

QLDC Council  
28 September 2017

**Report for Agenda Item: 3**

**Department: Planning & Development**

**Amendments to Resource Management Act 1991 Register of Delegations**

**Purpose**

The purpose of this report is to amend the Resource Management Act 1991 (RMA) Register of Delegations following the Resource Legislation Amendment Act 2017 and to make other miscellaneous changes.

**Recommendation**

That Council:

1. **Note** the contents of this report;
2. **Amend** from 28 September 2017, the existing Resource Management Act delegations to Council officers and appointed Commissioners [as set out in **Attachment A**] and the General Rules for Delegations [as set out in **Attachment B**.]

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**Background**

- 1 The current Resource Management Act (RMA) delegations and the 'General Rules Applying to all Delegations' (**Attachment B**) were adopted by the newly elected Council at its first meeting on 15 December 2016. Further minor amendments to the RMA delegations were also adopted by Council on 23 June 2017.

## Comment

- 2 Changes to the Register of Delegations are necessary for a variety of reasons described below.
  - (a) Changes following the Resource Legislation Amendment Act 2017.
- 3 The Resource Legislation Amendment Act 2017 (RLAA 2017) received Royal Assent on 18 April 2017 and the new provisions come into force at varying times. The majority of the changes that require amendments to delegations come into force on 18 October 2017 (6 months after Royal Assent).
- 4 Many of the changes introduced through the RLAA 2017 are already captured under current delegations, for example Council already has delegations in place for making the notification decision on applications, and while the RLAA 2017 has amended that decision making process, the delegation is already covered under existing delegations for those sections of the RMA.
- 5 The general approach has been to keep the new delegations consistent with the existing delegations, so for example, when it comes to changes to the resource consent area, such as decision making around permitted boundary activities, these are proposed to be delegated down to Senior Planner consistent with our current level of decision making for resource consents.
- 6 All modifications shown in **Attachment A**. A reference number has been added to each change to show why the amendment is required as follows:

- 1 – Amendment required due to RLAA 2017
- 2 – Amendment required to correct table format issue
- 3 – Miscellaneous change to tidy up / corrections / omissions

### Amendments Required due to RLAA 2017

- 7 The key changes that require a new delegation are with regard to:
  - a. Permitted boundary activities (new sections 87BA(2)(a) and (b). This is proposed to be delegated down to Senior Planner level, the same as decisions on resource consents.
  - b. Determining that an activity is a permitted activity where a non-compliance is marginal or temporary (section 87BB(1)(d). This is also proposed to be delegated down to the Senior Planner level, as some assessment is required as to whether activities are marginal or temporary, although the actual issuing of the notice is delegated right down to the Planning Officer level.
  - c. Making a direction to striking out a submission at or before a hearing (section 41D). This is proposed to be delegated to Hearings Commissioners. In the unlikely event this power is required when a

decision is made under section 100 (i.e. with no hearing), the power has also been delegated to the Resource Consent Manager.

- d. Delegations relating to the new processes introduced for amending RMA plans. These have generally been delegated down to the Planning Policy Manager level. The RLAA 2017 introduced the option of 'limited notification' for plan changes, a 'streamlined process' where the Minister makes the final decision, and a 'collaborative planning process' which encourages greater front end participation and deliberation. With regard to a request to the Minister for a streamlined planning process, this sits with Full Council (section 80C).

#### Amendments required to correct table format issue

- 8 It has become apparent since the 23 June 2017 agenda item that the table of delegations had formatting issues. Specifically some delegations had 'dropped down' into the following row of the table and were not visible. This agenda item makes three changes to the delegations to correct mistakes caused by the table format issues from last agenda item, specifically to three sections 37 and 41B and 41C where the delegations inadvertently 'dropped down' a line and were hidden in the document.

#### Corrections and other tidy ups

- 9 Other tidy ups are also included, for example no delegation is currently provided for 91A, 91B and 91C which relate to decision on whether to continue processing or return a notified application that has exceeded the 130 day lapse period. It is proposed this is delegated down to Senior Planner level. Other errors and tidy ups have also been included and are shown in track changes.

#### ***Options***

##### Option 1 – Adopt the amendments to the Register of Delegations

###### *Advantages:*

- 10 Will ensure staff have the appropriate delegation to make decisions following the RLAA coming into force and will tidy up other areas of the delegations.
- 11 Will ensure that decisions of the relevant staff members are not open to challenge on this matter.
- 12 Other changes will enable the efficient implementation of the Council's RMA functions.

###### *Disadvantages:*

- 13 No known disadvantages.

##### 14 Option 2 – Retain the Status Quo

###### *Advantages:*

15 None identified.

*Disadvantages:*

16 Would not enable staff to act under the new provisions of the RMA that come into force on 18 October 2017.

17 Would not tidy up errors and other issues with the current set of delegations.

18 This report recommends **Option 1** for addressing the matter.

**Significance and Engagement**

19 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy because it is a decision relating to the administration of Council affairs.

**Risk**

20 This matter related to the operational risk OR011 'Decision Making: Staff Delegations' as documented in the Council's risk register. The risk is classed as moderate. This matter relates to this risk because there are potential political, economic, technical and legal risks associated with the determination of resource consent applications.

21 The recommended option considered above mitigates the risk by:

Treating the risk - putting measures in place which directly impact the risk.

**Financial Implications**

22 There are no financial implications as a result of this proposal.

**Local Government Act 2002 Purpose Provisions**

23 The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses;
- Can be implemented through current funding under the 10-Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

**Consultation: Community Views and Preferences**

24 No persons are considered to be affected or interested in this matter.

## **Legal Considerations and Statutory Responsibilities**

25 The proposed amendments to the existing delegations are in accordance with the powers delegated under the RMA.

## **Attachments**

- A Proposed amendments to the QLDC – Register of Delegations Resource Management Act 1991 dated 28 September 2017.
- B General Rules Applying to all Delegations