

19. DELEGATIONS TO COMMUNITY BOARDS



General Manager responsible:	General Manager Regulation and Democracy Services, DDI 941-8462
Officer responsible:	Legal Services Manager
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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. The proposed delegations are set out in **Attachment A**.

EXECUTIVE SUMMARY

2. The Local Government Act 2002 provides that “... *for the purposes of efficiency and effectiveness in the conduct of a local authority's business, a local authority may delegate to a committee or other subordinate decision-making body, community board, or member or officer of the local authority any of its responsibilities, duties, or powers*” except for certain specified responsibilities, duties and powers. The Council is also able to impose any conditions, limitations or prohibitions on any delegations it may make.
3. The Local Government Act 2002 also provides that the Council must consider whether or not to delegate to a Community Board if the delegation would enable the Community Board to best achieve its role.
4. The Act defines the role of Community Boards as follows:
 - (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.*
5. The Act provides that once a delegation has been made by the Council to a Community Board then that Board is legally able to make a decision within the delegations as if it were the Council itself. This means that decisions made by a Community Board within the delegations legally bind the 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.
6. 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.
7. The Act provides that the Council itself cannot rescind or amend a decision made by a Community Board made under delegated authority. However, The Council can at any time amend or revoke a delegation so as to apply any future decisions.

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8. It has been the practice of this Council that delegations made to Community Boards 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. Consequently, the current delegations to Community Boards have continued since the elections in October 2010. The opportunity to consider the delegations has been delayed by the earthquake on February 2011 and subsequent events.
9. Experience has shown it is not feasible to write delegations which cover every permutation of a subject. The question may arise as of whether a matter falls within a Board delegated authority.
10. To assist in these situations it has considered appropriate in the pact 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.
11. Where there is a matter outside a Board delegation, such as a metropolitan facility 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, the issue has been addressed in the following way: a report on a particular matter involving the metropolitan facility is forwarded to the Community Board for comment before referring the final report to Council.

LEGAL CONSIDERATIONS

12. The Executive Summary above refers to the Local Government Act 2002. The delegation provisions are set out in clauses 30 to 32B of the Schedule 7 of the Local Government Act 2002. Clause 32 deals specifically with the power of the Council to delegate its functions to a committee or other subordinate decision-making body, community board, or member or officer of the Council.
13. Section 52 of the Local Government Act 2002 sets out the role of Community Boards.

Have you considered the legal implications of the issue under consideration?

14. Yes. The delegations comply with the Local Government Act 2002.

STAFF RECOMMENDATION

It is recommended that the Council, pursuant to clause 32(1) of Schedule 7 of the Local Government Act 2002, delegate to the Community Boards the delegations set out in **Attachment A**.