the Act will prevail; and

(b) This Constitution, this Constitution will prevail.

**7. Functions of the Group**

7.1 The functions of the Group and of each Member are described in the Act, including but not limited to, sections 17-20, 25-27, 48, 56, 59 and 64. Key functions of the Group are also described in clause 7.2 below and in the following parts of this Constitution.

7.2 Section 17 of the Act states that the functions of a Civil Defence Emergency Management Group, and of each member, include:

(a) In relation to relevant hazards and risks:

- (i) identifying, assessing, and managing those hazards and risks;
  - (ii) consulting and communicating about risks; and
  - (iii) identifying and implementing cost-effective risk reduction;
- (b) Taking all steps necessary on an on-going basis to maintain and provide, or to arrange the provision of, or to otherwise make available suitably trained and competent personnel. This includes volunteers, and an appropriate organisational structure for those personnel, for effective civil defence emergency management in its area;
  - (c) Taking all steps necessary on an on-going basis to maintain and provide, or to arrange the provision of material, services, information, and any other resources for effective civil defence emergency management in its area;
  - (d) Responding to and managing the adverse effects of emergencies in its area;
  - (e) Carrying out recovery activities;
  - (f) When requested, assisting other Groups in the implementation of civil defence emergency management in their areas (having regard to the competing civil defence emergency management demands within the Group's own area and any other requests for assistance from other Groups);
  - (g) Within its area, promoting and raising public awareness of, and compliance with, the Act and legislative provisions relevant to the purpose of the Act;
  - (h) Monitoring and reporting on compliance within its area with the Act and legislative provisions relevant to the purpose of the Act,
  - (i) Developing, approving, implementing, and monitoring a civil defence emergency management group plan and regularly reviewing the plan;
  - (j) Participating in the development of the national civil defence emergency management strategy and the national civil defence emergency management plan; and
  - (k) Promoting civil defence emergency management in its area that is consistent with the purpose of the Act.

## 8. **General Powers of the Group**

- 8.1 Pursuant to section 18 of the Act, the Group has all the powers that are reasonably necessary or expedient to enable it to perform its functions, including the power to delegate any of its functions to Members, the Group Controller or other persons.
- 8.2 Without limiting the generality of section 18 of the Act, the Group may:
  - (a) Recruit and train volunteers for civil defence emergency management tasks;

- (b) Conduct civil defence emergency management training exercises, practices, and rehearsals;
- (c) Issue and control the use of signs, badges, insignia, and identification passes authorised under the Act, regulations made under the Act, or any civil defence emergency management plan;
- (d) Provide, maintain, control, and operate warning systems;
- (e) Provide communications, equipment, accommodation, and facilities for the exercise of its functions and powers during an emergency; and
- (f) Exercise any other powers that are necessary to give effect to any civil defence emergency management plan.

## 9. **Obligations of Members**

### 9.1 Each Member of the Group will:

- (a) Appoint one elected representative to the Group;
- (b) Pursuant to section 20(1) of the Act, appoint its chief executive officer or a person acting on the chief executive officer's behalf to the Co-ordinating Executive Group;
- (c) Participate in the preparation of, and agree to, the content of the Group Plan;
- (d) Contribute technical expertise and resources to maintain an effective Group and local level civil defence emergency response capability; and
- (e) Provide to the Group the information (or reports) that may be required by it to discharge its powers, functions and duties under the Act and the Group Plan; and
- (f) Provide its share of funding to the Group as required pursuant to the terms of the Group Plan, the Service Level Agreement, the Group budget (agreed by the Members pursuant to clause 18 of this Constitution) or as otherwise agreed in writing by the Members of the Group.

9.2 Each local authority Member of the Group will be responsible for the risk reduction, readiness, response and recovery arrangements required of it under the Act, and under the Group Plan, or as otherwise agreed by the Group.

9.3 Every obligation, agreement, covenant, responsibility and liability under the Group Plan is binding and enforceable on every Member of the Group.

## 10. **Administering Authority**

10.1 Pursuant to section 23 of the Act, the Administering Authority for the Group is the Bay of Plenty Regional Council. The Administering Authority is responsible for providing administrative and related services that are required by the Group. The functions of the Administering Authority are described in section 24 of the Act and in the Service Level Agreement.

10.2 The costs payable to, and recoverable by, the Administering Authority for the services provided to the Group are set out in the Service Level Agreement.

10.3 The relationship between the Administering Authority, the Co-ordinating Executive Group and the Group Emergency Management office is described in the Service Level Agreement.

**11. Representatives to have full Delegated Authority**

11.1 Each local authority Member agrees to give full delegated authority to its Representative in order to enable the Group to exercise the functions, powers, and duties of Members under the Act within approved Group budgets (including those functions, powers and duties referred to in clauses 7 and 8 of this Constitution).

11.2 At meetings of the Group, each Member's Representative is expected to have full authority to vote and make decisions on behalf of that Member in respect of the matters referred to in clause 11.1 above.

**12. Meetings**

12.1 The Group must follow the Standing Orders at its meetings.

12.2 Representatives may agree to amend the Standing Orders, or agree to use other standing orders, only in accordance with provisions of section 19(1) of the Act.

12.3 Meetings of the Group will be held at such times and places as agreed by the Members, provided that there will be no less than three (3) meetings held in each calendar year.

12.4 A meeting will be duly constituted if a quorum is present. Pursuant to clause 30(9) of Schedule 7 of the Local Government Act 2002, the quorum for a meeting will consist of:

- (a) Half of the Members if the number of Members (including vacancies) is even; or
- (b) A majority of Members if the number of Members (including vacancies) is odd.

12.5 A representative of the Ministry of Civil Defence and Emergency Management will be entitled to attend Group meetings and meetings of the Co-ordinating Executive Group in an observer capacity. The Ministry's representative will not have a vote.

**13. Chairperson and Deputy Chairperson**

13.1 The Group will appoint a Chairperson and a Deputy Chairperson for the Group at the first meeting of the Group following each triennial Local Government election.

13.2 The Chairperson or Deputy Chairperson (as the case may be) will be appointed if he or she receives more votes than any other candidate. There will only be one round of voting. If two or more candidates tie for the most votes, the tie will be resolved by lot.

13.3 The appointed Chairperson and Deputy Chairperson will hold office until the first meeting of the Group following the next triennial Local Government election,



provided that the office of an appointed Chairperson or Deputy Chairperson will come to an end if that person ceases to be a Representative of a Member. If the position of Chairperson or Deputy Chairperson becomes vacant, a replacement will be appointed by the Group in the same manner as provided for in clause 13.2.

**14. Voting**

14.1 Each Member has one vote in relation to a matter put to a vote at a meeting of the Group.

14.2 All actions taken by the Group (other than the entering into contracts on behalf of the Group within the Group budget as authorised under clause 19 of this Constitution) must first be approved by the majority of members that are present and voting.

**15. Civil Defence Emergency Management Group Plan**

15.1 The Group will prepare, approve and adopt a Group Plan in accordance with sections 48 to 55 of the Act.

15.2 The Group will review the Group Plan in accordance with sections 56 and 57 of the Act.

**16. Co-ordinating Executive Group**

16.1 In accordance with section 20 of the Act, the Group has established and will maintain the appointment of a Co-ordinating Executive Group. The Co-ordinating Executive Group will include any co-opted members as defined in the current Group Plan or that are appointed by the Co-ordinating Executive Group.

16.2 Membership of the Co-ordinating Executive Group will include:

- (a) The Chief Executive Officer of each Member local authority or a person acting on the Chief Executive Officer's behalf;
- (b) A senior Police employee who is assigned for the purpose by the Commissioner of Police;
- (c) A senior member of the Fire Service who is assigned for the purpose by the National Commander;
- (d) The Chief Executive Officer of the hospital, and health services operating in the area or a person acting on the Chief Executive Officer's behalf; and
- (e) Any other persons that may be co-opted by the Group.

16.3 The responsibilities of the Co-ordinating Executive Group are set out in section 20(2) of the Act. The functions and operations of the Co-ordinating Executive Group are described in the Co-ordinating Executive Group's Terms of Reference.

**17. Group Emergency Management Office**

17.1 The Administering Authority will establish and manage a Group Emergency Management Office on behalf of the Group.

17.2 The Group Emergency Management Office will co-ordinate technical expertise, planning and operational functions, performance monitoring, co-ordination of Group wide projects, and any other functions assigned to it by the Group.

17.3 The Administering Authority will employ staff for the Group Emergency Management Office as authorised by the Group and manage the office's expenditure in accordance with the principles of the Local Government Act 2002 and amendments and the terms of the Service Level Agreement.

## 18. **Group Funding and Budget**

18.1 The process for agreeing the annual work programme and the budget for the Group will be as follows:

- (a) Annually (by November) a draft work programme and associated budgetary requirements will be prepared for the upcoming financial year;
- (b) The proposed budget for the Group will include on-going operational costs (such as staffing and the Group emergency co-ordination centre) and the annual work programme;
- (c) The draft budget for the Group will be agreed by the CEG and/or the Group by December to enable it to be included in the annual plan processes for each Member.

18.2 The Group Plan will set out the arrangements for cost apportionment between Members of the Group for the Group funding costs.

## 19. **Contracts**

19.1 The parties agree that the Administering Authority is authorised on behalf of the Group to sign contracts in the Group's name for the provision of goods and/or services to the Group, provided that the value of each such contract (excluding GST) does not exceed the then current approved Group budget for such goods and/or services.

19.2 The prior written approval of the Group (passed by majority vote) will be required for any contract to be entered into by the Group for the provision of goods and/or services where:

- (a) The value (excluding GST) of the contract exceeds the then current approved Group budget for such goods and/or services; or
- (b) The goods and/or services being acquired pursuant to the contract are outside of the scope of the then current approved Group work programme.

19.3 The Parties acknowledge that during a state of emergency the persons named in section 94 of the Act may also enter into contracts on behalf of the Group for any purposes of the Act in accordance with the terms of that section.

## 20. **No Discharge Following a Triennial Election**

20.1 Pursuant to section 12(2) of the Act, clauses 30(5) or (7) of Schedule 7 of the Local Government Act 2002 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 the Group.

20.2 Accordingly, the Parties acknowledge that each Member is not required to pass a resolution prior to each triennial election in order to provide for the continued existence of the Group.

**21. Appointment of Group Controller**

21.1 In accordance with section 26(1) of the Act, the Group must appoint, either by name or by reference to the holder of an office, a suitably qualified and experienced person to be the Group Controller for its area.

21.2 In accordance with section 26(2) of the Act, the Group must also appoint at least one suitably qualified and experienced person who will perform the functions, duties and exercise the powers of the Group Controller in the event of absence or vacancy in the office of the Group Controller.

21.3 The Group will appoint the Group Controller in accordance with the terms of the Policy for the Appointment and Development of Controllers (January 2013) (as that policy is amended from time to time by unanimous resolution of the Group).

**22. Appointment of Local Controllers**

22.1 In accordance with section 27(1) of the Act, the Group may appoint one or more persons to be a Local Controller.

22.2 The Group will appoint the Local Controller(s) in accordance with the terms of the Policy for the Appointment and Development of Controllers (January 2013) (as that policy is amended from time to time by unanimous resolution of the Group).

**23. Appointment of Persons who may Declare a State of Local Emergency**

23.1 In accordance with section 25 of the Act and section 5.8 of the Group Plan, the Group has appointed authority to declare a state of local emergency for its area to the following persons in descending order:

- (a) The Chair of the CDEM Group;
- (b) The Deputy Chair of the CDEM Group; and
- (c) Any other member of the CDEM Group.

23.2 Any declaration of a state of local emergency is to be made in accordance with the provisions of sections 68 to 73 of the Act.

23.3 Noting clause 23.1 above, the Group recognises that in accordance with section 25(5) of the Act, the Mayor of a territorial authority, or an elected member of the territorial authority designated to act on behalf of the Mayor if the Mayor is absent, may declare a state of local emergency that covers the district of that territorial authority.

23.4 The Group recognises that if a state of local emergency has not been declared under section 68 of the Act in respect of an area, section 69 of the Act authorises the Minister responsible for the administration of the Act to declare a state of local emergency for the area concerned.

24. **Good Faith**

24.1 In the event of any circumstances arising that were unforeseen by the Parties at the time that this Constitution was adopted, the Parties agree that they will negotiate in good faith to add to or vary this Constitution to resolve the impact of those circumstances in the best interests of:

- (a) The members of the Group collectively; and
- (b) The Bay of Plenty Region represented by the Members of the Group collectively.

25. **Dispute Resolution**

25.1 The Parties will try to resolve any dispute arising out of the interpretation of this Constitution, including any question regarding its existence, validity or termination, by good faith negotiations in the first instance.

25.2 If the Parties are unable to resolve the dispute by good faith negotiations within 15 working days, then any Party may refer the matter to arbitration by giving written notice to each of the other Parties setting out the particulars of the dispute and requiring the dispute to be referred to arbitration. The arbitration will be before a single arbitrator agreed on by the Parties and will be carried out in accordance with the Arbitration Act 1996.

25.3 If the Parties are unable to agree upon the appointment of a single arbitrator within five (5) working days of the receipt of the written notice requiring the dispute to be arbitrated, or if any arbitrator agreed upon refuses, or fails to act within fourteen days of his or her appointment, then any Party may request the President of the New Zealand Law Society (or their nominee) to appoint an arbitrator.

25.4 In this clause time will be of the essence and the Parties agree to be bound by any decision, determination or award given pursuant to these provisions.

26. **Variations**

26.1 Any member may propose a variation, deletion or addition to this Constitution by putting forward in writing the wording of the proposed variation, deletion or addition to a meeting of the Group.

26.2 This Constitution will only be varied if the Group passes a unanimous resolution to amend the Constitution and this is duly recorded by the Parties in writing.

**EXECUTED** by the Parties:

**THE COMMON SEAL of  
BAY OF PLENTY REGIONAL COUNCIL**  
was affixed in the presence of:





*2 - 10 - 2013.*

**THE COMMON SEAL of  
KAWERAU DISTRICT COUNCIL**  
was affixed in the presence of:

*[Handwritten signature]*

*5/9/13*



**THE COMMON SEAL of  
OPOTIKI DISTRICT COUNCIL**  
was affixed in the presence of:

*[Handwritten signature]*

*14-09-2013*



**THE COMMON SEAL of  
ROTORUA DISTRICT COUNCIL**  
was affixed in the presence of:

*[Handwritten signature]*

*2/10/2013*



**THE COMMON SEAL of  
TAURANGA CITY COUNCIL**  
was affixed in the presence of:

*[Handwritten signature]*

*1/10/2013*



THE COMMON SEAL of  
WESTERN BAY OF PLENTY DISTRICT  
COUNCIL was affixed in the presence of:



1.10.2013



THE COMMON SEAL of  
WHAKATANE DISTRICT COUNCIL  
was affixed in the presence of:



12-9-13

