

Holding AGMs under lockdown restrictions - COVID-19 Response Bill

The following information was provided to BID programme managers during Lockdown Alert Level 3 on 13 August 2020.

The COVID lockdown will impact BIDs' ability to host your AGM in person. Knowing your options and planning ahead now is important.

The COVID-19 Response Bill was passed into law last April. This bill includes provisions to allow entities to make certain modifications to their constitutions or rules.

We have checked the BID constitutions and although they permit executive committee/board meetings to be held via electronic means (Zoom etc), its noted that the AGM meeting is to be held in 'person' and at a 'location'.

The COVID-19 Response Bill allows the provision for:

- a. Modification to constitution or rules – *for example*: to change the AGM meeting date beyond the 4-month period (July to October). AGMs could be held up to 30 November
- b. Use of electronic means – for calling or holding meetings, sending notices etc.

NOTE: these are temporary provisions and are in place until 30 November 2020.

After 30 November the temporary changes are no longer applicable/valid. Unless there is an order to extend these provisions. See below.

<https://www.companiesoffice.govt.nz/covid-19/allow-certain-modifications-to-constitutions-or-rules/>

And the link to the COVID-19 legislation (Act)

<http://www.legislation.govt.nz/act/public/2020/0014/latest/LMS344936.html>

The government can extend these provisions, we will keep you informed if this happens.

If the BA wants to utilise these provisions *e.g.* move the AGM date and or use electronic means (Zoom, email invites etc) to hold the AGM, they **MUST** register the following prior to implementing any changes:

- a. 'modification to constitution or rules' form and or,
- b. 'use electronic means' form – see links below

<https://www.companiesoffice.govt.nz/assets/covid-notices/covid19-notice-to-registrar-s18.pdf> - to register modification to constitution or rules

<https://www.companiesoffice.govt.nz/assets/covid-notices/covid19-notice-to-registrar-s12.pdf> - to register notice to use electronic means

This means preparing for your AGM can continue – audit, reports and budgets etc can still be done (sent to us) and sent out to members etc. The BAs can either move their AGM meeting date (no later than 30 November) anticipating the lockdown will be lifted and or hold the AGM using electronic means. Please also seek your own legal advice if required.

NOTE: if changing the AGM date, the modification will apply only if the AGM is held before 30 November 2020. We are able to wavier the BID Policy requirement to hold the AGM before 30 October due to the lockdown restrictions.

What you need to do:

- BAs to consider if you want to increase the 2021/2022 BID grant and factor that into the 2021/2022 budget. If considering an increase, we advise to include the higher amount. An SGM meeting can be used to obtain final member approval if required.
- Consider postponing your AGM to be held no later than 30 November – subject to continued lockdown restrictions.
- BAs send in the COVID-19 notice to register **‘modification to constitution or rules’ and or, ‘use electronic means’** forms – please don’t miss this step, failing to register your modification will mean you have breached your constitution.
- Executive committee (via a resolution) approves the draft 2021/2022 income and expenditure budget (plus increase if any) and the minutes forward to us by 30 October 2020 – we will use this minute to identify your 2021/2022 BID grant amount and forward the information to the finance team by our 5 Nov deadline as per normal.
- BAs continue planning their 2020 AGM to be held in person (subject to lockdown restrictions) and or by electronic means before 30 November.
- After the AGM and if needed, there is provision for the BAs to hold a SGM to approve the 2021/2022 budget. If a SGM is being considered, this SGM meeting must be held before 1 February 2021.

This will be extra administration work for you; however it must be followed as part of your legal obligation as a registered incorporated society under the bill. Please ensure you keep your executive board/committee members up to date on what is required.

We ask that you keep us informed of your progress and if you have any additional information, let us know.

Any questions or need help, please don’t hesitate to contact us.

Further information:

Ratepayer database

We are still on track to send this data to you late next week. We have also requested (and it’s looking possible) for the data to include ratepayer email addresses to be included where possible.

BID grant payment reconciliation letters

We are working on sending these to you in the last week of August.

How to give notice of modification to the Registrar

1. Download the Notice of modification to constitution or rules
2. Complete the notice. Take care to read the notes on Page 2 of the form.
3. Attach a copy of the written record required by section 18(1)(a) of the Act (see <http://www.legislation.govt.nz/act/public/2020/0014/latest/LMS344936.html>) and a

certificate by a governing officer of the entity certifying that, in making the modification, all requirements of Part 2 of the Act were complied with.

Send your completed notice to covidnotices@mbie.govt.nz

Take care and don't hesitate to reach out if needed.

Visit our BID Programme website: <https://www.bid.aucklandcouncil.govt.nz>

Or <https://www.aucklandcouncil.govt.nz>

Enquiries or questions about a BID programme? Please e-mail bids@aucklandcouncil.govt.nz