

**Mayor and Councillors  
COUNCIL**

26 JANUARY 2012

Meeting Status: **Public**

Purpose of Report: For Decision

**AMENDMENTS TO THE COUNCIL'S DELEGATIONS TO THE  
CHIEF EXECUTIVE AND STAFF AND RESOURCE  
MANAGEMENT ACT DELEGATIONS**

**PURPOSE OF REPORT**

- 1 This report seeks Council's consideration and approval of:
  - (a) an amendment to the Council's Delegations to the Chief Executive by adding the Residential Tenancies Act 1986 and a further delegation under the Local Government Act 2002;
  - (b) an amendment to the delegations to staff who work under the Resource Management Act 1991 to include the renamed staff position of Utilities Infrastructure Manager.

**SIGNIFICANCE OF DECISION**

- 2 This report does not trigger the Council's Significance Policy.

**BACKGROUND**

- 3 The Council has certain statutory powers it can exercise and duties it must fulfil. Legislation recognises that it is not efficient or practical for Elected Members to have to deal with every aspect of their functions, duties and powers. On that basis, councils are authorised by various statutes to delegate some of those activities to committees and officers.
- 4 Various Acts of Parliament provide the Council with the legal authority to delegate to officers. In particular, Council has the authority to delegate to officers under Schedule 7 Clause 32 of the Local Government Act 2002 (the Act). The matters that it cannot delegate as contained in Clause 32, are as follows:

*"32. Delegations—(1) Unless expressly provided otherwise in this Act, or in any other Act, for the purposes of efficiency and effectiveness in the conduct of a local authority's business, a local authority may delegate to a committee or other subordinate decision-making body, community board, or member or officer of the local authority any of its responsibilities, duties, or powers except—*

- (a) *the power to make a rate; or*
- (b) *the power to make a bylaw; or*
- (c) *the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan; or*
- (d) *the power to adopt a long-term plan, annual plan, or annual report; or*
- (e) *the power to appoint a chief executive; or*
- (f) *the power to adopt policies required to be adopted and consulted on under this Act in association with the long-term plan or developed for the purpose of the local governance statement.”*

- 5 Delegated authority allows for administrative efficiency and ensures timeliness in the conduct of Council’s daily business activities. However, some Acts prescribe the way delegations must be made. The Resource Management Act 1991 (RMA 1991) does not allow the Chief Executive the power to sub-delegate.

## CONSIDERATIONS

### Issues

- 6 The Council delegations to the Chief Executive and staff are monitored on a regular basis and reported back to Council for amendment as required in response to changes in staff or legislation. Delegations are also open to be reviewed on request by Council.
- 7 Changes have been recommended in a separate report on this agenda to the Corporate Business Committee and the Property Purchase Subcommittee’s delegations under Council’s Governance Structure surrounding the authority to purchase land associated with reserves contributions.
- 8 In line with these changes to the Governance Structure, it is proposed that the Chief Executives delegations be updated (Appendix A refers) to provide the Chief Executive with the power to approve any recommendation in relation to the acquisition of land in lieu of money, as a reserve contribution under the Resource Management Act 1991 and any associated acquisition in addition to those reserve contribution requirements up to a total value of \$250,000.
- 9 As part of the ongoing improvement of corporate processes, staff have considered Council’s responsibilities and propose that a further amendment (Appendix B refers) be made to the Chief Executive and Staff Delegations in order to provide the Chief Executive the authority to exercise and administer all responsibilities, duties and powers of the Council under the Residential Tenancies Act 1986, along with the power to sub delegate those powers. This delegation is recommended in order to further reinforce Council’s powers as property owner with the management of residential properties.
- 10 The Delegations to Chief Executive and Staff reference the Long Term Council Community Plan or LTCCP even though it has now been replaced by the term Long Term Plan (LTP) in statute. This is because, although the relevant local government legislation has been made operative, technically speaking, the

Council will not have an LTP until after June 2012. It is recommended that Council authorises the Chief Executive to update the document post-June 2012 to reflect the change.

- 11 An amendment is also recommended to the Resource Management Act 1991 Delegations (Appendix C refers) in order to provide RMA delegations for the position of Utilities Infrastructure Manager.
- 12 The above amendments are identified by background shading in the Appendices to this report.

### Financial Considerations

- 13 There are no financial considerations relating to the process of making these amendments.

### Legal Considerations

- 14 This paper meets the provisions of the Local Government Act 2002 (Clause 32, Schedule 7), which empowers the Council to consider an appropriate governance structure and associated delegations.
- 15 It also meets the requirements of Section 10 of the Act which prescribes the purpose of local government.
- 16 The delegations will be available to be audited by Council's auditor's Ernst and Young during their scheduled audits.

### Delegation

- 17 Only Council has the authority to make these decisions.

### Consultation

- 18 There are no consultation considerations with what is essentially a procedural process to make appropriate provision for the Chief Executive and staff to perform their roles.

### Policy Implications

- 19 The proposed delegations support the Council's Governance Structure and Delegations. The delegations will be used by the Chief Executive, where he has the delegated power from Council, to further sub delegate to staff.

### Publicity Considerations

- 20 There are no publicity considerations with the making of these delegations.

## RECOMMENDATIONS

- 21 That the Council adopts the amendment to the Delegations to the Chief Executive and Staff to include the addition to the Local Government Act 2002 delegations, attached as Appendix A to Report SP-12-462.
- 22 That the Council adopts the amendment to the Delegations to the Chief Executive and Staff to include the Residential Tenancies Act 1986, attached as Appendix B to Report SP-12-462.
- 23 That Council authorise the Chief Executive to update the Delegations to Chief Executive and Staff post-June 2012 to reflect the legislative change in name from Long Term Council Community Plan to Long Term Plan.
- 24 To approve minor amendments to the Resource Management Act 1991 Delegations to include the recommended delegations to the position of Utilities Infrastructure Manager, attached as Appendix C to Report SP-12-462.
- 25 That the Council notes that once approved, these amendments will be included in the existing 6 October 2011 Council Delegations to the Chief Executive and Staff and the existing 14 July 2011 Resource Management Act 1991 Delegations.

**Report prepared by:**

**Approved for submission by:**

Linda Guerin

Gael Ferguson

**Corporate Support Officer**

**Group Manager, Strategy and Partnerships**

## ATTACHMENTS:

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| <b>Appendix A</b> | <b>Amendment to be included in the Council Delegations to the Chief Executive and Staff under the Local Government Act 2002</b>           |
| <b>Appendix B</b> | <b>Amendment to be included in the Council Delegations to the Chief Executive and Staff to include the Residential Tenancies Act 1986</b> |
| <b>Appendix C</b> | <b>Amendment to be included in the Council RMA Delegations to Staff</b>   |