

Mayor and Councillors
COUNCIL

7 NOVEMBER 2013

Meeting Status: **Public**

Purpose of Report: For Decision

COUNCIL DELEGATIONS TO THE CHIEF EXECUTIVE AND STAFF

PURPOSE OF REPORT

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

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. Various statutes recognise that it is not efficient or practical for Elected Members to have to deal with every aspect of their functions, duties and powers.

A new triennium does not of its own accord require 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 Councils.

- 4 Various Acts of Parliament provide the Council with the legal authority to delegate to officers. In particular, the Council has the authority to delegate to officers under clause 32 of Schedule 7 of the Local Government Act 2002. Clause 32 also sets out certain powers that cannot be delegated, 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 the Council's daily business activities.
- 6 The majority of Acts allow the Chief Executive the discretion to sub-delegate to council staff, provided he has the delegated power from the Council to further sub-delegate. 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. In addition, some Acts require that decisions are made by the Chief Executive rather than Council (see for example the Local Government Official Information and Meetings Act 1987).

CONSIDERATIONS

Issues

- 7 The Council delegations to the Chief Executive and staff are monitored on a regular basis and reported back to the Council for amendment as required in response to changes in staff or legislation.
- 8 Delegations may also be reviewed on request by Council.
- 9 The following amendments are suggested to the current delegations to Chief Executive and staff (Appendix A refers):
 - a) The wording in the introduction to the delegation document has been updated to achieve better legal clarity;
 - b) Where applicable, financial delegations have been adjusted by 9 percent (being 3 years worth of local government price adjusters issued by Berl) and then rounded to the nearest appropriate number;
 - c) The Forest and Rural Fires Act 1977 delegations have been amended due to the formation of the new Wellington Rural Fire Authority. Council is no longer a Rural Fire Authority and no longer has the power to appoint Rural Fire Officers;
 - d) The wording of the Chief Executive's power to sub-delegate expenditure has been clarified to better reflect the types of expenditure relevant to this delegation;
 - e) The delegations under the Local Government (Rating) Act 2002 have been updated to show the new position titles responsible for these functions following changes to the organisation structure announced in October 2013;
 - f) Wording has been updated to further clarify Council's delegation to the Chief Executive and staff under Part 6 to Part 8 of the Local Government Official Information and Meetings Act 1987;
 - g) Delegations under the Sale and Supply of Alcohol Act 2012 have been added in preparation for when this legislation comes into full force on 18 December 2013;
 - h) Further wording added to the delegations under the Reserves Act 1977 following the revised delegations under the Reserves Act from the Minister of Conservation.

- 10 Amendments are also recommended to the RMA 1991 Delegations (Appendix B refers) in order to include job title changes and positions that now require RMA delegations along with additional delegations for two positions.
- 11 Under the RMA 1991 the Chief Executive has the delegation to write off sundry debts. As there are no powers to sub-delegate under the RMA, a further amendment is recommended to also provide the delegation to write off sundry debts to the value of \$1,000, to the Group Manager, Community Services, Group Manager, Infrastructure Services, Group Manager, Strategy and Partnerships and Group Manager, Corporate Services. The Chief Executive will ensure that write off of sundry debts is considered within a structured process which will follow clear and consistent guidelines.
- 12 The above amendments are identified by underlining in the Appendix A and shading in Appendix B to this report.

Financial Considerations

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

Legal Considerations

- 14 The delegations comply with 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 These delegations have been reviewed by Simpson Grierson and the Council's Senior Legal Counsel.
- 17 The delegations will be available to be audited by the Council's auditors Ernst and Young during their scheduled audits.

Delegation

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

Consultation

- 19 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 efficiently.

Policy Implications

- 20 The proposed delegations support the Council's Governance Structure and Delegations.

RECOMMENDATIONS

- 21 That the Council adopts the amendments shown in Appendix A of Report SP-13-992 to the Council to Chief Executive and Staff Delegations, to include:
- the recommended amendments to the introduction;
 - the recommended adjustments to financial delegations which have been adjusted by 9 percent (being 3 years worth of local government price adjusters issued by Berl);
 - the recommended amendments to the delegations under the Forest and Rural Fires Act 1977, the Local Government Act 2002, the Local Government (Rating) Act 2002, the Local Government Official Information and Meetings Act 1987 and the Reserves Act 1977; and
 - delegations under the Sale and Supply of Alcohol Act 2012.
- 22 That the Council adopts the amendments shown in Appendix B of Report SP-13-992 to the Resource Management Act 1991 Delegations to include the job title changes and positions that now require RMA delegations along with additional delegations for two positions and write off delegations for four Group Managers.
- 23 That the Council notes that once approved, these amendments will be included in the existing 26 January 2012 Council to Chief Executive and Staff Delegations and the 18 April 2013 Resource Management Act 1991 Delegations.

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ATTACHMENTS:

- Appendix A Amendment to the Council to Chief Executive Delegations
 Appendix B Amendment to the Council RMA 1991 Delegations to Staff
 Appendix C Glossary of RMA Sections Delegated to Staff