

DELEGATIONS

Part 4

Delegation to Staff

Chief Executive

Introduction

The Chief Executive is employed by Council to give effect to its policies and plans.

Council Responsibility and Accountability

Council has overall responsibility and accountability for the proper direction and control of the Council's activities in pursuit of community outcomes. This responsibility includes:

- Formulating the strategic direction in conjunction with the community - the Long Term Plan (LTP);
- Determining the services and activities to be undertaken;
- Managing principal risks;
- Administering various regulations and up-holding the law;
- Monitoring the delivery of the LTP and Annual Plan;
- Ensuring the integrity of management control systems;
- Safeguarding the public interest;
- Reporting to ratepayers, citizens and stakeholders.

A key to the efficient running of any council is that there is a clear division between the role of Elected Members and that of management. The Local Government Act 2002 sets out a series of governance policies that support the principles of local government. Council has adopted a Local Governance Statement. Those statements clarify the governance and the management responsibilities, the governance role and expected conduct of Elected Members, describe the effective, open and transparent processes used by Council.

No delegation relieves the Council, Elected Member, or officer of the liability or legal responsibility to perform or ensure performance of any function or duty.

Clause 32 of Schedule 7 of the Local Government Act 2002 (the "Act"), authorises Council to delegate to the Chief Executive, and, subject to any conditions, limitations, or prohibitions imposed by Council, gives the Chief Executive the authority to sub delegate.

The Act prohibits the delegation of the following:

- the power to make a rate; or
- the power to make a bylaw; or
- the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term council community plan; or
- the power to adopt a long-term council community plan, annual plan, or annual report; or

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- the power to appoint a chief executive; or
- 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: or
- the power to adopt a remuneration and employment policy.

The Chief Executive is accountable to Council, Council committees, and sub-committees for the actions of all staff and contractors. Individual staff are accountable to the Chief Executive and are not directly accountable to the Council, Council committees, sub-committees or individual councillors.

Chief Executive Responsibilities

The Chief Executive is appointed by Council in accordance with section 42 of the Local Government Act 2002. The Chief Executive is responsible for implementing and managing Council's policies and objectives within the budgetary constraints established by Council.

In terms of section 42 the Chief Executive is responsible for:

- implementing the decisions of Council;
- providing advice to Council;
- ensuring that all responsibilities, duties and powers delegated to the Chief Executive or to any person employed by the Chief Executive, or imposed or conferred by any Act, regulation or bylaw are properly performed or exercised;
- managing the activities of Council effectively and efficiently;
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the Council; and ensures these are reported to Council on a regular basis;
- providing leadership for the staff of the Council;
- employing staff on behalf of Council (including negotiation of the terms of employment for the staff of the Council).

Delegation to the Chief Executive

For the purposes of performing his or her duties, Council delegates to the Chief Executive all powers and authority to act on any matter in respect of which Council is empowered or directed by law and Council policy to exercise or undertake, including (without limitation) under or pursuant to the Acts referred to below, except those powers or authorities in respect of which delegation is prohibited by the Act, or by other statute or regulation, or expressly excluded from this delegation.

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This delegation includes (but is not limited to) the Council's powers, duties and responsibilities under or pursuant to the Local Government Act 2002, the Local Government Act 1974, the Health Act 1956, the Local Government Official Information and Meetings Act 1987, the Local Government (Rating) Act 2002, the Land Transport Act 1998, the Bylaws Act 1910, the Utilities Access Act 2010, the Dog Control Act 1996, the Litter Act 1979, the Privacy Act 2020, the Fast-track Approvals Act 2024 and the Reserves Act 1977.

Delegates decision-making on behalf of the Council as a Requiring Authority on the Council designations in the Proposed District Plan to the Chief Executive.

This delegation does not preclude the Chief Executive from referring any such matter to Council, or a Committee of Council for a decision if the matter has political importance or sensitivity, or there is special community interest in it.

In addition to those matters that cannot be delegated by Council, specified in the Local Government Act 2002, Council has not delegated the following powers or authorities to the Chief Executive:

- the power to compulsorily acquire land under the Public Works Act 1981;
- the power to amend Council adopted policies or set new policies that are of a strategic or politically sensitive nature;
- the power to enter into unconditional contracts for the sale or purchase of land or an interest in land exceeding the authority contained within this delegation;
- any matter not permitted to be delegated by any other Act (for example, the granting of special exemptions under s.6 of the Fencing of Swimming Pools Act 1987);
- the authority to make decisions under the Resource Management Act 1991 and the Building Act 2004;
- any matter that can only be given effect by a Council resolution.

For the purposes of this delegation "unconditional" means "without a condition requiring an approval to be given by resolution of Council, or Committee of Council with authority to give that approval"

Appointment of Enforcement Officers

The delegation to the Chief Executive includes a delegation of the power to warrant enforcement officers. Council has determined that it does not wish to:

- (a) limit or restrict the exercise of the power; or
- (b) impose conditions on the exercise of the power; or
- (c) prohibit, in specified circumstances, the exercise of the power;

on the basis that the Chief Executive will continue to implement auditable processes for the investigation of the background of officers prior to the granting of a warrant.

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Sub-Delegations

All sub-delegations by the Chief Executive must be given in writing.

Contractual authority and financial management of activities

Authority to enter into contracts up the amount of \$1,000,000 in respect of authorised works for which provision has been made in Council's approved budget, and carried out within the criteria contained in Council's purchasing (including tendering) policy.

Authority to enter into contracts up the amount of \$200,000 for emergency expenditure not provided in the Annual Plan or Long Term Council Community Plan, and carried out within the criteria contained in the Council's purchasing (including tendering) policy.

Authority to approve the sale of property with a rateable value of less than \$50,000 provided the property has not been identified as being a significant Council property and has little likelihood of being strategically useful to the Council, and thorough internal investigation identifies no reason for retaining it.

Authority to approve the purchase of land with a rateable value of less than \$50,000 to enable essential works to proceed.

Specific delegations

Without limiting the general delegations above the following additional delegations are delegated to the Chief Executive:

1. Authority to commence a rating sale in the High Court pursuant to Sections 67-76 of the Local Government (Rating) Act.

Note:

- (a) *This delegation relates to any application for a rating sale to the High Court. After this initial application, the Registrar of the High Court gives notice to all persons considered to have an interest in the Rating Unit. After 6 months if the rates are still not paid, a further application is made by the Council to the High Court to proceed with the sale.*
- (b) *The CE to advise the Audit Committee of any case where an application to proceed is made.*

2. Authority to receive declarations in accordance with section 13 (1) (b) of the Rates Rebate Act 1973.
3. Authority to sign Council sealed documents.

CE's Deputy

Reference to the Chief Executive shall in his/her absence be deemed to refer to the General Manager appointed in writing for the term of absence as acting Chief Executive.