

Mayor and Councillors
COUNCIL

27 JUNE 2019

Meeting Status: **Public**

Purpose of Report: For Decision

AMENDMENTS TO THE COUNCIL DELEGATIONS TO CHIEF EXECUTIVE AND STAFF

PURPOSE OF REPORT

- 1 This report seeks Council's approval of amendments to Council delegations to the Chief Executive and staff including Resource Management Act 1991 delegations.

DELEGATION

- 2 Council has the authority to consider this matter.
- 3 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.
- 4 It also meets the requirements of section 10 of the Local Government Act 2002 which prescribes the purpose of local government.
- 5 The delegations will be available to be audited by Council's auditors Ernst & Young (EY) as part of their scheduled audits.

BACKGROUND

- 6 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.
- 7 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 clause 32 of Schedule 7 of the Local Government Act 2002. Clause 32 of the Local Government Act 2002 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.*
- (h) *the power to adopt a remuneration and employment policy.*

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

ISSUES

- 10 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.
- 11 The required amendments are outlined below and detailed in the appendices.

Council to Chief Executive and Staff Delegations

- 12 The Food Act 1981 and associated regulations were repealed on 1 March 2016 and replaced by the Food Act 2014. Some of the powers remained in place during a three-year transitional phase. As of 1 March 2019, the Food Act 1981 is no longer required and as such will be removed from the delegations.
- 13 The previous Local Government Act 2002 delegations specified a time frame (1 year) and an amount (\$22,000) for granting leases of Council land and granting licences to occupy Council land. These limits are not practical for efficiency of Council operations and the delegations did not clarify regarding non-Council land.
- 14 To align Council Officer financial delegations with legislative delegations and to provide clarity concerning non-Council land staff recommend an amendment in relation to the Local Government Act 2002. The following amendments in italics have been made (see Appendix A for full delegation):

Without limiting the powers delegated to the Chief Executive above the Chief Executive may:

- grant leases of Council land or non-residential buildings where the term of the lease is *3 years or less and where the total rent over the duration of the lease aligns with a Council Officer's financial delegation* (see note above about deed execution);
- grant licences to occupy Council land where the term of the licence is *3 years or less;*
- *Enter into leases of non-Council land where the term of the lease is 3 years or less and where the total rent over the duration of the lease aligns with a Council Officer's financial delegation; and*
- *Enter into licences to occupy non-Council land where the term of the licence is 3 years or less.*

- 15 The amended delegations from Council to Chief Executive and Staff delegations can be found in Appendix A.

Resource Management Act 1991 Delegations made by Council to Staff

16 The amendments to Council's RMA 1991 delegations to staff in the following table are recommended as a result of staff and team structure changes.

Recommended amendments to Council delegations to staff under the Resource Management Act 1991	
Positions	Amendments to RMA delegations
Compliance Monitoring Officer	This title will be removed as a result of an Environmental Standards team restructure.
Environmental Health Team Leader	This title will be removed as a result of an Environmental Standards team restructure.
Environmental Standards Team Leader	This title will be removed as a result of an Environmental Standards team restructure.
Planning Technical Support Officer	A replacement title for Planning Technician (Policy) resulting from the joining of the District Planning team to Regulatory Service group. Position to include sections 10, 10B, 22, 32, 35, 35A, 36(5), 36AA(1), 36AAB(1), 37, 37A, 41B, 42, 42A, 44A, 55, 80, 87AAD, 87BA-BB 87E, 87F, 87G, 88, 89A, 91, 92, 92A, 92B, 95, 95A-F, 98, 99, 99A, 100, 101, 102, 103, 104, 104A, 104B, 104C, 104D, 105, 106, 108, 108A, 109, 110, 113, 114, 125, 126, 127, 128, 129, 132, 133A, 138, 139, 139A, 149B, 149G, 149W, 149 ZD, 168, 168A, 169, 171, 173, 174, 175, 176A, 181(3), 189A, 190, 195A, 198 A-M, 220, 221, 222, 223, 224, 226 (1)(e), 227, 234, 235, 237, 237 B-H, 240, 241, 243, 322-324, 325A, 327, 328, 330, 332, 333, 336, 338, 343B, 343C, Sch 1 cl3, Sch 1 cl3A, Sch1 cl3B, Sch 1 cl4, Sch 1 cl6, Sch 1 cl7, Sch 1 cl8, Sch 1 cl8AA, Sch 1 cl8B, Sch 1 cl8C, Sch 1 cl11, Sch 1 cl16, Sch 1 cl16B, Sch 1 cl20, Sch 1 cl20A, Sch 1 cl23, Sch 1 cl24, Sch 1 cl25, Sch 1 cl29(2), Sch 1 cl34 and Sch 1 cl35.
Public Spaces and Animal Management Officer	A new title as a result of an Environmental Standards team restructure. Position to include sections 22, 35, 35A, 314-321, 322-324, 325A, 327, 328, 330 and 336.
Reserves Planner	A replacement title for Parks and Recreation Planning Officer resulting from a restructure to the Parks and Recreation team. Title to include sections 35, 35A and 333.
Senior Advisor, Place and Space Planning	A replacement title for Parks and Recreation Planner resulting from a restructure to the Parks and Recreation team. Title to include sections 35, 35A and 333.
Senior Compliance and Licensing Officer	A new title as a result of an Environmental Standards team restructure. Position to include sections 22, 35, 35A, 314-321, 322-324, 325A, 327, 328, 330, 332, 333, 336, 338, 343B and 343C.
Senior Public Spaces and Animal Management Officer	A new title as a result of an Environmental Standards team restructure. Position to include sections 22, 35, 35A, 314-321, 322-324, 325A, 327, 328, 330, 332, 333, 336, 338, 343B and 343C.
Team Leader Environmental Health, Licensing and Compliance	A new title as a result of an Environmental Standards team restructure. Position to include sections 22, 35, 35A, 314-321, 322-324, 325A, 327, 328, 330, 332, 333, 336, 338, 343B and 343C.

Recommended amendments to Council delegations to staff under the Resource Management Act 1991	
Positions	Amendments to RMA delegations
Team Leader Public Spaces and Animal Management	A new title as a result of an Environmental Standards team restructure. Position to include sections 22, 35, 35A, 314-321, 322-324, 325A, 327, 328, 330, 332, 333, 336, 338, 343B and 343C .

17 The amended RMA delegations can be found in Appendix B.

CONSIDERATIONS

Policy considerations

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

Legal considerations

19 This paper has been reviewed by the Council's Senior Legal Counsel.

Financial considerations

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

Tāngata whenua considerations

21 There are no tāngata whenua considerations relating to the process of making these amendments.

SIGNIFICANCE AND ENGAGEMENT

Degree of significance

22 This decision has a low level of significance under the Council's Significance and Engagement policy.

Consultation and engagement

23 No consultation or engagement is required relating to the process of making these amendments.

RECOMMENDATIONS

- 24 That the Council adopts the revised Council to Chief Executive and Staff Delegations as shown in Appendix A to this report (Corp-19-819).
- 25 That the Council adopts the revised Resource Management Act 1991 Delegations to Staff as shown in Appendix B to this report (Corp-19-819).

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ATTACHMENTS

- Appendix A Amended Council to Chief Executive and Staff Delegations
- Appendix B Amended Council Resource Management Act 1991 Delegations to Staff
- Appendix C Glossary of Resource Management Act 1991 sections