

QLDC Council
10 December 2020

Report for Agenda Item | Rīpoata moto e Rāraki take : 8

Department: Planning & Development

Title | Taitara Request to update Officer Delegations under the Resource Management Act 1991

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

The purpose of this report is to request approval from Council for an update to Council Officer Delegations under the Resource Management Act 1991.

RECOMMENDATION | NGĀ TŪTOHUNGA

That Council:

1. **Note** the contents of this report;
2. **Approve** the updated Delegations Register in Attachment A to this report, which reflects changes to Council Officer Delegations under the Resource Management Act 1991.

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24/11/2020

Reviewed and Authorised by:



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CONTEXT | HOROPAKI

- 1 Approval is being sought to amend and update the Delegations Register for the Resource Management Act 1991 (RMA), as shown in Attachment A to this report because:
 - The Resource Management Amendment Act 2020, which came into force on 30 September this year, introduces a new section to the Act that requires a decision to be made by Council in relation to the resource consent process; and
 - The current Delegations Register reflects delegations to a Council Officer role that is currently vacant and on-hold until the 2021/2022 financial year, creating a constraint in efficient and effective decision making.
- 2 Attachment A to this report contains the current up to date Delegations Register for the RMA, and proposed changes are shown in **underline** for new delegations and **strikethrough** for delegations proposed to be removed. Reasons why each change is proposed is included in Attachment A with a summary below.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

New Section Introduced to RMA

- 3 The Resource Management Amendment Act 2020 introduced the following new section which requires that Council make a decision as part of the processing of a resource consent application:
 - Section 91F: Non-notified application may be returned after a certain period
- 4 This new section provides the ability for Council to return non-notified resource consent applications that have been on-hold at the applicant's request for a period of 20 working days or more. The Council must make a formal decision on whether or not the application should be returned to the applicant¹, or the application is retained in the Council system on-hold. A formal Council decision is required as the applicant is afforded formal objection rights under the Act should Council decide to return the application. It is therefore appropriate that this section be added to the Council's RMA Delegations Register.
- 5 Currently Council Officers down to Senior Planner in the Resource Consents team have delegation to make decisions for other Section 91 clauses. At present, Section 91C has the same decision-making requirements and officer delegations, but this section pertains to notified resource consent applications. It is proposed to remove the Senior Planner delegation under Section 91C because typically Senior Planners do not exercise their delegation under this section and refer to more senior Officers, which is in part a reflection of the seriousness of this decision. The new Section 91F is essentially the same as 91C, but pertains to non-notified resource consent applications. Therefore delegation for both 91C and the new 91F should sit with the Manager Resource Consents, Principal Planner and

¹ This ceases all processing, and if the applicant wishes to continue with the proposal at a later date, a new application will need to be made.

Team Leader Resource Consents, who are appropriately qualified and experienced to make these decisions. This is reflected in the tracked changes in Attachment A.

Expanding Decision Making to Remove Constraint of Vacant Principal Planner Resource Consents Role

- 6 The last Principal Planner Resource Consents left Council employment in December 2019. Recruitment for this role has not taken place due to Covid-19 and the role is currently on hold until the 2021/2022 financial year. There is currently no one acting in this position.
- 7 This vacancy creates a constraint in decision making, where decisions could also be made by the Team Leader Resource Consents, who like the Principal Planner is a tier 4 Council Officer reporting directly to the Manager Resource Consents. The Team Leader Resource Consents role, as well as being a manager of people, is also a technical role like the Principal Planner role. Team Leaders already have extensive decision-making delegations for resource consent processes and are appropriately qualified and experienced to hold these delegations.
- 8 While it is anticipated that the Principal Planner Resource Consents role will be recruited in the next financial year, because the Delegations required updating due to the introduction of the new section to the RMA, it was considered timely to review and update these delegations at the same time to provide more breadth in decision-making across the Resource Consents team.
- 9 Option 1 – Do not approve the proposed changes to the RMA Delegations Register

Advantages:

- 10 There is little advantage in not updating the RMA Delegations Register except the status quo remaining. With regard to decisions made under new section 91F, without delegation to Council Officers these decisions would come to full Council to decide.

Disadvantages:

- 11 If the proposed delegations are not approved Council officers will not be able to use the new section of the RMA to return non-notified consent applications without seeking approval from full Council (which currently holds the delegation under the Act). Invoking such a process is considered to be cumbersome due to delays created by the timing of Council meetings, and would detract from the processing efficiencies that could be gained from Council Officers being able to make decisions quickly as part of the day-to-day processing of a consent application.
- 12 The disadvantage of not approving the proposed delegation changes to Team Leaders, is that key decisions would remain only with the Manager Resource Consents, retaining the current constraint of one Officer in the resource consents team holding delegation, resulting in impacts on the ability to efficiently and effectively process resource consent application to RMA requirements and timeframes.

- 13 **Option 2** – Approve the proposed changes to the RMA Delegations Register in relation to duties carried out by the Resource Consents team

Advantages:

- 14 The key advantage of approving the proposed delegation changes is that Council Officers will be able to better manage on a day-to-day basis non notified applications that have been on hold at applicant's requests for more than 20 working days. Experience shows us that applications that remain in the system long term on hold at an applicant's request are typically problematic consents where an applicant either does not want to notify an application or to provide information that is required by the RMA. Such applications require on-going administration, and typically when they come off hold are problematic to process to an outcome within the timeframes required by the Act.
- 15 Extending delegation to the Team Leader Resource Consents where currently delegation only sits with the Principal Planner Resource Consents, will provide for more breadth and efficiencies in decision-making for the Resource Consents team. This role is a tier 4 role like the Principal Planner role, reports directly to the Manager Resource Consents, and is held by people who are suitably qualified and experienced.

Disadvantages:

- 16 As per disadvantages set out under Option 1 above (paragraphs 11 and 12).
- 17 This report recommends **Option 2** for addressing the matter because it provides for efficient and effective decision-making by suitably qualified Council officers, allowing them to ensure that the requirements and timeframes prescribed by the RMA can be better met. The ability for Council officers to make a decision to return non-notified resource consents under the newly introduced section to the RMA will allow for more efficiencies in process, as Council will no longer be required to retain consents in its system that have been placed on hold for extensive periods by applicants. From experience, such long-term on hold consents require extensive administration and follow up with applicants, and become problematic typically when they finally come off hold.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 18 This matter is of low significance, as determined by reference to the [Council's Significance and Engagement Policy](#) because delegations for decision making under the RMA pertain to the Council and Council Officers it has delegated functions to.

> MĀORI CONSULTATION | IWI RŪNANGA

- 19 The Council has not undertaken any consultation with iwi. The matter of delegating RMA functions from the Council to Council Officers is not a matter that requires any consultation with iwi. None of the delegations or the changes sought to these pertain to

consultation and engagement with iwi, nor changes to current practices and requirements for this.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

20 This matter relates to the Strategic/Political/Reputation It is associated with RISK00038 within the QLDC Risk Register. This risk has been assessed as having a moderate inherent risk rating.

21 The approval of the recommended option will support the Council by keeping the risk at its current level. This shall be achieved by maintaining breadth in decision-making for resource consents, and providing for efficient and effective decision making.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

22 There are no operational or capital expenditure requirements additional to existing approved budgets or the Annual/Ten Year Plan.

COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA

23 This report is requesting approval be given by Council to changes proposed to the Delegations Register for the RMA. As such no Council policies, strategies or bylaws have been considered.

24 This matter is not included in the Ten Year Plan/Annual Plan.

LEGAL CONSIDERATIONS AND STATUTORY RESPONSIBILITIES | KA TURE WHAIWHAKAARO, ME KĀ TAKOHAKA WAETURE

25 Council has a duty under the RMA to process resource consent applications to legislative requirements and timeframes. Delegation of decision-making to appropriate Council Officers provides a mechanism for this to be achieved in an efficient and effective manner as part of day-to-day work tasks.

LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA

26 The recommended option accords with Section 10 of the Local Government Act 2002, in that it fulfils the need for good-quality performance of regulatory functions.

ATTACHMENTS | NGĀ TĀPIRIHANGA

A	RMA Delegations Register - Delegations from Council to Officers under the Resource Management Act 1991
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