

Delegations Policy



Kaipara te Oranganui • Two Oceans Two Harbours

Delegations Policy			
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Author	Manager Quality Assurance	Act(s)	
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*Note: This Policy replaces the previous Delegations Policy adopted in 2014.

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1. Purpose

- 1.1 This document outlines Kaipara District Council's Policy on Delegations. This document should be read in conjunction with Council's Delegations Register (the Register).

2. Delegations

- 2.1 Delegated authority is how Kaipara District Council (Council) sets out its policy on what functions, duties and powers that it must, or wishes to retain responsibility for and those that it wishes to delegate.
- 2.2 The powers, functions and duties of Council are prescribed either expressly or implicitly by and through various Government Acts and Regulations. The legislation gives different powers, functions and duties to the elected Council, the Chief Executive (CE) as well as specific officers in certain instances.
- 2.3 Delegation is the conveying of a duty or power to act to another person or entity, including the authority that the person or entity making the decision would themselves have had in carrying out that duty or exercising that power.

3. Purpose of delegation

- 3.1 To support administrative efficiency and expediency in the conducting of its day-to-day business, Council delegates certain statutory and non-statutory duties, responsibilities and powers to its standing committees, subcommittees, elected members or staff (the delegated person or entity).
- 3.2 Delegations are a necessary operational requirement to achieve best use of the abilities of Elected Members and staff to promote efficient and effective decision-making. Delegations seek to avoid administrative delays and inefficiencies that might otherwise occur if all matters had to be referred to Council every time a decision needs to be made.
- 3.3 A power merely to hear evidence or consider a proposal is not a delegation and is not therefore generally included in the Register.
- 3.4 The delegated person or entity generally has the authority to hear any matter within their jurisdiction and submit a report or recommendation to a higher authority, unless that is prohibited by law.

4. Legislative framework

- 4.1 The delegations contained in the Register are made in accordance with the Local Government Act 2002 ('the Act') as well as a range of other legislation that Council operates under. In most cases Council has the primary power of delegation, as it is this body that is specified in the empowering legislation. In some specific instances, the legislation empowers the CE directly and they will have the primary power of delegation.
- 4.2 The Act as well as some of the relevant statutes limit the ability for Council to delegate certain specific identified powers and duties, therefore these matters always require a decision of Council.

5. General and specific delegations

- 5.1 A general delegation implies the granting of authority to determine a range of matters as and when they arise over time without further reference to the delegating body or person who made the delegation.
- 5.2 A specific delegation allows the granting of authority on a particular matter that is not covered by the general delegations. This delegation will apply only so long as that matter is unresolved and will then lapse. This must be recorded by a council or committee resolution or written authority from the CE.

6. Kaipara District Council's policy on delegations

- 6.1 Where possible, Council delegates appropriate functions, duties and responsibilities to the Chief Executive. The CE can then further delegate these to specified appropriate staff positions. This approach allows Council's delegations to be managed more efficiently and effectively.
- 6.2 The CE is responsible for implementing the decisions of Council and ensuring that all responsibilities, duties and powers delegated to them, or to any person employed by Council, are properly performed or exercised. This includes those imposed or conferred by an Act, regulation, or bylaw.
- 6.3 Delegation of decision-making will be made to the lowest competent level to best support the purpose of delegations.
- 6.4 For completeness, Council retains all powers, responsibilities and duties that are not delegated in either the Register or any committee Terms of Reference.

7. Policy statements

- 7.1 The delegated person or entity is acting on behalf of Council when exercising delegated authority. Decisions made under this authority must be exercised in accordance with the law, and relevant policies and procedures.
- 7.2 No delegation relieves Council, an Elected Member, or officer of the liability or legal responsibility to perform or ensure performance of any function or duty.
- 7.3 Subject to any specified limitation, term or condition applied by the delegating body or person or by law, a delegated officer may exercise the power or authority delegated in the same manner and to the same effect as could the delegating body or person.
- 7.4 Council is bound by any decision made by a delegated person or entity, to the extent that the decision has already become binding on Council by the operation of law and therefore cannot be reversed.
- 7.5 While having the authority to act, the delegated person or entity has the right not to exercise that delegation and therefore not make a decision. In such instances, the delegated person or entity should discuss the matter with their manager or the delegating authority.

- 7.6 Should any delegated officer, having considered all the facts of the case, be unable to make a decision which complies with Council policy on any matter, the correct action is then to refer the matter to the Council.
- 7.7 The powers delegated to a person or entity are also delegated to all persons within the direct reporting line between the CE and the person or entity.
- 7.8 Sub-clause 7.7 does not apply where qualifications or competence required to exercise the delegation are required, or the exercising of the delegation is limited or prohibited by legislation. The Register details such exclusions where required.
- 7.9 A delegating authority may exercise their powers in relation to a delegation where no decision has yet been made by a delegated person or entity.
- 7.10 It is implicit that a delegation may be revoked at any time without notice.
- 7.11 If a delegated person or entity's decision is invalid it cannot be ratified by the delegating authority. The correct action is generally for the matter to be considered in full again by the delegated person or entity, assuming it is within their power to determine the matter.
- 7.12 Unless any delegation is expressed to be for a definable term, it shall continue until revoked by the delegating authority, or withdrawn in any way by operation of law.
- 7.13 Staff carrying out higher duties in a temporary acting capacity have the delegated powers, duties and responsibilities of the position in which they are acting, including the Acting CE.
- 7.14 Responsibilities, duties or powers delegated to the officers by the CE may not be sub-delegated, unless specifically provided for by the CE in the delegation and permissible within the relevant legislative provisions.
- 7.15 Unless specifically time-limited, a delegation will continue in force until specifically revoked, or varied by the delegator or the Council where Council is the delegator.
- 7.16 The responsibilities are delegated to position or roles and are not delegated to individuals. Each person retains the delegated responsibilities assigned to their position while they are in that position but ceases to have those delegated responsibilities when they vacate that position.
- 7.17 An officer must comply with any conditions, such as financial limits or other procedural requirements, relevant to the exercise of a delegated authority and should also comply where required with all Council policies.
- 7.18 Unless a valid delegation in respect of a matter has been appropriately authorised and included in the Register, any decision required in respect of that matter can only be made by Council at an ordinary, extraordinary, or emergency meeting.
- 7.19 For completeness, any power, duty or responsibility of Council that cannot be delegated under statute is excluded from this Policy approach and the Register.

8. Register review, maintenance and reporting

- 8.1 Council's Register is established and reviewed in accordance with this Policy.
- 8.2 This Policy and the Register will be reviewed after every triennial election.
- 8.3 Additional updates to the Register will be made as required to give effect to legislative changes, changes in position titles of staff, or any other relevant issues and in accordance with resolutions of Council where required.
- 8.4 Attachment 1 to this Policy is provided as related information and details all decisions of Council relating to the Register from the date of the first adoption of this Policy onwards.
- 8.5 Where the CE has been delegated the authority to issue warrants to enforcement and other officers, the CE will maintain a list of current warrants.
- 8.6 The CE will maintain and update their delegations to officers as part of the Register and will report to Council on any new or changed delegations or warrants on a frequency requested by Council or deemed appropriate by the CE.
- 8.7 The CE will report any significant changes to legislation that have delegation related implications to Council as required.

ATTACHMENT 1 – DELEGATIONS POLICY

In accordance with Section 8.4 of the Delegations Policy this Attachment is provided as related information and may be amended at any time.

Table 1 below provides a record of all general delegation decisions (see Section 5) of the Council from the date of the adoption of this Policy on 26 June 2024.

Table 1

Date	Item	Category of delegations	Notes
26 June 2024	Financial Delegations	Council to staff positions	Due to organisational restructure
26 June 2024	Local Government (Rating) Act 2003	Council to staff positions	Regular review and restructure outcome
26 June 2024	Legislative and non-legislative delegations	Council to CE	Temporary delegations to accommodate restructure and review process
26 June 2024	Resource Management Act 1991	Council to staff	