

QLDC Council
26 May 2016

Report for Agenda Item: 3

Department: Planning & Development

Amendments to Resource Management Act 1991 Register of Delegations

Purpose

The purpose of this report is to amend the Resource Management Act 1991 (RMA) Register of Delegations to enable the efficient and effective conduct of Council matters relating to the RMA.

Recommendation

That Council:

1. **Note** the contents of this report;
2. **Amend** from 27 May 2016, the existing Resource Management Act delegations to Council officers and appointed Commissioners [as set out in **Attachment A**].

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Background

- 1 The current Resource Management Act (RMA) delegations were adopted by Council at its meeting on 30 January 2014 following an organisational review.
- 2 Further minor amendments were also adopted by Council on 28 August 2014 and 30 June 2015. A set of 'General Rules Applying to all Delegations' is appended as **Attachment B**. No changes are proposed to the General Rules.
- 3 Changes to the Register of Delegations are necessary for a variety of reasons described below.

(a) Changes to Organisational Structure

- 4 Following an independent external review of the Resource Consent and Planning Policy teams in late 2015, the former Resource Consent Manager role was split three ways, with a new Manager of Planning Practice Position and two Team Leader: Resource Consent positions being created.
- 5 The Manager of Planning Practice is akin to a ‘Principal Planner’ type role focused on technical planning matters, with the Team Leaders (based in Queenstown and Wanaka) having direct oversight of day to day resource consent processing and staff management / mentoring. These three new positions need to be reflected in the delegations.

(b) Changes to Position Titles

- 6 The current delegations refer to position titles that no longer exist or have been modified. These changes are as follows:

| Previous Position Title | Current Position Title |
|--|--|
| Resource Consenting Manager | Manager Planning Practice <i>and/or</i> <i>Team Leader: Resource Consents</i> |
| District Plan Manager | Planning Policy Manager |
| General Manager, Planning and Infrastructure | General Manager, Planning and Development <i>or</i> General Manager, Property and Infrastructure |
| General Manager, Infrastructure | General Manager, Property and Infrastructure |
| Manager Parks and Commercial Operations | Parks and Reserves Planning Manager |
| Planning Support Coordinator | Team Leader Planning Support <i>and/or</i> Planning Support |
| General Manager, Legal and Regulatory | Chief Financial Officer <i>and/or</i> Regulatory Manager |

- 7 The delegations have consequently been updated with the new position titles.

(c) Addition of Delegations for Hearing Commissioner(s)

- 8 The following delegations in relation to certain subdivision matters sits with officers including the ‘Resource Consenting Manager’, ‘Senior Planner and the ‘Subdivision Planner’:
 - a. Section 221(3) relating to varying or cancelling a condition in a consent notice.
 - b. Section 241(3) relates to cancellation of existing amalgamation conditions on a subdivision.

- c. Section 37 (Extension of time periods) is proposed to be extended to include 'Hearings Commissioner(s)'
- 9 These matters often require consideration or determination by Hearings Commissioners as part of notified subdivision applications. At present, Commissioners are required to make recommendations back to Council staff to make determinations relating to these matters, for example extending timeframes to accept late submissions. Consequently, it is recommended that these delegation also be extended to 'Hearing Commissioner(s)'.
- 10 Section 132 of the RMA relates to powers to change conditions of a resource consent when they are reviewed under section 128. While this power is rarely used, it is appropriate the power is also delegated to a Hearings Commissioner(s) because a notice of a review can be processed on a notified basis. Council normally appoints independent commissioners to hear notified applications.
- 11 The existing delegations also referenced separately 'Hearings Panel' and 'Hearings Commissioner'. This is an unnecessary duplication as a Hearings Panel is made up of multiple 'Hearing Commissioners' so the references have been made consistent by simply referring to 'Hearing Commissioner(s)'

(d) Addition of Delegations for Manager, Planning Policy

- 12 The delegation in relation to certain matters relating to section 42A reports and Notices of Requirement for Designations should be extended to include the Manager of Planning Policy. This is because the preparation of s.42A reports is an essential also part of processing a plan change or a proposed district plan. Similarly, designations go into the District Plan, and the Planning Policy Manager has responsibility for managing that document.
 - a. Delegation for section 42A (Preparation, commissioning and provision of reports). Add 'Planning Policy Manager' as the preparation, commissioning and provision of s.42A reports is also part of Plan Change and Plan Review processes.
 - b. Delegation for sections 168A, 169 and 171, relate to processing of Notices of requirement, power to make a *decision* on Council's Notice of Requirement for a designation, and also make *recommendations* in relation to other Notices of Requirement, currently sits with the Resource Consent Manager. This should be extended to include the Planning Policy Manager as ultimately designations sit in the District Plan.

(e) Other Amendments not covered above

- 13 The following additional amendments to delegations are proposed. The reasons for each change sought is set out below:
 - a. Delegation for sections 169 and 171 relates to requesting further information and making a decision whether to publicly notify a notice of requirement for a designation, as well as the actual final recommendation back to the requiring authority. This reflects actual practice in that notices of requirement are usually processed by the resource consent team, who

make decisions on notification for resource consents. It is considered appropriate to enable a Senior Planner to request further information and make a decision around notification on a notice of requirement, as they would with a resource consent. As noted above, the delegation is also proposed to be extended to the Manager, planning Policy, in the event the Policy team process NORs.

- b. Delegation for Schedule 1 Clause 23 (To seek further information relating to private plan change requests): Add 'Policy Planner'. This is necessary as a Policy Planner could be processing a private plan change request.

Comment

- 14 This report proposes amendments to the delegations from Council to officers and appointed Commissioners pursuant to Section 34A of the RMA. The proposed changes to the RMA Register of Delegations are in response to a number of matters set out in **Attachment A**.
- 15 The changes primarily arise from changes to the organisational structure and job titles. Making the changes will enable the efficient implementation of the Council's RMA functions.

Options

- 16 This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002:
- 17 Option 1 – Adopt the amendments to the Register of Delegations.

Advantages:

- 18 The change in position titles to reflect the current organisational structure and position titles and will ensure that decisions of the relevant staff members are not open to challenge on this matter.
- 19 The proposed change to delegations for sections 37, 221 and 241 will ensure that Hearing Commissioners can determine all matters relating to subdivision resource consent applications and extend timeframes for matter such as late submissions. This will solve the current convoluted determination process that these matters go through and ensure that Commissioners can hear and determine entire subdivision applications.
- 20 Other changes will enable the efficient implementation of the Council's RMA functions.

Disadvantages:

- 21 No known disadvantages.

- 22 Option 2 – Retain the Status Quo

Advantages:

23 None identified.

Disadvantages:

24 Would not enable Commissioners to extend timeframes and deal with all subdivision matters at notified consent hearings.

25 Would not reflect organisational and job title changes and would continue uncertainty around who has what delegation.

26 This report recommends **Option 1** for addressing the matter.

Significance and Engagement

27 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy because it is a decision relating to the administration of Council affairs.

Risk

28 This matter related to the operational risk OR011 'Decision Making: Staff Delegations' as documented in the Council's risk register. The risk is classed as moderate. This matter relates to this risk because there are potential political, economic, technical and legal risks associated with the determination of resource consent applications.

29 The recommended option considered above mitigates the risk by:

Treating the risk - putting measures in place which directly impact the risk.

Financial Implications

30 There are no financial implications as a result of this proposal.

Local Government Act 2002 Purpose Provisions

31 The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses;
- Can be implemented through current funding under the 10-Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

Consultation: Community Views and Preferences

32 No persons are considered to be affected or interested in this matter.

Legal Considerations and Statutory Responsibilities

33 The proposed amendments to the existing delegations are in accordance with the powers delegated under the RMA.

Attachments

- A Proposed amendments to the QLDC – Register of Delegations Resource Management Act 1991
- B General Rules Applying to all Delegations