

27.10.2011

## 36. DELEGATIONS

<b>General Manager responsible:</b>	General Manager Corporate Services, DDI 941-8528
<b>Officer responsible:</b>	Corporate Finance Manager
<b>Author:</b>	Steve Kelsen, Funds and Financial Policies Manager

### PURPOSE OF REPORT

1. On 25 August 2011 the Council resolved:
  - (a) That a report reviewing Council's contracts and financial delegations be prepared for Council consideration at the 27 October 2011 Council meeting.
  - (b) That a report recommending a new procurement policy be prepared for Council consideration at a meeting to be held by May 2012.
2. This report provides the information requested by the Council at 1(a) above and proposes financial delegations to be set by the Council. Recommendations in relation to the procurement process will be reported to the Council in May 2012.

### EXECUTIVE SUMMARY

#### *Current Delegations*

3. Delegations from the Council are currently recorded in the Register of Delegations which is published by the Council Secretary and is available online on both the Council's intranet and external website. The Register records those delegations made by resolution of the Council which have not yet been revoked.
4. A full set of the existing financial delegations is set out in **Appendix 1** and the Council resolutions are set out in **Appendix 2**. In summary, current maximum financial delegations are:

Area	Amount
OPEX	\$500,000
CAPEX	\$5,000,000

#### *Proposed Delegations Framework*

5. It is proposed that the Council revoke its existing financial delegations and adopt a new three-tier delegations framework in which:
  - (i) The Council maintains its governance responsibilities. Specifically by retaining responsibility for:
    - Setting maximum delegations to the Chief Executive.
    - Approving total budgets through the Annual Plan and Long Term Plan (LTP).
    - Approving all carry-forwards.
    - Approving all changes to levels of service.
    - Approving the purchase and disposal of all equity investments.
    - Approving the purchase and disposal of all property.
  - (ii) The Council delegates authority by resolution to the Chief Executive.
  - (iii) The Chief Executive delegates authority to staff. No staff may sub-delegate their authority.

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6. The exercise of delegations will be subject to requirements set by the Procurement Policy to be adopted, and constrained by the Annual Plan and LTP budgets approved by the Council.
7. The proposed financial delegation to the Chief Executive is:

Area	Delegate	Amount
OPEX and CAPEX	Chief Executive	\$5,000,000

**FINANCIAL IMPLICATIONS**

8. Nil.

**Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?**

9. Not applicable.

**LEGAL CONSIDERATIONS**

10. Clause 32 Schedule 7 of the Local Government Act 2002 enables the Council to delegate to officers any of its responsibilities, duties or powers except in respect of certain powers that are set out in that Clause. None of the exceptions are relevant to the delegations being discussed in this report.
11. Clause 32B provides that an officer may sub-delegate one or more of his or her powers, except the power to delegate under that section. In other words, once delegated by the Council a power may only be sub-delegated once.
12. The Chief Executive is responsible for ensuring that all responsibilities, duties, and powers delegated to him or any employee, or imposed by an Act, Regulation or By-law, are properly performed or exercised.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

13. Not applicable.

**ALIGNMENT WITH STRATEGIES**

14. Not applicable.

**CONSULTATION FULFILMENT**

15. Not applicable.

**STAFF RECOMMENDATION**

It is recommended that Council:

- a) **resolve** to revoke the financial delegation resolutions set out in **Appendix 3**;
- b) **delegate** to the Chief Executive the financial delegations set out in **Appendix 4**.

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**BACKGROUND (THE ISSUES)****FINANCIAL DELEGATIONS***Current Delegations*

16. Delegations from the Council are currently recorded in the Register of Delegations which is published by the Council Secretary and is available online on both the Council's intranet and external website. The Register records those delegations made by resolution of the Council which have not yet been revoked. The Register has a publication date of 18 November 2010 although the majority of financial delegations date to either October 1996 or December 2001.
17. A full set of the existing financial delegations is set out in **Appendix 1** and the Council resolutions are set out in **Appendix 2**. In summary, current delegations to Council officers are:

Area	Delegate	Delegation
OPEX	Any two of the Chief Executive and general managers	Approve OPEX expenditure against annual plan projects up to the value of \$500,000
CAPEX	Any two general managers	Approve CAPEX and maintenance expenditure against annual plan or LTCCP projects up to the value of \$5,000,000
OPEX and CAPEX	Chief Executive, all general managers, and business unit managers	\$100,000

*Contract Size*

18. Since 1 July 2009 staff have sought approval from the Council for 14 contracts or payments that are above existing delegations. This number excludes land purchases, grants, and events and festivals funding which must all be referred to the Council. Those requests for approval can be broken down into the following value ranges:
- \$500,001 to \$750,000                      1
  - \$750,001 to \$1,000,000                      1
  - \$1,000,001 to \$2,000,000                      1
  - \$2,000,001 to \$3,000,000                      1
  - \$3,000,001 to \$4,000,000                      0
  - \$5,000,001 to \$7,500,000                      2
  - \$7,500,001 to \$10,000,000                      1
  - >\$10,000,000                                      7
19. Based on this two plus year history should the Council delegate authority to the Chief Executive of up to \$5,000,000 for operating and capital expenditure, on average:
- the Chief Executive would approve an additional two contracts per year, and
  - the Council would see approval requests for the five largest contracts each year.

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20. A review of the purchase order system over the same period shows that if the Chief Executive's current delegations were to be halved to \$250,000 for operating and \$2,500,000 for capital expenditure the Council would be asked to approve approximately an additional 25 contracts per year.

*The Effect of Inflation*

21. Since the majority of financial delegations were adopted in 1996 the Civil Construction Capital Goods Price Index has risen by 64 percent. The Consumer Price Index has risen by 42 per cent. Council costs can therefore be assumed to have risen in the order of 50 per cent. If current delegations were to be increased accordingly limits for 2011 would be:

Area	Amount
OPEX	\$750,000
CAPEX	\$7,500,000

*Other Councils*

22. A summary of the financial delegations to Chief Executives of metropolitan councils and Environment Canterbury is:

Chief Executive			
Council	Type	Upper Limit	Restrictions
Christchurch City	OPEX	\$500,000	Requires 2 signatures } Restricted to AP and LTP Requires 2 signatures
	CAPEX	\$5,000,000	
Wellington City	OPEX & CAPEX	Unlimited	Restricted by Annual Plan or LTP approval
Auckland	OPEX & CAPEX	\$7,500,000	Transactions over \$1,000,000 reported to responsible committee
Tauranga City	OPEX & CAPEX	Unlimited	Within budget
Dunedin City	OPEX & CAPEX	Unlimited	Within budget
Hamilton City	OPEX & CAPEX	Unlimited	Within budget
Environment Canterbury	OPEX & CAPEX	Unlimited	With 2 signatories - otherwise \$200,000

*Best Practice*

23. The Controller and Auditor General have published some best practice principles for delegations in the 2008 document *Procurement guidance for public entities* and these are attached at **Appendix 4**. The key advice for local government in this document is:

2.17 *A public entity should cross-reference its procurement policies and procedures to the up-to-date list of financial delegations, and ensure that all relevant staff are aware of them.*

2.18 *Once the total cost of procurement has been approved, financial delegations for payments to suppliers within the approved amount should be set at a level that does not place undue restrictions and administrative burden on the contract manager. In deciding on the levels of financial delegations in a contract, entities may wish to consider:*

- *the value and complexity of the contract;*
- *the function that the individual is responsible for performing in the project;*
- *and*
- *the fiscal risk to the entity.*

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24. In addition, any delegations should also be clear and understood by both the delegator and the delegate.

*Proposed Financial Delegations*

25. It is proposed that the Council revoke its existing financial delegations and adopt simplified delegations framework in which:
- (i) The Council maintains its governance responsibilities. Specifically by retaining responsibility for:
    - Setting maximum delegations to the Chief Executive.
    - Approving total budgets through the Annual Plan and Long Term Plan.
    - Approving all carry-forwards.
    - Approving all changes to levels of service.
    - Approving the purchase and disposal of all equity investments.
    - Approving the purchase and disposal of all property.
  - (ii) The Council delegates authority by resolution to the Chief Executive.
  - (iii) The Chief Executive delegates authority to staff. No staff may sub-delegate their authority.
26. The exercise of delegations will be subject to requirements set by the Procurement policy and constrained by the Annual Plan and LTP budgets approved by the Council
27. The proposed delegation to the Chief Executive is set based at the low end of the delegations adopted by other metropolitan councils. It is also proposed that the distinction between operating and capital expenditure be eliminated on the basis that \$1 of ratepayer money is \$1 of ratepayer money regardless of where it is spent. On that basis it is proposed that the Council delegate the following maximum authority to the Chief Executive:

Area	Delegate	Amount
OPEX and CAPEX	Chief Executive	\$5,000,000

28. A full schedule of the proposed delegation by the Council to the Chief Executive is attached at **Appendix 3**.