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Committee Policy, Finance & Strategy Committee
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Delegation to decide whether to grant approval under section 176(1)(b) of the RMA 1991

1. Purpose

To ask the Council to delegate the following powers to the Chief Executive Officer, Barry Harris:

- (a) The power to decide whether to give prior written consent to a person to do anything in relation to land that:
 - is subject to a designation in a district plan; and
 - would prevent or hinder a public work or project or work to which the designation relates.
- (b) The power to sub-delegate this power to council officers.

2. Background & Comment

2.1 Section 176(1)(b) of the Resource Management Act 1991

Section 176(1)(b) of the Resource Management Act (RMA) 1991 states that “If a designation is included in a district plan, then no person may, without the prior written consent of that requiring authority, do anything in relation to the land that is subject to the designation that would prevent or hinder a public work or project or work to which the designation relates, including –

- (i) undertaking any use of the land described in section 9(4); and
- (ii) subdividing the land; and
- (iii) changing the character, intensity, or scale of the use of the land.”

All local authorities are “requiring authorities” for the purposes of the RMA 1991. Greater Wellington has designations in territorial authorities’ district plans in relation to water supply, regional park facilities and assets, soil conservation and river control.

2.2 Delegate for efficiency and effectiveness

The Council has never exercised nor delegated its powers under section 176(1)(b) of the RMA 1991. Recently, however, officers received Greater Wellington's first application for approval under section 176 since the RMA came into force. The application has highlighted the need to delegate this power to council officers.

A decision to grant approval under section 176(1)(b) will typically be based on a technical assessment of the impact of the planned activity or action on the designation. For this reason, it is appropriate that the power to grant approval be delegated to council officers with the relevant expertise and experience.

Delegating this power to officers will also ensure that requests for approval under section 176 are considered and processed as quickly as possible. Applicants will not have to wait until after the next Council meeting (which can be up to six weeks away) before they know whether or not they will be given consent.

It is recommended that the Council delegate to the Chief Executive Officer, Barry Harris, both:

- (a) the power to decide whether to give prior written consent under section 176(1)(b); and
- (b) the power to sub-delegate this power, as appropriate.

This will enable Barry Harris to decide, on a case-by-case basis, which officers are best placed to decide whether to grant approval under section 176. The most appropriate officer will depend on which division the application is most pertinent to and who has the most relevant expertise and experience to carry out the technical assessment.

3. Communication

This delegation will be recorded in the Council's delegations manual.

4. Recommendation

That the Committee recommends to Council that it:

Delegate to the Chief Executive Officer, Barry Harris, the power to:

- (1) *Decide whether or not to approve an application under section 176(1)(b) of the Resource Management Act 1991 and provide prior written consent; and*
- (2) *Sub-delegate this power to other council officers.*

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