



Date: Tuesday, 14 March 2017
Time: 1pm
Location: Council Chamber, Wairoa District Council,
Coronation Square, Wairoa

AGENDA

Late Reports

Extraordinary Council Meeting

14 March 2017

Fergus Power
Chief Executive Officer

The agenda and associated papers are also available on our website: www.wairoadc.govt.nz

For further information please contact us 06 838 7309 or by email info@wairoadc.govt.nz

Order Of Business

5 **General Items**.....**3**
 5.1 Delegations - Warrant To Act 3

Recommendation

That in accordance with Section 46A (7) of the Local Government Official Information and Meetings Act 1987 the item Delegations - Warrant To Act be considered given the item had not come to hand at the time of Agenda compilation and consideration of this matter is required now in order to respond within the timeframe allowed.

5 GENERAL ITEMS

5.1 DELEGATIONS - WARRANT TO ACT

Author: James Baty, Corporate Services Manager

Authoriser: Fergus Power, Chief Executive Officer

Appendices: Nil

1. PURPOSE

- 1.1 The purpose of this report is to present delegations and appointments relating to Council staff for Council consideration and adoption.

RECOMMENDATION

The Corporate Services Manager RECOMMENDS that Council:

1. The report be received.
2. The delegations and appointments as scheduled in the Schedule of Delegations be approved with immediate effect:

NAME	DELEGATION/AUTHORITY
Fergus Power	<ol style="list-style-type: none"> 1. The Council delegates to Fergus Power (Chief Executive) all its powers that it is lawfully able to delegate in relation to its status as the lawful occupier of any Council land (including local roads). This includes, for the avoidance of doubt, the Council's power to authorise an employee or other person to act under the authority of the Council in terms of the Trespass Act 1980.

2. BACKGROUND

- 2.1 Unless expressly provided otherwise in the Local Government Act 2002, or in any other Act, the Council is able to delegate any of its responsibilities, duties or powers.
- 2.2 Given the ancient common law rights of the public to freedom of passage on public roads, the Council's process for closing of the road (and any subsequent warnings under the Trespass Act) needs to be robust.
- 2.3 Police need to have the ability to (ultimately) arrest people who enter and remain on closed roads or unlawfully occupy Council owned property. In order to do this, the Police require:
- a. that the Council has lawfully closed the roads under the relevant provisions of the Local Government Act 1974 (LGA74); and
 - b. given relevant warnings under the Trespass Act 1980 (Trespass Act).

3. OPTIONS

- 3.1 The options identified are:
- a. Do nothing.
 - b. Approved delegation as stipulated in this report.

- 3.2 Option A – while an option this is not feasible it is ultra vires for a Council Officer to conduct certain functions without the appropriate delegation.
- 3.3 The preferred option is Option B. This option ensures that Council Officers are operating within the law and the appropriate delegated authority. This option meets the purpose of local government, as it will help meet the current and future needs of communities for local public services in a way that is most cost-effective for households and businesses.

4. CORPORATE CONSIDERATIONS

What is the change?

- 4.1 Delegated authority - Council is the lawful occupier of local roads. Council needs to delegate to an appropriate person (e.g. the chief executive) all of its powers that it is lawfully able to delegate in relation to its status as lawful occupier (including, for the avoidance of doubt, under the Trespass Act).

Compliance with legislation and Council Policy

- 4.2 The matters and options discussed above comply with legislation, relevant regulations and best practice.
- 4.3 Complies with Schedule 10 of the Local Government Act 1974, which provides the manner in which the Council may exercise its power to close the roads. Clause 11 of schedule 10.
- 4.4 Complies with the Trespass Act 1980.

What are the key benefits?

- 4.5 Efficiency gains.
- 4.6 Adoption of the recommendations will ensure that Council Officers are properly delegated as enforcement officers with the appropriate responsibilities and powers conferred on them under legislation.

What is the cost?

- 4.7 No cost to Council.

What is the saving?

- 4.8 Not applicable.

Who has been consulted?

- 4.9 No consultation required.

Service delivery review

- 4.10 Not applicable.

Maori Standing Committee

- 4.11 This matter has not been referred to the committee.

5. SIGNIFICANCE

- 5.1 Impact on Council activities is low.
- 5.2 Council can review delegations at any time.

6. RISK MANAGEMENT

- 6.1 No strategic risks identified.

Further Information

<http://www.legislation.govt.nz/act/public/1974/0066/latest/DLM425592.html>

<http://www.legislation.govt.nz/act/public/1980/0065/latest/DLM36927.html>

Background Papers

None.

References (to or from other Committees)



None.

Confirmation of statutory compliance

In accordance with section 76 of the Local Government Act 2002, this report is approved as:

- a. containing sufficient information about the options and their benefits and costs, bearing in mind the significance of the decisions; and,
- b. is based on adequate knowledge about, and adequate consideration of, the views and preferences of affected and interested parties bearing in mind the significance of the decision.

Signatories

	
<p>James Baty Author</p>	<p>Fergus Power Approved by</p>