

## 31. COUNCIL DELEGATIONS COMMUNITY BOARDS

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### PROPOSAL/PURPOSE OF REPORT

The purpose of this report is to submit to the Council for consideration proposed delegations for community boards.

### FINANCIAL CONSIDERATIONS

There are no direct financial considerations to implementing the recommendations. If the proposed changes to community board delegations are adopted by the Council, there will be savings in that staff would not need to prepare the number of reports as in the past, but it is not feasible to quantify those savings at this time.

### STAFF RECOMMENDATIONS

It is recommended that the Council:

1. Delegate to the community boards the delegations set out in **Appendix A** (attached).
2. Delegate to officers the powers set out in **Appendix B** (attached).
3. Review these delegations by 30 June 2005.
4. Authorise any two General Managers to enter into contracts for capital works, or for maintenance contracts, provided the contract is within the budget approved in the Council's Long-Term Council Community Plan (or an amendment to that Plan) or an Annual Plan, up to \$5M.

## **BACKGROUND**

In the Council's consideration of delegations to Community Boards it needs to be borne in mind that delegations to date have been made under the Local Government Act 1974.

The Local Government Act 2002 has now come into force and delegations need to be considered within the new framework and requirements in the 2002 Act.

The current environment created by that new Act is about:

- A system which takes the community towards its outcomes;
- Thinking about whether we continue to do the same things, stop doing some things, or start doing new things;
- A total rethink about how the organisation is structured both (politically and managerially); and
- Measurement and accountability.

The 2002 Act contains changes with regard to the Council's planning framework, its consultation processes and financial planning and reporting.

There is a new requirement for a Long-Term Council Community Plan which provides that the Council must now publish information in that plan including three years of detailed information and seven years of summary information. There is also a new requirement for that plan to be audited by an external agency, both in the draft plan stage and also before the plan is finalised. Finally there is a new requirement for activity management plans.

## **ROLES AND RESPONSIBILITIES**

The Council is the decision-maker for the processes and for the adoption of the Long-Term Council Community Plan, with elected members being advocates for the views of their community. Community Boards are stakeholders for all of the Council's planning and strategy processes on an ongoing basis and must inform these processes.

While the new Local Government Act gives the Council greater freedom in a number of areas, it also imposes a number of new restraints. The Act requires that the Council provide detailed estimates of expenditure (both operational and capital) in the Long-Term Council Community Plan to achieve and maintain the identified levels of service in relation to each of the first three financial years of the plan and an outline in relation to the following seven.

Community board input needs to move to reflect the three year cycle of the Long-Term Council Community Plan framework and any changes, or new requests for capital expenditure, need to be substitution based and able to be 'built' within the Council's time frame.

## **LOCAL GOVERNMENT ACT FRAMEWORK FOR DELEGATIONS**

Within that new statutory framework 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 community boards or officers almost any of its responsibilities, duties or powers. The Council is also able to impose any conditions, limitations or prohibitions on any delegations it may make.

The Local Government Act contains a new requirement whereby the Council has a legal duty to "...consider whether or not to delegate to a community board if the delegation would enable the community board to best achieve its role."

The Act specifies the role of community boards as to:

- “(a) represent, and act as an advocate for, the interests of its community; and*
- (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; and*
- (c) maintain an overview of services provided by the territorial authority within the community; and*
- (d) prepare an annual submission to the territorial authority for expenditure within the community; and*

- (e) *communicate with community organisations and special interest groups within the community; and*
- (f) *undertake any other responsibilities that are delegated to it by the territorial authority.*

The Act provides that once delegation has been made by the Council to a community board or an officer, then the person to whom the power is delegated is legally able to make a decision within that delegation as if they were the Council itself. This means that decisions made by community boards and officers within their delegations legally bind the full Council. If a matter or issue does not fall within any delegation, then as a default position, a decision on that matter or issue is one for the Council itself.

The Act also provides that the Council itself cannot rescind or amend a decision made by a community board or officer pursuant to a delegation. The Council can, however, amend or revoke a delegation so as to apply to future decisions.

### **PREVIOUS COUNCIL PRACTICE**

It has been the practice of the Council that delegations made to community boards continue for the term of the Council from 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 the Council to officers continue in force over Council terms, unless they are revoked or altered by the Council.

The delegations made in 2003 were made to the Boards “...unless the exercise of the delegated power would have a significant impact beyond the local area or on the service level of a non-local road as provided in the proposed city plan.” If such a situation did occur, then the power was to be exercised by the relevant standing committee and the decision-maker as to whether or not the delegation was one to be exercised by a community board, or a committee, was to be made by the principal adviser of the relevant standing committee.

With the discontinuation of the committee system, if any matter does not fall within the delegated powers of a community board or an officer, the decision will need to be made by the Council.

Experience has shown it is not feasible to write delegations which cover every permutation of subject matters when the question arises as to whether a matter falls within a Board’s delegated authority.

To assist in these situations, it is considered appropriate that the 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 of the matters considered to be delegated are operational issues that fall within that Group) and the General Manager Regulation and Democracy Services. The attached draft delegations provide for this. In the last term of the Council this was a role for the Principal Adviser to each committee.

Where there is a metropolitan facility eg Queen Elizabeth II Park, which has a city-wide impact, but is situated in a particular community board area, and where the Boards historically have taken an interest in the activities of that metropolitan facility within their community, then this situation 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 report to the Council.

### **PRINCIPLES OF DELEGATION**

It is considered that the Council should consider the matter of delegations within the following principles:

- Any delegations be easily understood by elected members and staff as to who is the decision-maker, and how the delegation operates in practice,
- That the delegations be certain, as they confer legal power on the delegate,
- That delegations be made to the most effective and efficient level of decision-making in the organisation.

### **Views Of Community Boards**

At the induction at Lincoln University on 14-16 November 2004 Board members were asked to consider delegations they considered appropriate and to advise the Council. The views of the Board can be summarised as follows:

### **Hagley/Ferrymead Community Board**

1. The Board endorsed the previous terms of reference subject to the central city area being treated on the same basis as the remainder of the city.
2. The Board also sought a greater role in social housing in the Hagley/Ferrymead Ward.

### **Burwood/Pegasus Community Board**

The status quo was supported with a review in six months' time.

### **Spreydon/Heathcote Community Board**

The Board endorsed the status quo and also sought greater involvement in social housing, particularly from a community development perspective.

### **Riccarton/Wigram Community Board**

In addition to endorsing the previous delegations, the Board also sought greater level of input into the following:

- Policy development which affected the local Riccarton/Wigram community.
- Planning consents for new housing developments.
- Monitoring of roading contracts.
- Special licences, gambling licences and prostitution issues.
- Proposed bylaws which impact on the Riccarton/Wigram community.
- Setting of local speed limits.

### **Fendalton/Waimairi Community Board**

The Board supported the status quo with a review in six months' time.

In addition authority to allocate project funding and strengthening community funding was also sought.

### **Shirley/Papanui Community Board**

The Board supported the retention of the status quo in terms of the existing delegations. In addition Board input was sought into the following:

- Host responsibility awards.
- Issues surrounding social housing.
- Involvement in the community reference group implementing the safer city strategy.
- Input into Road Safety Co-ordinating Committee.
- Metropolitan parks issues in the Board's area.

At a seminar on 30 November 2004, Councillors concluded there was general support for the 2001-2004 delegations being continued with a review in 6 months time.

The staff recommendations in this report recommend some changes from the 2001-2004 community board delegations to place matters which are day-to-day operational issues with Council management.

## **FINANCIAL DELEGATIONS**

Financial delegations to community boards and officers have traditionally been for the purchase of materials, works or services within specified amounts. Typically, this has related to specific items in the LTCCP or Annual Plan of a capital nature for community boards.

Delegations are designed to be not only important control points but also to aid the smooth running of the Council's business. They also only operated within 'budget' ie any unbudgeted expenditure is normally referred to the Council.

Councillors will recall that at Lincoln officers explained how the new capital programme would work going forward with a classification of projects into Metropolitan, Technical and Local.

## Definition of Terms

- Local - any project that has only a local impact.
- Technical - a project with no public priority or design input required, or an internally focused project.
- Metropolitan - projects which impact on users across the city or are on recognised metropolitan assets.

(also have to report Capital Works in the categories "Increase in Capacity ... to meet growth", "Increase in Levels of Service" and the balance.)

This sees the critical points of contact with community boards over local programmes being at the consultation phase and at the sign-off of the project brief. Officers then get on and deliver the outcome. It does not require the Boards to sign-off on any tenders. In fact to do so would only add unnecessary time and effort to the process.

Also at Lincoln (and on numerous other occasions in the past few months) the concept of speeding up the capital works programme has been discussed with elected members. There was a general acceptance by elected members that once an item/project/programme was approved by the Council as part of the Annual Plan/LTCCP adoption process, then it should not be necessary to continually seek Council/Board sign-off to the various phases of that item/project/programme including the tender stage so long as the project was on track, in scope and within budget.

This change in process supports the new capital programme approach. The change in process is attached.

Administratively it is much quicker for General Managers to exercise the financial delegations for accepting tenders for the capital works programme. Currently, two General Managers can approve expenditure up to \$500k. This is efficient, and once approved, creates the approval within the Council's financial payments system for schedules to enable contract payments to be made.

Under the community board delegations up to October 2004, officers were required to submit reports and details to community board for work between \$500k - \$1m. Once approved, the requests were still required to be set up in the financial payments system and still came to General Managers for approval.

Indeed, as long as the Council processes had been followed, Boards would sign-off on the lowest tender as recommended by officers.

While it is recommended that the Board's financial delegations (\$500k - \$1m) be renewed, the new capital programme process will see that part of the delegation relating to new capital works and maintenance of capital works replaced with regular (quarterly) reporting on progress, not only with local programmes but all capital expenditure.

In conclusion, officers ability to deliver the capital programme will be enhanced by the new Metro/Technical/Local approach with no financial delegations for capital works or for maintenance contracts being necessary for community boards. Retaining the former financial delegations for the community boards regarding capital works will add time and complexity to the process with no corresponding value in implementing the capital works programme.

## OTHER CHANGES

As well as changes to the financial delegations previously given to community boards, there are two other areas of recommended changes to the delegations previously made to community boards.

With the new Act the need to distinguish between governance and management issues is emphasised, therefore our view is that some matters previously delegated to community boards can be delegated to officers. It is considered that these delegations do not involve any governance issues, but are instead operational and can be given to officers.

By way of example at the present time, the Greenspace Unit cannot plant, maintain or remove a tree in a reserve or a road without first preparing a report and obtaining community board approval, which involves additional cost and delay on an operational issue.

The Greenspace Manager presently has authority to make decisions on trees involving health and safety matters, and in particular, decisions around individual trees should be seen as a management issue.

Further, it needs to be clarified that the Greenspace Manager should be authorised to make decisions on the design of landscape plans within the Council's planting strategy.

Two other areas which have not been part of community board delegations previously but which it is considered appropriate to clarify, relate to the ability of the Facility Assets Manager to approve variations to a lease (other than the term and rental) so long as there is not an increase in the leased area.

It should be borne in mind that if any issue becomes contentious, and before a decision is made, the officers can decline to exercise their delegated powers and refer a matter to a community board.

Further, there are a number of delegations concerning the placement of regulatory signs to control traffic movement at intersections and parking signs which would be more appropriately delegated to the Transport and City Streets Manager.

## **OPTIONS**

### **Description**

The following 3 options are considered below:

1. Status quo

ie those that were set and followed by the previous Council within the 1974 Act and the previous operating environment

2. Increased delegations

ie those that were set and followed by the previous Council within the 1974 Act, the previous operating environment, and with the addition of extra delegations, as requested by the Boards themselves

3. Modified status quo

ie changed delegations which reflect the (new) 2002 Act and the new operating environment

## **Pros and Cons**

1. Status Quo (1974 Act/Previous Operating Environment)

### **PROS**

- Everybody knows the system.
- Localised decision making

### **CONS**

- (Potential for) lack of consistent approach to like situations throughout the city.
- Traffic decisions (including safety issues) already subject to statutes, regulations, and bylaws can become lengthy and protracted.
- Increased transaction costs (ie report preparation) because of different situations.
- Delays to capital works because of process of accepting contracts.
- Does not recognise new structures/ways of doing things.

## 2. Increased Delegations (1974 Act/Previous Operating Environment/Increased Delegations)

### PROS

- Localised decision making
- Enables the Council to take strategic focus
- Councillor input through community board membership

### CONS

- (Potential for) lack of consistent approach to like situations throughout the city.
- Traffic decisions (including safety issues) already subject to statutes, regulations, and bylaws can become lengthy and protracted.
- Increased transaction costs (ie report preparation) because of different situations.
- Delays to capital works because of process of accepting contracts.
- Confuses management and governance roles eg involvement in social housing
- Even more difficult for Boards to balance local versus citywide benefits.
- Would create further delays in processes already delegated to officers and which are subject to statutory timeframes eg resource consents for new housing developments

## 3. Modified Status Quo (2002 Act/New Operating Environment)

### PROS

- Localised decision making within new policy framework and new operating environment simplifies procedures.
- Speeds up processes.
- Decisions always made within framework of Council strategies and policies (ie consistency across city)
- Decisions can be made expeditiously particularly when safety issues are involved.
- Reduced transaction costs.
- Clear management/governance delineation.
- Enables community board members to take a more strategic role.

### CONS

- Perceived loss of input by community board members.
- Perceived transfer of power from community boards to officers.

## EVALUATION

The staff recommendation is for option 3 and the attached draft delegations in Appendices A and B (attached) reflect this option.

The case for change in "how we do business" is clearly reflected in the new Local Government Act and supported by the fact that we have had both political and organisational change since the previous community board delegations were signed off.

In addition, we have recommended a review of delegations to community boards and new delegations to officers by 30 June 2005.

It should also be noted that even if some new delegations are given to officers, we still believe it is important that community board members are kept fully informed and involved. Our draft process flow for capital project development is attached to show how this might work.