

## 15. LOCAL GOVERNMENT ACT 2002 - COUNCIL DELEGATIONS

<b>Officer responsible</b> Director of Legal & Secretariat Services	<b>Authors</b> Peter Mitchell, DDI 941-8549; Bob Lineham, DDI 941-8411
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The purpose of this report is to advise that with the commencement of most of the Local Government Act 2002 on 1 July 2003, there is a need to update a number of existing Council delegations so that they are clearly authorised under the new Act.

In addition, with the commencement of the Local Government Act, the Council is no longer a public body for the purposes of the Public Bodies Contracts Act 1959 and delegations need to be updated to reflect this change.

### **PUBLIC BODIES CONTRACTS ACT**

This is the statute under which the Council has made its financial delegations to committees, community boards and officers and there is also a need to re-establish those financial delegations under the provisions of the 2002 Act. There are two policy issues that arise in relation to reconfirming these delegations as the 1959 Act contained two requirements:

- (a) That the contracts entered into by committees or officers have to be reported back to the Council at its next ordinary meeting, except those contracts which the Council had resolved did not need to be reported back. The Act provided the Council could pass such a resolution for not more than such fraction as it thought fit, but not exceeding one half, of the amount the Council specified as the limit of the delegated power of the committee or officer. In this Council the figure has been set at 50% for many years and these monitoring reports are made to the Strategy and Finance Committee on a monthly basis.

There is now no longer a legal requirement for the Council to have such a system and the question is whether the Council wishes to continue such a system by way of its resolution delegating financial authority. The recommendation provided below does not have such a system but if the Council did, then it would be a simple matter of amending that draft resolution so as to include it.

- (b) The 1959 Act had a requirement that there could not be any oral contracts for an amount exceeding \$1,000. The policy reason behind this provision was to protect public funds against officers "accidentally" entering into oral contracts (such as by telephone) upon which the Council could later be sued. Such a statutory provision effectively provided that oral contracts in excess of \$1,000 were illegal.

### **UPDATING DELEGATIONS**

It is also appropriate for the opportunity to be taken to arrange for all existing delegations made by the Council to the City Manager to now be made to the Chief Executive and similarly for delegations to the Legal Services Manager to now be made to the Director of Legal and Secretariat Services.

### **GENERAL DELEGATIONS**

There are a number of existing delegations to Council officers which need to be updated to refer to the 2002 Local Government Act and these are set out in recommendation C.

#### **Staff**

- Recommendation:**
- A.**
1. Pursuant to clause 32 of Schedule 7 of the Local Government Act 2002, the Christchurch City Council delegates to its committees and community boards the power of the Council to enter into contracts for the purchase of materials, works and services subject to the specified amounts in respect of items provided for in the Annual Plans and Budgets for sums from \$500,000 to \$1M.
  2. That, pursuant to clause 32 of Schedule 7 of the Local Government 2002, the Council delegates the power of the Council to enter into contracts for the purchase of materials, works and services, subject to the specified amounts in respect of items provided in the Annual Plan of the Council:

- (a) Not exceeding \$500,000: to be exercised by any two of the Chief Executive, the Directors of Finance, Operations and Legal and Secretariat Services.
  - (b) Not exceeding \$100,000: to the Chief Executive, all Directors, Associate Director of Policy and all Unit Managers.
  - (c) The Art Gallery Director may expend funds available from the Art Gallery Acquisitions Budget to a limit of two-thirds of that budget (current delegation).
- 3. That pursuant to clause 32(3) of Schedule 7 of the Local Government Act 2002 the officers named in paragraph 1 of this recommendation may delegate generally to any other officer of the Council their financial delegations. Any delegations pursuant to this paragraph exceeding \$10,000 to be approved by the Director of Finance.
- 4. No oral contract shall be made by an officer for a sum exceeding \$1,000.
- B.** That all Council delegations previously made to the City Manager be made to the Chief Executive and delegations to the Legal Services Manager be made to the Director of Legal & Secretariat Services.
- C.** That pursuant to clause 32 of the Seventh Schedule to the Local Government Act 2002, the Council delegate:
  - 1. To the Director of Operations –
    - (a) The power to institute any prosecution and to make any decision in any matter relating thereto for any offence under the following sections of the Local Government Act 2002 –
      - (i) Sections 224 and 225 (relating to water)
      - (ii) Section 227 (relating to water meters)
      - (iii) Section 228 (relating to water races)
      - (iv) Section 229 (relating to obstruction of enforcement officers and others)
      - (v) Sections 230 and 231 (relating to owners and occupiers of properties)
      - (vi) Section 232 (relating to damage to Council works or property)
      - (vii) Section 238 (relating to failure to comply with the Act)
      - (viii) Section 239 (relating to breach of bylaws made under the Act)
    - (b) The power, under Section 162 of the Local Government Act 2002 to apply to the District Court for an injunction restraining any person from committing a breach of a Council bylaw or any offence referred to in paragraph 1(a) above.
    - (c) The power to take enforcement action against any person who breaches any such injunction and to make any decision in any matter relating to such action.
  - 2. To the Environmental Services Manager and Team Leader Environmental Monitoring (severally) –

All of the powers of the Council under Section 183 of the Local Government Act 2002 (to issue fire hazard notices).

3. To the Environmental Services Manager –

The power to institute any prosecution under Section 238 of the Act for any failure to comply with a notice issued under Section 183(1) of that Act and to make any decision in any matter relating to any such prosecution.

4. To the City Water and Waste Manager –

The power to stop water services pursuant to Section 194 of the Act (to stop water services temporarily for the purpose of repairs or dealing with a nuisance or danger to public health).

**Chair's**

**Recommendation:** That the above recommendation be adopted.