

## DELEGATIONS MADE BY COUNCIL TO CHIEF EXECUTIVE AND STAFF

The Council makes its delegations under the various powers of delegation referred to in this instrument. In the absence of a reference to a specific power, the Council makes the delegation under clause 32 of Schedule 7 of the Local Government Act 2002.

For the avoidance of doubt:

- a reference in this document to an enactment, regulation or bylaw includes any enactment, regulation or bylaw that, with or without modification, replaces or corresponds to that enactment, regulation or bylaw;
- a reference in this document to a Council Committee includes any Committee that replaces or corresponds to that Committee and involves substantially the same duties;
- a reference in this document to a Council officer position includes any Council officer position that replaces or corresponds to that Council officer position and involves substantially the same duties; and
- all financial limits stated in these delegations are GST exclusive.

Note: all delegations are subject to the restriction set out in clause 32(1) of Schedule 7 of the Local Government Act 2002, that the following powers are not included in these delegations:

- (a) the power to make a rate;
- (b) the power to make a bylaw;
- (c) the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan;
- (d) the power to adopt a long-term plan, annual plan, or annual report;
- (e) the power to appoint a chief executive;
- (f) the power to adopt policies required to be adopted and consulted on under this Act in association with the long-term plan or developed for the purpose of the local governance statement;
- (g) the power to adopt a remuneration and employment policy.

### DELEGATIONS MADE BY COUNCIL TO CHIEF EXECUTIVE AND STAFF

The Deputy Chief Executive is delegated all the following responsibilities, duties and powers of the Chief Executive and may act for the Chief Executive in:

- the formal and recorded absence of the Chief Executive; or
- an emergency where the Chief Executive cannot be contacted.

When employed, an Interim Chief Executive is delegated all the following responsibilities, duties and powers of the Chief Executive.

Legislation and Authority	Powers Delegated
<p><b>Building Act 2004, any regulations made under that Act, and the Building Code (Schedule 1 to Building Regulations 1992)</b></p> <p>To the Chief Executive with power of sub-delegation to officers.</p>	<p>Under section 232 of the Building Act 2004 – delegation of authority to exercise and administer all responsibilities, duties and powers of the Council as a Territorial Authority and Building Consent Authority under the Building Act 2004, any regulations made under that Act and the Building Code (Schedule 1 to the Building Regulations 1992) including delegation to the Chief Executive (with the power to sub-delegate) to write off sundry debts to the value of \$10,000, <b>except:</b></p> <ul style="list-style-type: none"> <li>• the adoption, amendment or replacement of the Council's policy on dangerous, earthquake prone and insanitary buildings as required by sections 131 and 132;</li> </ul>

Legislation and Authority	Powers Delegated
	<ul style="list-style-type: none"> <li>the making of arrangements to transfer functions to another building authority under section 213;</li> <li>the transfer of functions, duties or powers of a territorial authority to another territorial authority under sections 233-236;</li> <li>the setting of fees or charges under section 219.</li> </ul>

Legislation and Authority	Powers Delegated
<p><b>Local Government Act 2002 and any regulations made under that Act</b> To the Chief Executive with power of sub-delegation to officers.</p>	<p>Delegation of authority to exercise and administer all responsibilities, duties and powers of the Council under the Act and any regulations made under the Act, <b>except:</b></p> <ul style="list-style-type: none"> <li>the powers set out in clause 32(1)(a) to (h) of Schedule 7 of the Act;</li> <li>any Local Government Act 2002 power expressly reserved to the Council or expressly delegated by the Council to a committee;</li> <li>where sections 138 or 140 of the Local Government Act 2002 apply; or</li> <li>as limited by the conditions set out below.</li> </ul> <p>Delegation of authority to affix the Council's common seal:</p> <ul style="list-style-type: none"> <li>to any warrants issued by the Council where the warrants authorise entry onto private land on behalf of the Council;</li> <li>to any document that has been prepared to implement a resolution previously made by the Council; and</li> <li>in any other situation where the Council is directed by legislation to use its common seal;</li> </ul> <p>providing that the signature of the Chief Executive followed by that of the Mayor or Deputy Mayor and one Councillor have first been obtained and that the use of the common seal is recorded in a register and advised to Council on a weekly basis via the Elected Members Bulletin.</p> <p>Delegation of authority to approve and enter into, and where required to affix the common seal:</p> <ul style="list-style-type: none"> <li>any deed and agreement entered into by Council under clauses 7-12 (electronic instruments) and clause 13 (paper instruments) and schedule 3 (for classification of instruments) of the Land Transfer Regulations 2018 (note that leases, easements, instruments and other land-related documents are deemed to have the same effect as deeds and should be executed as deeds);</li> </ul> <p>provided the signature of the Chief Executive and a witness is also obtained (in accordance with execution requirements outlined under Appendix 1 below).</p> <p>Without limiting the powers delegated to the Chief Executive above, the Chief Executive may:</p> <ul style="list-style-type: none"> <li>implement any proposal or decision contained within the Council's Long Term Plan (LTP) or Annual Plan or other adopted Council policy;</li> </ul>

Legislation and Authority	Powers Delegated
	<ul style="list-style-type: none"> <li>• issue warrants under the Local Government Act 2002 or any other enactment under which Council officers may be warranted;</li> <li>• appoint enforcement officers under section 177 of the Act;</li> <li>• give approval to matters or activities relating to land or buildings under the control, authorisation or ownership of the Council, except as limited by clause 32(1)(c) of Schedule 7 of the Act;</li> <li>• grant leases of residential properties (see note above about deed execution);</li> <li>• grant leases of Council property where the term of the lease is 10 years or less, including right of renewals (see note above about deed execution);</li> <li>• grant licences to occupy Council property where the term of the licence is 3 years or less (see note above about deed execution);</li> <li>• grant easements over land (see note above about deed execution); and</li> <li>• enter into other deeds, contracts or agreements (including but not limited to leases of non-Council property and licences to occupy non-Council property).</li> </ul> <p>The following conditions apply to the exercise of the Chief Executive's delegated powers under the Act:</p> <ul style="list-style-type: none"> <li>• The Chief Executive may commit Council expenditure for any deeds, contracts or agreements up to \$2.4million, for any one deed, contract or agreement, including the authority to enter into such a deed, contract or agreement, providing that before exercising these powers the Chief Executive is satisfied that full allowance has been made and remains for the proposed expenditure in an approved budget and that, if applicable, all tenders accepted over a value of \$250,000 are reported to the Strategy, Operations and Finance Committee;</li> <li>• The Chief Executive may sub-delegate the authority to commit the Council to expenditure for any deeds, contracts or other agreements e.g. mediation, leases of non-Council property and licences to occupy non-Council property, and subject to any conditions that the Chief Executive may impose, for a lesser amount than \$600,000 and no more than an officer's financial delegation, for any one deed, contract or agreement, including the authority to enter into such a deed, contract or agreement, providing that before exercising these powers the sub-delegate is satisfied that full allowance has been made and remains for the proposed expenditure in an approved budget and that, if applicable, all tenders accepted over a value of \$250,000 are reported to the Strategy, Operations and Finance Committee;</li> </ul>

Legislation and Authority	Powers Delegated
	<ul style="list-style-type: none"> <li>The Chief Executive (with the power to sub-delegate) may write off sundry debts (excluding rating debts) up to the value of \$10,000 per debt.</li> </ul> <p><i>See the 'Reserves Act 1977 delegations' for delegations in respect of leases on reserve land. See also Appendix 1 for Execution Requirements and Appendix 2 for Use of the Common Seal.</i></p>

Legislation and Authority	Powers Delegated
<b>Resource Management Act 1991 and any regulations made under that Act</b> To the Chief Executive and the Deputy Chief Executive with no power of sub-delegation	Delegation, under section 34A of the Resource Management Act 1991, of authority to exercise and administer all responsibilities, duties and powers of the Council under the Act and any regulations made under the Act, <b>including</b> delegation to the Chief Executive to write off sundry debts to the value of \$10,000, <b>except:</b> <ul style="list-style-type: none"> <li>the power of delegation; or</li> <li>the power of approval of a policy statement or plan under clause 17 of Schedule 1.</li> </ul>

**\*Duplicate Resource Management Act 1991 section (administrative error)—seek legal advice before exercising**

Legislation and Authority	Powers Delegated
<b>Resource Management Act 1991 and any regulations made under that Act</b> To the Chief Executive and the Deputy Chief Executive with no power of sub-delegation	Delegation, under section 34A of the Resource Management Act 1991, of authority to exercise and administer all responsibilities, duties and powers of the Council under the Act and any regulations made under the Act, <b>including</b> delegation to the Chief Executive to write off sundry debts to the value of \$10,000, <b>except:</b> <ul style="list-style-type: none"> <li>the power of delegation; or</li> <li>the power of approval of a policy statement or plan under clause 17 of Schedule 1.</li> <li>the power of approval of a private request for change to the District Plan under clause 25 of Schedule 1.</li> </ul>

Legislation and Authority	Powers Delegated
<b>Kapiti Coast District Council General Bylaw and all other Bylaws</b> To the Chief Executive with power of sub-delegation to officers	The Council appoints the Chief Executive as an authorised officer under the Kapiti Coast District Council General Bylaw, and as the appropriate officer designation under all other Bylaws. Delegation of authority to exercise and administer all responsibilities, duties and powers of Council under the Kapiti Coast District Council General Bylaws and all other Bylaws, <b>including</b> but not limited to authority to do all things necessary to: <ul style="list-style-type: none"> <li>implement and uphold the Kapiti Coast District Council General Bylaws and all other Bylaws;</li> <li>appoint Council staff members as authorised officers under the Kapiti Coast District Council General Bylaw, and appoint Council staff members as officers with the appropriate officer designation under Kapiti Coast District Council Bylaws;</li> <li>sub-delegate generally and particularly any of those powers conferred upon the Chief Executive under the</li> </ul>

	Kapiti Coast District Council <b>General</b> Bylaws <b>and all other Bylaws.</b>
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## Appendix 1 Execution requirements

1. For documentation that must be executed by Council (as per section 32 of Schedule 7 of the Local Government Act 2002), the signatures of the Chief Executive, Mayor and one Councillor are required, and the common seal affixed.
2. For matters delegated to the Chief Executive, the signature of the Chief Executive is required and a witness (please note Council's financial delegations must also be met)
3. For matters delegated by the Chief Executive to Council officers (i.e. Group Managers), the signature of the officer is required and a witness (please note Council's financial delegations must also be met).

## Appendix 2 Use of the common seal

Please note that the use of the common seal is required when Council must execute an agreement for certain transactions under the following Acts:

- Sections 22(2) of the Bylaws Act 1910 provides that any bylaw, or copy of a bylaw authenticated by the common seal of the local authority shall be sufficient evidence of the existence, publication, validity, and provisions of the bylaw and the date of its coming into operation.
- Section 12(8) of the Bylaws Act 1910 refers to the Council issuing under common seal a bylaw that has been quashed in part or amended by the High Council.
- Clause 17 of Schedule 1 of the Resource Management Act 1991 provides that approvals of proposed policy statements or plans must be done by affixing the common seal.
- Section 174(1) of the Local Government Act 2002 wherever a Council officer is authorised under the Local Government Act 2002 or other Act to enter private land on behalf of the Council, the Council must provide a written warrant with the common seal affixed as evidence of authorisation.
- Section 258H of the Local Government Act 2002 relates to the execution of documents using the common seal when a commission is appointed by the Minister in the place of a local authority.
- Section 345(1)(a) of the Local Government Act 1974 refers to the Council conveying or transferring or leasing land, that is no longer required as a road, to be done using the common seal.
- Section 80 of the Local Government (Rating) Act 2002 provides that the Council must in the case of the sale or lease of abandoned land, execute a memorandum of transfer or lease using the common seal, on behalf of the ratepayer whose interest has been sold or leased.
- Clause 8 of Schedule 1 of the Receiverships Act 1993 provides for the use of the common seal where a receiver is appointed and needs to execute documents in the name of the local authority in relation to assets charged in favour of the appointer of the receiver.