

7. COUNCIL DELEGATIONS TO COMMUNITY BOARDS

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PURPOSE OF REPORT

1. The purpose of this report is to submit to Council for consideration the proposed delegations for Community Boards.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) delegate to the Community Boards the delegations set out in Attachment A.
- (b) review these Community Board delegations by 30 June 2008.

BACKGROUND

2. At its meeting on 7 November 2007 the Council resolved:

That the delegations to the Community Boards in the 2004-2007 term continue until the Council's December 2007 meeting when the Council will be able to assess delegations to its committees, subcommittees and the Community Boards.

3. The Local Government Act 2002 provides that the Council "... for the purposes of efficiency and effectiveness in the conduct of the (the Council's) business...." can delegate to the Community Boards almost all of its responsibilities, duties or powers. The Council is also able to impose any conditions, limitations or prohibitions on any delegations it may make.
4. The Local Government Act also provides that whereby the Council has a legal duty to "*consider whether or not to delegate to a Community Board if the delegation would enable to Community Board to best achieve its role.*"
5. The Act defines the role of Community Boards to :
 - (a) *represent, and act as an advocate, for, the interests of its community.*
 - (b) *consider and report on all matters referred to it by the territorial authority, or any matter of interest or concern to the Community Board.*
 - (c) *maintain an overview of the services provided by a territorial authority relevant to the community.*
 - (d) *prepare an annual submission from the territorial authority for expenditure within the community.*
 - (e) *communicate with community organisations and special interest groups within the community.*
 - (f) *undertake any other responsibilities that are delegated to it by the territorial authority.*
6. The Act provides that once delegation has been made by the Council to a Community Board then that Board is legally able to make a decision within the delegation as if it were the Council itself. This means that decisions made by a Community Board within the delegations legally bind the full Council. If a matter or issue does not fall within these delegations, as a default position, a decision on that matter or issue is one for the Council itself.

7. It must also be noted that it has been the Council's procedure for many years that any exercise of these Board delegations must be within any policies or standards set by the Council. So if the Council has resolved a particular position then it is not open to a Community Board to make a decision which conflicts with that Council position.
8. The Act provides that the Council itself cannot rescind or amend a decision made by a Community Board made under delegated authority. The Council can at any time amend or revoke a delegation so as to apply any future decisions.
9. It has been the practice of this Council that delegations made to the Community Board continue for the term of the Council for which they are made and each new Council on the commencement of its term reconsiders the delegations to be made to Boards. Delegations made by Council to Community Boards continue in force over the Council term, unless they are revoked or altered by the Council.
10. Experience has shown it is not feasible to write delegations which cover every permutation of a subject. The question may arise as to whether a matter falls within a Board delegated authority.
11. To assist in these situations it has considered appropriate in the past that a decision on whether or not a Board has delegated authority on a particular matter be a matter for joint decision by the General Manager, City Environment (as most matters are considered to be delegated are operational issues that fall within that group) and the General Manager Regulation and Democracy Services Manager. The attached draft delegations continue to provide for this.
12. Where there is a matter outside a Board delegation, such as a metropolitan facility like Queen Elizabeth II Park which has a city wide impact but is situated in a particular Community Board area, and where the Board historically has taken an interest in the activities on that facility within their community, in this situation it can be addressed by a report on a particular matter involving the metropolitan facility being forwarded to the Community Board for comment before referring the final report to Council.
13. At the workshop held on Tuesday 4 December 2007 there was an informal consensus for the existing Community Board delegations to carry over at the end of December 2007. There was also a view that a review should be carried out with the involvement of the Community Boards. Recommendation (b) above is to give effect to this view.
14. In respect to the Akaroa Wairewa and Littleton Mt Herbert Community Boards additional delegations have been added relating to the appointment of representatives to outside organisations as resolved by the Council at its meeting on 16 August 2007. These also incorporate the need to reflect that of the four appointments made to the Orton Bradley Park Trust Board by the Council, three should be made by the two Banks Peninsula Community Boards.