



**Date:** Tuesday, 1 August 2017  
**Time:** 1.30pm  
**Location:** Council Chamber, Wairoa District Council,  
Coronation Square, Wairoa

# **AGENDA**

## **Late Reports**

### **Ordinary Council Meeting**

**1 August 2017**

The agenda and associated papers are also available on our website: [www.wairoadc.govt.nz](http://www.wairoadc.govt.nz)

For further information please contact us 06 838 7309 or by email [info@wairoadc.govt.nz](mailto:info@wairoadc.govt.nz)

**Order Of Business**

**8 General Items.....3**  
8.1 DELEGATIONS - WARRANT TO ACT ..... 3

**10 Public Excluded Items.....7**  
10.1 Review of Building Control Authority..... 7

## 8 GENERAL ITEMS

### 8.1 DELEGATIONS - WARRANT TO ACT

**Author:** James Baty, Corporate Services Manager

**Authoriser:** John Freeman, Interim Chief Executive Officer

**Appendices:** Nil

#### 1. PURPOSE

- 1.1 The purpose of this report is to present delegations and appointments relating to Council staff for Council consideration and adoption.

#### RECOMMENDATION

The Corporate Services Manager RECOMMENDS that Council:

1. The report be received.
2. The delegations and appointments as scheduled in the Schedule of Delegations be approved with immediate effect:

NAME	DELEGATION/AUTHORITY
John Freeman (Interim Chief Executive Officer)	<ol style="list-style-type: none"> <li>1. The Council delegates to the Interim Chief Executive Officer all responsibilities, duties and powers to act on any matter, subject to any legal restrictions, and excluding those matters in respect of which delegation is prohibited by any Act or regulation, or which are expressly excluded from this delegation. This delegation does not preclude the Interim Chief Executive Officer from referring for any reason any matter to the governing body or a committee (including a subcommittee) of the governing body, for a decision. This delegation includes the authority to sub-delegate to an appropriate officer or tier level except where delegation is prohibited by any Act or regulation provided these delegations are along good business practice and are separately recorded.</li> <li>2. The Council delegates to John Freeman (Interim Chief Executive Officer) all its powers that it is lawfully able to delegate in relation to its status as the lawful occupier of any Council land (including local roads). This includes, for the avoidance of doubt, the Council's power to authorise an employee or other person to act under the authority of the Council in terms of the Trespass Act 1980.</li> </ol>

#### 2. BACKGROUND

- 2.1 Unless expressly provided otherwise in the Local Government Act 2002, or in any other Act, the Council is able to delegate any of its responsibilities, duties or powers.
- 2.2 Delegation means the assignment of a duty or power of action to another together with the authority to carry out that duty or complete the action assigned with responsibility for the outcome.

- 2.3 Authority and responsibility are inseparable. Those with responsibility for a task should always have responsibility to carry it out effectively.
- 2.4 Unless specifically time-limited, a delegation continues in force until revoked, altered or varied by the delegator or Council.
- 2.5 Council retains the right to also act in any matter where delegated authority applies; it does not part with the function, duty or power being delegated. Council, the Interim Chief Executive Officer and senior management retain ultimate accountability for the affairs of Council. Council retains full responsibility for governance, statutory and financial powers, duties and responsibilities and contract specifications at all times.
- 2.6 Given the ancient common law rights of the public to freedom of passage on public roads, the Council's process for closing of the road (and any subsequent warnings under the Trespass Act) needs to be robust.
- 2.7 Police need to have the ability to (ultimately) arrest people who enter and remain on closed roads or unlawfully occupy Council owned property. In order to do this, the Police require:
  - a) that the Council has lawfully closed the roads under the relevant provisions of the Local Government Act 1974 (LGA74); and
  - b) given relevant warnings under the Trespass Act 1980 (Trespass Act).
- 2.8 The following matters may not be delegated:
  - a) The powers expressly excluded by Clause 32(1), Part 1, Schedule 7 of the Local Government Act 2002;
  - b) Any matter not permitted to be delegated by any other Act (for example the approval of a policy statement or plan under the Resource Management Act 1991); and
  - c) Any matter that can only be given effect to by a Council resolution.

### 3. OPTIONS

- 3.1 The options identified are:
  - a. Do nothing.
  - b. Approved delegation as stipulated in this report.
- 3.2 Option A – while an option this is not feasible it is ultra vires for a Council Officer to conduct certain functions without the appropriate delegation.
- 3.3 The preferred option is Option B. This option ensures that Council Officers are operating within the law and the appropriate delegated authority. This option meets the purpose of local government, as it will help meet the current and future needs of communities for local public services in a way that is most cost-effective for households and businesses.

### 4. CORPORATE CONSIDERATIONS

#### What is the change?

- 4.1 Delegated authority - Given the appointment of an Interim Chief Executive Council must ensure that the appropriate delegations are in place.

- 4.2 Delegated authority - Council is the lawful occupier of local roads. Council needs to delegate to an appropriate person (e.g. the Interim Chief Executive Officer) all of its powers that it is lawfully able to delegate in relation to its status as lawful occupier (including, for the avoidance of doubt, under the Trespass Act).

#### **Compliance with legislation and Council Policy**

- 4.3 The matters and options discussed above comply with legislation, relevant regulations and best practice.
- 4.4 Complies with Schedule 10 of the Local Government Act 1974, which provides the manner in which the Council may exercise its power to close the roads. Clause 11 of schedule 10.
- 4.5 Complies with the Trespass Act 1980.

#### **What are the key benefits?**

- 4.6 Efficiency gains.
- 4.7 Adoption of the recommendations will ensure that Council Officers are properly delegated as enforcement officers with the appropriate responsibilities and powers conferred on them under legislation.

#### **What is the cost?**

- 4.8 No cost to Council.

#### **What is the saving?**

- 4.9 Not applicable.

#### **Who has been consulted?**

- 4.10 No consultation required.

#### **Service delivery review**

- 4.11 Not applicable.

#### **Maori Standing Committee**

- 4.12 This matter has not been referred to the committee.

### **5. SIGNIFICANCE**

- 5.1 Impact on Council activities is low.
- 5.2 Council can review delegations at any time.

### **6. RISK MANAGEMENT**

- 6.1 No strategic risks identified.

#### **Further Information**

<http://www.legislation.govt.nz/act/public/1974/0066/latest/DLM425592.html>

<http://www.legislation.govt.nz/act/public/1980/0065/latest/DLM36927.html>

**Background Papers**

None.

**References (to or from other Committees)**


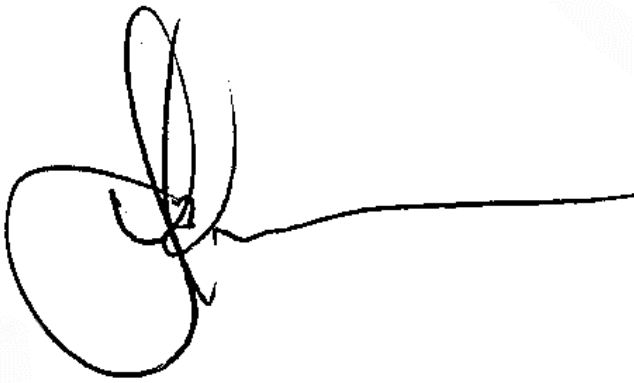
None.

**Confirmation of statutory compliance**

In accordance with section 76 of the Local Government Act 2002, this report is approved as:

- a. containing sufficient information about the options and their benefits and costs, bearing in mind the significance of the decisions; and,
- b. is based on adequate knowledge about, and adequate consideration of, the views and preferences of affected and interested parties bearing in mind the significance of the decision.

**Signatories**

	
<p>Author James Baty</p>	<p>Approved by John Freeman</p>

**10 PUBLIC EXCLUDED ITEMS****RESOLUTION TO EXCLUDE THE PUBLIC****RECOMMENDATION**

That the public be excluded from the following parts of the proceedings of this meeting.

The general subject matter of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48 of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Ground(s) under section 48 for the passing of this resolution</b>
<b>10.1 - Review of Building Control Authority</b>	s7(2)(a) - the withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons  s7(2)(f)(ii) - the withholding of the information is necessary to maintain the effective conduct of public affairs through the protection of Council members, officers, employees, and persons from improper pressure or harassment	s48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7