

Mayor and Councillors
COUNCIL

25 NOVEMBER 2010

Meeting Status: Public

Purpose of Report: For Decision

COUNCIL DELEGATIONS TO THE CHIEF EXECUTIVE AND STAFF

PURPOSE OF REPORT

- 1 This report seeks Council's adoption of a set of delegations to the Chief Executive and staff.

SIGNIFICANCE OF DECISION

- 2 The Council's Significance Policy is not triggered by this report.

BACKGROUND

- 3 The Council has certain statutory powers it can exercise and duties it must fulfil. The 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 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 council community plan; or*
- (d) the power to adopt a long-term council community 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 council community*

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.
- 6 A new triennium does not of its own accord call for the new Council to make a new set of delegations to be made to coincide with the start of each triennium. The Chief Executive and appropriate staff are currently operating under a set of delegated powers set by the previous Council.

CONSIDERATIONS

Issues

- 7 Administratively with the start of the new triennium it is good practice for the new Council to establish a base set of 2010 delegations which can then be updated over the course of the triennium.
- 8 The Council delegations to the Chief Executive and staff will be monitored on a regular basis and reported back to Council for amendment as required in response to changes in staff or legislation.
- 9 Delegations are also open to be reviewed on request by Council. In this regard, parallel with the Council review of the Governance Structure the first review is scheduled to be completed before 30 June 2011. The primary purpose of that review will be to ensure legal parity between these two important delegation documents.
- 10 The majority of Acts that the Council operates under allow the Chief Executive the discretion to sub-delegate to Council staff, provided that he/she has the delegated power from Council to further sub delegate. These are listed in Appendix A to this document, noting the corresponding power to the Chief Executive to sub-delegate.
- 11 However, two Acts require certain delegations to be made to stated positions only, and do not allow the Council to delegate the Chief Executive with the power to sub-delegate. Section 34A of the Resource Management Act 1991 states that delegations can only be made by Council directly to listed council staff positions and not sub-delegated to the Chief Executive. Council Resource Management Act delegations to staff were last amended in June 2010. At this point in time there is no need to make any further amendments to the existing delegations.
- 12 Section 74 of the Reserves Act 1977 provides the power to issue and cancel licences to occupy reserves temporarily. This particular power cannot be sub-delegated and must be delegated by the Council to listed Council staff positions.

Financial Considerations

- 13 There are no financial considerations in this report, other than the financial delegation to the Chief Executive included in Appendix A.

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. It also meets the requirements of Section 10 of the Act which prescribes the purpose of local government.
- 15 The delegations will be available to be audited by Council's auditor's Ernst and Young during their scheduled audits.

Delegation

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

Consultation

- 17 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

- 18 The proposed delegations support the new Governance Statement which the Council adopted on 11 November 2010 (Report CCI-10-1032 refers). 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

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

RECOMMENDATIONS

- 20 That the Council adopts the Delegations to the Chief Executive and Staff attached as Appendix A to Report SP-10-10, noting that they supersede any previous delegations to the Chief Executive and Staff.

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Attachments Appendix A Council Delegations to the Chief Executive and Staff