

Notice of Meeting:

I hereby give notice that an extraordinary Meeting of the Council will be held on:

Date: Thursday 2 April 2020
Time: 9.30am
Meeting: Audio Visual Meeting

Richard Briggs
Chief Executive

Extraordinary Council OPEN LATE AGENDA

Membership

Chairperson	Mayor P Southgate
Deputy Chairperson	Deputy Mayor G Taylor
Members	Cr M Bunting
	Cr M Forsyth
	Cr M Gallagher
	Cr R Hamilton
	Cr D Macpherson
	Cr K Naidoo-Rauf
	Cr A O'Leary
	Cr R Pascoe
	Cr S Thomson
	Cr M van Oosten
	Cr E Wilson

Quorum: A majority of members (including vacancies)

Meeting Frequency: Monthly – or as required

Becca Brooke
Governance Manager

1 April 2020

Telephone: 07 838 6727
Becca.Brooke@hcc.govt.nz
www.hamilton.govt.nz

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Council Report

Item 9

Committee: Council

Date: 02 April 2020

Author: Chris Allen and Jen Baird

Authoriser: Richard Briggs

Position: General Manager
Development
General Manager City Growth

Position: Chief Executive

Report Name: Delegations to Positions Policy: amendments in light of Covid-19 response and state of emergency

Report Status	<i>Open</i>
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Purpose

1. To seek Council's approval of proposed amendments to the Delegations to Positions Policy in light of Council's response to Covid-19 and the current state of emergency.

Staff Recommendation

2. That the Council:
 - a) receives the report;
 - b) approves the revised Delegations to Positions Policy (Attachment 1 of the staff report), which has been updated to reflect recommended changes in response to Covid-19, to temporarily replace the current Delegations to Positions Policy until 30 June 2021 or until an earlier resolution of the Council.

Executive Summary

3. It is the responsibility of Council to approve the delegations and terms of reference that enables effective decision-making under the committee structure approved by Council.
4. The Delegations to Positions Policy supports effective governance by authorising the Chief Executive and designated staff to be responsible for carrying out tasks or functions on behalf of the Council. The Council retains ultimate accountability for the decisions and actions made by the Chief Executive or designated staff under the Delegations to Positions Policy.
5. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the matter(s) in this report has/have a medium level of significance.

Financial delegations

6. In light of Covid-19, staff recommend revising the Chief Executive's financial delegations in the Delegations to Positions Policy in order to allow an agile and appropriate response to the economic impact of the pandemic.

7. By approving these changes to delegations, Council is not approving extra funding. In exercising the delegations, the Chief Executive will need to be satisfied that funding is available.
8. The increased delegations will allow staff to be more responsive to a changing situation and to secure resources which are likely to be stretched to capacity to meet the eventual demand on their availability.
9. The recommended change is as follows. For contracts that have not been subject to a tender process, the Chief Executive currently has a delegation of up to \$250,000 to award contracts with a term not exceeding five years. It is recommended that this limit is increased to the Chief Executive's delegation to award contracts (being \$3,000,000) subject to funding being available.

Civil Defence delegations

10. Staff also recommend changes to the civil defence delegations in the Delegations to Positions Policy in order to reflect the operational structure of the Civil Defence Emergency Management Group for the Waikato Region under the Covid-19 declared state of emergency.
11. Staff consider the matters in this report have medium significance and that the recommendations comply with the Council's legal requirements.

Background

12. The current Delegations to Positions Policy ('the Delegations Policy') was approved by Council in February 2020 to reflect the Governance Structure for the 2019-2022 triennium.
13. The Delegations to Positions Policy supports effective governance by authorising the Chief Executive and designated staff to be responsible for carrying out tasks or functions on behalf of the Council. With such a policy in place, the Council (as a governance body) and the Chief Executive can be clear about their delegation powers and responsibilities, and any exclusions or limitations that apply.
14. The Council retains ultimate accountability for the decisions and actions made by the Chief Executive or designated staff under the Delegations to Positions Policy.
15. The current state of emergency and the impact of Covid-19 on Council's business and the wider economic landscape has prompted staff to review the Delegations to Positions Policy to identify potential amendments to respond to the current situation.

Discussion

16. In order to be in a position to act in an appropriate and agile way to give effect to Council's response to Covid-19 (both those initiatives approved anticipated for inclusion in phase 2 of Council's Covid-19 response package, as well as any other initiative that may arise throughout the course of the next 15 months), staff are proposing amendments to the Delegations to Positions Policy.
17. Staff are also proposing changes to the civil defence delegations, to mirror the operational structure of the Civil Defence Emergency Management Group for the Waikato Region under the Covid-19 declared state of emergency.
18. The changes proposed to the Delegations Policy are summarised below, and are marked up in **Attachment 2** as tracked changes (with **Attachment 1** constituting a clean copy for approval).

Change to financial delegations

19. For contracts that have not been subject to a tender process, the Chief Executive currently has a delegation of up to \$250,000 to award contracts with a term not exceeding five years (for clarity, this delegation limit excludes private developer agreements or contracts for the appointment of utility services providers to relocate, connect or alter utility services, which are subject to the usual Chief Executive contracts delegation (\$3,000,000)).
20. Staff consider it will be difficult in the current climate to obtain external resources to carry out key projects, particularly if suppliers are asked to compete for work through a tendering process in an uncertain climate. Staff consider it will be critical to be able to directly negotiate contracts with individual suppliers in the near future. For completeness, staff note that a state of emergency is a valid exemption to the requirement to run an open tender process under the Government Rules of Sourcing (which Council follows).
21. Accordingly, staff recommend that the \$250,000 limit is increased to the Chief Executive's general delegation of \$3,000,000 (subject to funding being available). It is recommended that this change has effect until 30 June 2021 or an earlier resolution of Council to revise the policy.
22. This proposal has been discussed with the Chair of the Strategic Risk and Assurance Committee, Keiran Horne, who suggested directly awarded contracts exceeding the Chief Executive's current delegation of \$250,000 and up to a value of \$3,000,000 could instead be approved jointly by the Chief Executive, Chair of the Finance Committee and Chair of the Infrastructure Operations Committee by consensus.
23. Staff note Chair Horne's comments, but nevertheless recommend a simple increase to the Chief Executive's delegation, to be exercised by the Chief Executive alone in the interests of agility. The process is robust, in that only activities already funded by Council are within the scope of the delegation. Regular reporting to the relevant committee is already required under the Delegations to Positions Policy and will of course be complied with in this scenario.

Civil Defence delegations

24. Under the Delegations to Positions Policy, Council has delegated authority to the Civil Defence Emergency Management Controller/Alternate Controller of Hamilton City and Civil Defence Emergency Management Group for Waikato Region to enter into urgent contracts on behalf of Hamilton City Council for the purposes outlined in the Civil Defence Emergency Management Act 2002. This relates to financial authority to operate in both declared and undeclared events and provides for incremental reporting requirements to the Chief Executive and the Group Controller.
25. At the time of first granting this delegation, it was intended that only a Hamilton City Council Controller/Alternate Controller or a member of the Waikato Civil Defence Emergency Management Group would be permitted to exercise this function.
26. In response to Covid-19 and the associated declaration of a national state of emergency, the Waikato Joint Committee revisited the topic of Controller appointments and councils' delegations. It was decided that all Local Controllers and their alternates/deputies would be elevated to Tier 2 status in the Group, meaning the Controller can operate in **any** local authority area within the Group. Such a move was essential to ensure that there was sustainability and adequate coverage as a Group, given the health risk inherent in the current climate.

27. As every local authority has similar delegations in existence (principally only for Controllers acting within their own local authority area), it is considered necessary that **all** Controllers within the Waikato Civil Defence Emergency Management Group have delegated authority, including financial authority to operate within **every** local authority area, so that they may operate effectively in the area they are assigned to work in. This change has been requested of all Waikato councils by the Group Controller.
28. Staff therefore recommend amending the Delegations to Positions Policy to extend the current delegation to **any** Controller or their alternate/deputy appointed by the Waikato Group Controller to operate within Hamilton City Council's territorial boundaries, so that the controller can enter into urgent contracts. The existing limitations to this delegation, as set out in the Delegations to Positions Policy, would apply to this extension.
29. Again, staff recommend the amendment has effect until 30 June 2021 unless earlier revoked or extended.

Financial Considerations

30. The proposed amendments do not in themselves have financial implications. The proposed changes to the Chief Executive's delegations are limited to situations where the contract sums are already funded through the Long-Term Plan, or where Council has approved funding. The proposed changes to the civil defence delegations simply relate to who can exercise the delegation, rather than the nature or scope of the delegation.

Legal and Policy Considerations

31. Staff confirm that the recommendation complies with the Council's legal and policy requirements.

Wellbeing Considerations

32. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
33. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report. Staff consider the recommendations set out in this report are consistent with that purpose.

Risks

34. In order to mitigate risk, Council's responsibilities, powers and duties should be delegated to the appropriate level to ensure staff who undertake functions on behalf of the Council have the relevant authority to do so. Staff are satisfied that is the case here.
35. Staff are also mindful that there are risks to Council, should staff be unable to respond to opportunities in an agile manner in the current climate, which in turn supports the recommendation to amend the Chief Executive's delegations.
36. Finally, staff note the risk inherent in local civil defence controllers assigned to the Hamilton City Council territorial area being unable to exercise powers under the Civil Defence Emergency Management Act 2002 due to a mismatch between Council's Delegations to Positions Policy and the operational structure of the Civil Defence Emergency Management Group for the region. The proposed change significantly mitigates this risk and supports an agile civil defence response for the region.

Significance & Engagement Policy

Significance

37. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the matter(s) in this report has/have a medium level of significance.

Engagement

38. Given the medium level of significance determined, the engagement level is medium. No engagement is required.

Attachments

Attachment 1 - Delegation to Positions Policy - April 2020 (clean)

Attachment 2 - Delegation to Positions Policy - April 2020 (tracked)

First adopted:	December 2013
Revision dates/version:	November 2015, November 2016, May 2019, February 2020, April 2020
Next review date:	
Engagement required:	
Document Number	D-3276620
Associated documents:	
Sponsor/Group:	Mayor of Hamilton / Chief Executive Officer

Delegations to Positions Policy

Purpose and scope

1. Part of Council's strategic and governance role is to ensure that its statutory responsibilities, duties and powers are carried out at the most effective and efficient levels. This Policy sets out the delegations from Council to specified elected members and officers.
2. Matters outside the scope of this Policy are:
 - a. Delegations from Council to Committees, which are specified in the 2019-2022 Governance Structure; and
 - b. Delegations from the Chief Executive to subordinate officers through management policies or by way of a specific delegation.

Definitions

Term	Definition
Committee	A committee or subcommittee (if any) of Council, as listed in the 2019-2022 Governance Structure
Delegated Financial Authority	The financial limit delegated to: <ol style="list-style-type: none"> a. the Chief Executive or a specified officer under this Policy; or b. an officer under the relevant management policy or a specific delegation from the Chief Executive.
Governance Structure	The Council's approved Governance Structure document, including the terms of reference and delegations for Council and Committees, for the current triennium.
Officer	A Council staff member who is for the time being the holder of a specified office.

Principles

3. Where local authority activities do not contain a governance component and are not limited by statutory restrictions then they should be delegated to the Chief Executive, who may sub-delegate to officers.
4. To be effective and of legal standing, all delegations from Council must be precise and in writing (i.e. via this Policy or by Council resolution).

5. The delegate is acting in his or her own name on behalf of the Council when exercising delegated authority. In so doing, the delegate will ensure they act in accordance with any:
 - a. binding statutory authority (in relation to each delegation, relevant sections of legislation will be identified); and
 - b. relevant Council policy or process, including delegated financial authority and reporting requirements.
6. Council retains ultimate responsibility for its governance, statutory and financial responsibilities, duties and powers at all times. No delegation relieves Council of the liability or responsibility for the performance of the delegated responsibility, duty or power.
7. Those with responsibility for a delegated task or function should always have the authority to carry it out effectively.
8. Those with authority to perform a delegated responsibility, duty or power should always be responsible for the performance of the delegation in a full, fair and objective manner. To this end, it is open to the person delegated a responsibility, duty or power to consider whether or not to exercise that delegated responsibility, duty or power, or to refer the matter back to Council or the relevant Committee.
9. Subject to any legislative restrictions, a responsibility, duty or power delegated to an officer is also delegated to all officers in a direct line of authority above that officer and is also delegated to any officer who is in an acting capacity for that officer.
10. Any delegation made includes any ancillary responsibilities, duties or powers necessary to give effect to that delegation.
11. Unless specifically restricted, a delegation continues in force until expressly revoked or varied by resolution of Council. A delegation will survive any change in the person occupying the office to which the delegation was made.
12. Unless otherwise expressly stated in the Policy:
 - a. all financial values stated in this Policy are GST exclusive; and
 - b. all references to a repealed enactment should read as a reference to its replacement.

Policy

The meaning of delegation

13. For the purpose of this Policy, delegation means the transfer of a responsibility, duty or power from Council to specified Elected Members, the Chief Executive or other specified officers, together with the authority to carry out that responsibility, duty or power or complete the action delegated.
14. General delegation means the granting of authority to determine a range of matters of a similar kind as and when they arise over a period of time without further reference to the delegator.
15. From time to time the Council may delegate authority by resolution to determine a specific issue. This specific delegation will exist only so long as that matter is unresolved and will then lapse at a specified time.
16. General delegations will be updated in this Policy as they are confirmed. Specific delegations may not necessarily be recorded in this Policy due to the fact that they would be largely historical by the time they are recorded.

Legal basis

17. The delegations in this Policy are made in accordance with the Local Government Act 2002 and any other legislation permitting delegation.
18. **Council cannot delegate** the power to:
- make a rate; or
 - make a bylaw; or
 - borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan or otherwise as expressly covered in this Policy; or
 - adopt a long-term plan, annual plan, or annual report; or
 - appoint a Chief Executive; or
 - adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the long-term plan or developed for the purpose of the local governance statement; or
 - adopt a remuneration and employment policy.

(Local Government Act 2002 - Schedule 7, Clause 32 (1))

Council has reserved other matters for its sole decision, which are recorded in the Governance Structure.

19. The **Chief Executive and other specified officers** can further delegate their delegations to any other officer, subject to certain restrictions.

(Local Government Act 2002 – Schedule 7, clause 32B)

Delegations by the Council to Elected Members

20. Delegations from Council to specified Elected Members are detailed in Schedule 1.

Delegations by the Council to Chief Executive and Specified Officers

21. Delegations from Council to the Chief Executive and specified officers (including Financial Delegations) are detailed in Schedule 2.
22. The Policy is to be read alongside the Hamilton City Council management policies that record the delegations from the Chief Executive to subordinate officers. The Policies, read together, record compliance with the statutory norm allowing only one sub-delegation.

Review of Policy

23. This Policy was reviewed in April 2020 to allow an appropriate and agile response to Covid-19 response issues, with an intent to review the April 2020 amendments to financial limits no later than 30 June 2021. As such, these changes will have effect until 30 June 2021 unless earlier revoked or extended.
24. Further changes were also made to the Policy in April 2020 to delegations to the Local Civil Defence Controller in order to mirror the operational structure of the Civil Defence Emergency Management Group for the Waikato Region Emergency Operating Area during the Covid-19 state of emergency. Again, these changes will have effect until 30 June 2021 unless earlier revoked or extended.
25. The Policy shall remain in effect until such time as it is varied or revoked by resolution of the Council. It is intended that the Policy will be reviewed and updated from time-to-time; at the start of each triennium as a minimum.

Schedule 1 - Delegations by the Council to Elected Members

Position General Delegations

Mayor

The Mayor is elected by Hamilton City as a whole and as one of the elected members shares the same responsibilities as other members of Council.

Authorities

- Lead the development of Council's plans (including the long-term plan and the annual plan), policies and budgets for consideration by the Council.*
- To appoint the Deputy Mayor.*
- To establish committees of the Council.*
- To appoint the chairperson of each committee.*
- Act as a Justice of the Peace.
- Requisition a meeting of Council.
- Declare a local Civil Defence emergency.
- Authority of a chairperson of a Council meeting under Standing Orders.
- In relation to the Chief Executive's employment contract, has delegated authority to manage routine employment matters such as; approving leave provisions; deduction and overpayment arrangements; approving expenditure and travel reimbursement claims, but excluding changes to employment contract provisions.

***Note:** Subject to the provisions of Section 41A of the Local Government Act 2002.

Position General Delegations

Deputy Mayor

Authorities

- All the authorities of the Mayor when the Mayor is not available and including, in relation to the Chief Executive's employment contract, the delegated authority to manage routine employment matters such as; approving leave provisions; deduction and overpayment arrangements; approving expenditure and travel reimbursement claims, but excluding changes to employment contract provisions, and the Mayor's powers under section 41A(3) of the Local Government Act 2002.

Position Signing and Sealing of Formal Documents

Elected Members

Authorities

- The Mayor, Deputy Mayor, or any other two elected members acting at the specific request of the Mayor or Chief Executive, are authorised to sign any document required by law to be signed under seal, provided those documents have been:
 - a) approved by the Council or a Committee (in accordance with its delegations); or
 - b) authorised by an officer (including the Chief Executive) under delegated authority.

Note: Where a document does not need to be executed under Council seal it may instead be signed by the Chief Executive or any other officer who is authorised under delegated authority, whether under this Policy or otherwise, to approve the transaction involved.

Schedule 2 - Delegations by the Council to the Chief Executive and Specified Officers

Position	General Delegations
Chief Executive Officer	<p>In accordance with clause 32(1) of Schedule 7 of the Local Government Act 2002, the Chief Executive is hereby delegated all Council's responsibilities, duties and powers, and to further delegate such responsibilities, duties and powers on any matter, and shall exercise this delegation subject to the Exclusions, Conditions and Notes below.</p> <p>To the extent that they are relevant, the following Exclusions, Conditions and Notes below also apply to the Financial Delegations section in this Schedule.</p> <p>Exclusions:</p> <ul style="list-style-type: none"> Any responsibilities, duties and powers that the Council is prohibited by legislation or operation of law from delegating to officers. Any responsibilities, duties and powers conferred on Council by an external entity that the entity has prohibited the Council from delegating to officers. Any matter that can only be given effect to by a resolution of the Council. Any power, responsibility or duty that has been delegated to a Committee, unless sub-delegated by resolution of that Committee. Any matter that is outside the Chief Executive's delegated financial authority (refer below). In relation to the Resource Management Act 1991 ('RMA'): <ol style="list-style-type: none"> Council's own power of delegation (section 34A(1)). Notification of a Proposed District Plan. Approval of a Proposed District Plan (section 34A(1)(a)). Appointment of a hearings commissioner. Decisions on submissions and further submissions to a Proposed District Plan. Rejection of a private plan change request. Hearing and determining objections to officer-declined resource consent applications which will be heard by independent hearings commissioners. <p>Conditions:</p> <ul style="list-style-type: none"> The Council's delegations to the Chief Executive do not preclude the Chief Executive from referring any matter to the Council or a Committee for decision if the matter is particularly significant; of political importance or sensitivity; of special community interest or for any other reasons the Chief Executive determines. The Chief Executive shall exercise this delegation in accordance with any plans, policies, and procedures and by-laws adopted by Council and with any specific directives given by way of resolution of the Council or a Committee.

- Under section 125 of the Privacy Act, the Chief Executive is authorised to sub-delegate all or any of Council's powers under that Act, subject to the Exclusions above.
- The Chief Executive has the Council's general authority to delegate to any officer any of the Chief Executive's functions, powers and duties under the Sale and Supply of Alcohol Act 2012, other than the general power of delegation.

Notes:

- For the purposes of the Trespass Act 1980, the Chief Executive is the person in lawful occupation of land owned, occupied or controlled by the Council.
- For clarity, the Chief Executive has the Council's general authority to exercise all of the Ministerial powers that have been delegated to the Council under the Reserves Act 1977. This differs from the specific delegation to the General Manager Community in this Policy.
- Where exercised by a General Manager (other than the Deputy Chief Executive) in the unplanned or unforeseen absence of the Chief Executive, that prior consultation occurs with the Senior Leadership Team.
- The Council may from time to time appoint the Chief Executive (or other senior officers) to act in Council's interests as director or shareholder representative with associate organisations. Any such appointment should be considered a specific delegation and to be fulfilled in terms of the requirements of each specified appointment rather than as a general delegation as provided by this Policy.

Position	General Delegations
Deputy Chief Executive	<p>The Deputy Chief Executive is delegated all the responsibilities, duties and powers of the Chief Executive and may act for the Chief Executive in:</p> <ul style="list-style-type: none"> the formal and recorded absence of the Chief Executive; or an emergency where the Chief Executive cannot be contacted.
General Managers and Executive Directors	<p>General Managers and Executive Directors are delegated the following responsibilities, powers and duties within their respective areas of responsibility, where that is permitted by law, in accordance with any Council policy (as appropriate) and subject to any condition, limitation or prohibition imposed by Council or any statutory limitation:</p> <ul style="list-style-type: none"> The responsibilities, powers and duties delegated to them from the Chief Executive, as are recorded in management policies or specific written delegations, from time to time. The power to enter into contracts subject to their delegated financial authority¹. The power to sub-delegate, unless expressly restricted by law or the terms of Council's delegation to the General Manager or Executive Director. All such sub-delegations must be recorded in writing. The power to undertake their specific delegations without further reference (though some may require to be reported). The power to establish staff committees or working groups. The power to act for the Chief Executive in an emergency where the Chief Executive and the Deputy Chief Executive cannot be contacted, provided this is done through prior consultation with the Senior Leadership Team.
GM - Community	<p>The General Manager may exercise the following specific powers where that is permitted by law, in accordance with any Council policy (as appropriate) and subject to any condition, limitation or prohibition imposed from time to time by Council or any statutory limitation:</p> <ul style="list-style-type: none"> All the powers and functions of the Council, as an administering body under the Reserves Act 1977, to the extent that the Reserves Act affects reserves held by or under the control of Council.
City Safe Manager	<p>The City Safe Manager is to act as Secretary of the District Licensing Committee with authority to perform all responsibilities, duties and powers of the Secretary under the Sale and Supply of Alcohol Act 2012.</p>

¹ Refer to the Council Management Policy – *Financial Delegations to Officers*
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<p>Legal Services Manager</p>	<p>The Legal Services Manager is appointed Privacy Officer for the Council pursuant to Section 23 of the Privacy Act 1993 and is delegated the responsibilities, duties and powers associated with that position pursuant to section 124 of the Privacy Act. The Legal Services Manager may sub-delegate such responsibilities, duties and powers to other officers, except for the power to delegate under that Act.</p> <p>The Legal Services Manager may exercise the powers of the Council under Parts 2 to 5 of the Local Government Official Information and Meetings Act 1987, except any powers specified in section 32 of that Act; such delegation to be exercised in accordance with any condition, limitation or prohibition imposed from time to time by Council. The Legal Services Manager may sub-delegate such powers to other officers, except for the power to delegate under that Act.</p>
<p>Rates Administration Officers</p>	<p>The responsibility for exercising the functions, powers or duties and administering the provisions under the Local Government (Rating) Act 2002 are delegated to the following officers:</p> <ul style="list-style-type: none"> • Chief Executive • General Manager Corporate • Financial Controller • Rates and Revenue Manager <p>In addition, the Rates and Revenue Manager is specifically delegated the responsibility to:</p> <ul style="list-style-type: none"> • make decisions as to the allocation of rating units to differential rating categories in terms of Section 27(5)(a) of the Local Government (Rating) Act 2002; and • amend any entries in the district valuation roll (under section 14 of the Rating Valuations Act 1998) or the rating information database (under section 40 of the Local Government (Rating) Act 2002) which are the result of an error or which are no longer correct as a result of changed circumstances. <p>Note:</p> <ul style="list-style-type: none"> • The functions, powers or duties under the Local Government (Rating) Act 2002 and the Rating Valuations Act 1998 delegated by the Council to the above specified officers, including the Chief Executive, may not be sub-delegated. <p>Exclusion:</p> <ul style="list-style-type: none"> • Council must not delegate to any officer, including the Chief Executive: <ul style="list-style-type: none"> a) the power to delegate; or b) a function, power or duty conferred by subpart 2, Part 1 or subpart 1, Part 5 of the Local Government (Rating) Act 2002.

Local Civil Defence Controller

The Local Civil Defence Controller ('the Controller') and the Civil Defence Emergency Management Group (CDEMG) for the Waikato Region during a State of Local Civil Defence Emergency shall have the powers vested as described in the Civil Defence Emergency Management Act 2002 ('CDEM Act').

Authority has been delegated by Council to the CDEMG/Controller under the CDEM Act. A summary of the powers and obligations of the Controller are contained in the CDEMG Plan.

Under section 94 of the CDEM Act, the CDEMG/Controller and Alternate Controllers for Hamilton City Council and the Civil Defence Emergency Management Group for the Waikato Region Emergency Operating Area are authorised to enter into urgent contracts on behalf of Hamilton City Council for the purposes of the Act as outlined in the Waikato Civil Defence Emergency Management Group Plan, subject to the following limitations:

- In a declared emergency, the Controller is delegated automatic uncapped delegated financial authority when formally identified as acting as a Controller. The Controller is required to present incremental reporting to the Chief Executive and Group Controller for every \$500,000 of expenditure incurred when exercising this delegation to ensure there is appropriate oversight.
- In a non-declared emergency, the Controller is delegated uncapped delegated financial authority when formally identified as acting in control of that emergency. The Controller is required to present incremental reporting to the Chief Executive and Group Controller for every \$250,000 of expenditure incurred when exercising this delegation to ensure there is appropriate oversight.

During the state of emergency initially declared on 25 March 2020 in relation to Covid-19, the above delegation is also extended to any Local Controller for the CDEMG for the Waikato Region Emergency Operating Area who has been appointed by the Group Controller to operate within Hamilton City Council's territorial boundary, with the above limitations applying. This extension shall automatically expire on 30 June 2021 unless extended by resolution of Council or revoked at an earlier date.

Note: A non-declared emergency is an emergency, as defined under the CDEM Act, where a formal declaration of state of local emergency has not been made pursuant to section 68 of that Act.

Financial Delegations

- The limits of the specified sum(s) applicable to various financial transactions delegated to the Chief Executive (and other specified officers, as applicable) under this Policy or otherwise, are as follows²:

Expenditure Type – Refer to Terms of Delegation below

Expenditure Type	Overspends/Unbudgeted (Operating and Capital)	Capex B/Fwd	Contracts	Purchase/Sale of Land	Debt Write-off	Legal Proceedings	Financial Operations (Admin disbursements)	Development Contributions	Reprioritisation Budget – Renewals and Compliance Programme
Limited to the approved budget	\$250,000	\$500,000	\$3,000,000 Total contract term not exceeding 5 years including renewals For contracts not going to tender: \$3,000,000 (subject to same restriction above on contract term).	\$3,000,000	\$10,000	\$500,000 for weather-tight building claims (leaky buildings) \$250,000 for all other legal proceedings	Limited to the approved budget	\$1,500,000	\$1,000,000 (Within years 3 of any approved 10-Year Plan) For individual movement of budget between capital projects and activity classed and timing (subject to terms of delegation below).

Notes:

- There is a cumulative cap of \$1,000,000 per financial year for the aggregate total (whole of Council) of all unbudgeted items, overspends and operational expenditure (Opex) brought forward and approved under delegated authority during that financial year. Any significant overspends or underspends will be recorded and reported to the Finance Committee on a quarterly basis
- The delegated financial limit for contracts not going to tender shall not apply in the following situations:
 - For Private Developer Agreements, which is a contract with a developer to upsize or deliver infrastructure on behalf of the Council in a new subdivision or development that will eventually vest in the Council;
 - For appointment of utility service providers to relocate, connect or alter utility services for the purpose of capital works budgeted within the applicable Long Term Plan, where a provider is the only possible supplier by virtue of being the owner of, or otherwise being legally responsible for, the relevant utility infrastructure. Examples of such utility service providers include, but is not limited to, Transpower, WEL Networks and Kiwirail.

The Chief Executive must ensure that appropriate mechanisms are in place and implemented to ensure, as far as is reasonably possible, the Council obtains Best Value from any appointed utility service provider.
 - Any other capital works contract award prior to 1 July 2021.

² The delegated financial authority limits specific to General Managers, Executive Directors and officers are set out in the Council's Management Policy - *Financial Delegations to Officers*.

- c. The Chief Executive's general delegated authority limit (\$3,000,000 and a term not exceeding 5 years, including renewals) shall apply for contracts under 1(b)(i), 1(b)(ii) and 1(b)(iii) above.

Expenditure Types – Terms of Delegation

Unexpended Budget

2. Operating and capital expenditure including deferred capital expenditure (approved by Council resolution) that has been budgeted in the applicable Long Term Plan/Annual Plan and not yet spent. All expenditure must comply with the requirements of Council's Procurement Policy.

Overspend and Unbudgeted

3. Any expenditure on an item that exceeds the amount budgeted for that item in the applicable Long Term Plan/Annual Plan or is not budgeted but required to deliver the level of service and outcomes outlined in the applicable Long Term Plan/Annual Plan e.g. contract or project cost over-run.
4. A Local Civil Defence Controller has an uncapped delegated financial authority in the event of a declared or non-declared emergency, subject to the conditions and reporting provisions in this Policy (See: *Local Civil Defence Controller* [above](#)).

Capex – Capital Expenditure Brought Forward

5. Capital expenditure occurring in financial periods in advance of the planned expenditure timeframe in the applicable Long Term Plan. This delegation is to the Chief Executive, General Managers and Executive Directors only (limits apply to officers in accordance with the Hamilton City Council Management Policy - *Financial Delegations to Officers*) and cannot be further delegated.

Contracts

6. The delegated financial authority limit for contracts applies on a 'per contract' basis. For clarity, the delegated financial authority limits apply to contracts involving revenues receivable by Council, including contracts and agreements with promoters and relating to the organising of events.
7. The Approved Contract Sum is the aggregate of all amounts most likely to be paid to the contractor (including retentions made, or to be made in respect of a contract), or amounts received from the other party (as applicable), for that contract, over the life of the contract. Disaggregation of supplies or contractual arrangements in order to comply with this requirement is expressly prohibited.
8. For the purposes of determining whether a specified officer has the necessary delegated financial authority in relation to a contract that involves both; (a) expenditure (payable by Council) and (b) revenue (receivable by Council), the Approved Contract Sum for that contract is the greater of either the expenditure or revenue in that contract. That is, there must be no offset of expenditure and revenues.
9. If a contract has been approved by Council resolution, the Chief Executive, or relevant General Manager or Executive Director (as appropriate), can:
 - a. execute the contract (other than those contracts required to be signed under the Council's seal);
 - b. authorise payments up to the Approved Contract Sum or delegate the authorisation of payments to a nominated position; or
 - c. (if applicable) correct and re-issue invoices, issue credit notes or refunds up to the Approved Contract Sum, in relation to revenue receivable by Council under an approved contract.
10. If a contract has been approved under this Policy or by management delegation:

- a. the payment/s or any correction to invoices (as applicable) must be authorised by an officer with the correct financial delegated authority for that payment or invoice³;
- b. a brief summary of such contracts are to be reported quarterly to Elected Members.

For clarity, no reporting is required under section 10(b) above for contracts approved by Council or a Committee.

- 11. Contracts exceeding five years total term (including renewals) must be authorised by Council or the relevant Committee⁴.
- 12. All contracts approved by the Chief Executive or management under delegated authority in sections (1.b.i), (1.b.ii), and (1.b.iii) are to be reported to the relevant committee for noting on a quarterly basis.

Purchase/Sale of Land

- 13. Includes any expenditure occurring in respect to the purchase and sale of land where the purchase or sale is provided for in the applicable Long Term Plan/Annual Plan either separately or as an integral part of a project, or authorised by a resolution of Council. For clarity, the purchase and sale of land includes the acquisition or disposal of land under the provisions of the Public Works Act 1981.
- 14. In exercising this delegation, the Chief Executive is permitted to negotiate sale and purchase of land, where appropriate, at not less than 90% of the estimated market value determined by a registered valuer.

Debt Write-off

- 15. The delegated financial authority limit applies on a 'per debtor' basis.
- 16. Irrespective that the Chief Executive, General Managers, Executive Directors and Financial Controller may have delegated authority to write-off bad debts⁵, all such debts written off must be reported to the next Finance Committee meeting on an aggregate basis for each Group.

Legal Proceedings

- 17. The delegated financial authority is determined on a per proceeding basis.
- 18. Includes commencing or defending, negotiating, settling or withdrawing from legal proceedings (including prosecutions and claims) on the Council's behalf in any New Zealand court or tribunal. The Chief Executive is also delegated the authority to take all steps necessary to enforce any court or tribunal judgment in favour of the Council, and to recover debts owing to the Council, subject to the delegated financial authority limit.
- 19. All legal claims or other proceedings undertaken by, or on behalf of, the Chief Executive, for an amount in excess of \$100,000 are to be reported to the next meeting of Council or the relevant Committee.

Financial Operation

- 20. Subject to any Council or management policies, the Chief Executive, General Manager Corporate and Financial Controller are each delegated the authority to operate (including opening and closing accounts) all of the Council's bank accounts, investment accounts, sinking funds, loan accounts, special funds, tax related matters, and other financial matters including exercising signing authority where appropriate. This includes payment of regular sums for administrative matters such as: power, heat and light; tax and GST payments; rates; etc.

Reprioritised budget – Renewals and Compliance programme

³ For management delegations, refer to Council's Management Policy - *Financial Delegations to Officers*.

⁴ Refer to the *Governance Structure*.

⁵ Refer to the Management Policy – *Financial Delegations to Officers*

21. The Renewals and Compliance Programme will be managed and reported as a programme against 3-year periods being 2018-21, 2021-24. Reprioritisation changes to the programme can be:
 - a) between projects and / or activity classes (e.g. stormwater)
 - b) related to timing of expenditure on a project (e.g. reprioritised from year 2 to year 1).
22. Any reprioritisation of budgets should be reported to the relevant Council Committee following use of this delegation. Reporting should include:
 - a) programme expenditure to demonstrate that the 3-year funding provision is not exceeded
 - b) providing assurance that the limits in the Financial strategy are not breached by any expenditure changes from the 10-Year Plan Renewal and Compliance budgets
 - c) reporting by 10-Year Plan activity (and group of activity) to give assurance that the Renewals and Compliance expenditure for the 3-year period is spread appropriately across Councils services.

Development Contributions

23. Subject to the development contributions provisions in the Local Government Act 2002 and the provisions of the Council's Development Contributions Policy, the Chief Executive is delegated authority to approve a remission, postponement, or refund of a development contribution levied on a developer to the delegated financial authority limit specified in this Policy. All remissions, postponements or refunds are to be reported, for noting purposes, at the next relevant Committee meeting.
24. For clarity, Council will not delegate to the Chief Executive any powers in relation to hardship related remissions or remissions not provided for in the Development Contributions Policy.

Waiver of Council Fees & Charges

25. Subject to any specific waiver policies adopted by Council, the Chief Executive, General Managers and Executive Directors are each delegated authority to waive fees and charges for their respective areas of responsibility **provided:**
 - a. the waiver and the amount are recorded and available for audit purposes;
 - b. the circumstances of the specific waiver will not create a precedent;
 - c. the act of waiving such fees and charges reflects 'good citizen' conduct;
 - d. any waivers in excess of \$10,000 (calculated on an aggregate basis per Group) are to be reported to the next Finance Committee meeting.

For clarity, development contributions are not within the scope of the delegated authority detailed in this section 25.

First adopted:	December 2013
Revision dates/version:	November 2015, November 2016, May 2019, February 2020, <u>April 2020</u>
Next review date:	
Engagement required:	
Document Number	D-3276620
Associated documents:	
Sponsor/Group:	Mayor of Hamilton / Chief Executive Officer

Delegations to Positions Policy

Purpose and scope

1. Part of Council's strategic and governance role is to ensure that its statutory responsibilities, duties and powers are carried out at the most effective and efficient levels. This Policy sets out the delegations from Council to specified elected members and officers.
2. Matters outside the scope of this Policy are:
 - a. Delegations from Council to Committees, which are specified in the 2019-2022 Governance Structure; and
 - b. Delegations from the Chief Executive to subordinate officers through management policies or by way of a specific delegation.

Definitions

Term	Definition
Committee	A committee or subcommittee (if any) of Council, as listed in the 2019-2022 Governance Structure
Delegated Financial Authority	The financial limit delegated to: <ol style="list-style-type: none"> a. the Chief Executive or a specified officer under this Policy; or b. an officer under the relevant management policy or a specific delegation from the Chief Executive.
Governance Structure	The Council's approved Governance Structure document, including the terms of reference and delegations for Council and Committees, for the current triennium.
Officer	A Council staff member who is for the time being the holder of a specified office.

Principles

3. Where local authority activities do not contain a governance component and are not limited by statutory restrictions then they should be delegated to the Chief Executive, who may sub-delegate to officers.
4. To be effective and of legal standing, all delegations from Council must be precise and in writing (i.e. via this Policy or by Council resolution).

5. The delegate is acting in his or her own name on behalf of the Council when exercising delegated authority. In so doing, the delegate will ensure they act in accordance with any:
 - a. binding statutory authority (in relation to each delegation, relevant sections of legislation will be identified); and
 - b. relevant Council policy or process, including delegated financial authority and reporting requirements.
6. Council retains ultimate responsibility for its governance, statutory and financial responsibilities, duties and powers at all times. No delegation relieves Council of the liability or responsibility for the performance of the delegated responsibility, duty or power.
7. Those with responsibility for a delegated task or function should always have the authority to carry it out effectively.
8. Those with authority to perform a delegated responsibility, duty or power should always be responsible for the performance of the delegation in a full, fair and objective manner. To this end, it is open to the person delegated a responsibility, duty or power to consider whether or not to exercise that delegated responsibility, duty or power, or to refer the matter back to Council or the relevant Committee.
9. Subject to any legislative restrictions, a responsibility, duty or power delegated to an officer is also delegated to all officers in a direct line of authority above that officer and is also delegated to any officer who is in an acting capacity for that officer.
10. Any delegation made includes any ancillary responsibilities, duties or powers necessary to give effect to that delegation.
11. Unless specifically restricted, a delegation continues in force until expressly revoked or varied by resolution of Council. A delegation will survive any change in the person occupying the office to which the delegation was made.
12. Unless otherwise expressly stated in the Policy:
 - a. all financial values stated in this Policy are GST exclusive; and
 - b. all references to a repealed enactment should read as a reference to its replacement.

Policy

The meaning of delegation

13. For the purpose of this Policy, delegation means the transfer of a responsibility, duty or power from Council to specified Elected Members, the Chief Executive or other specified officers, together with the authority to carry out that responsibility, duty or power or complete the action delegated.
14. General delegation means the granting of authority to determine a range of matters of a similar kind as and when they arise over a period of time without further reference to the delegator.
15. From time to time the Council may delegate authority by resolution to determine a specific issue. This specific delegation will exist only so long as that matter is unresolved and will then lapse at a specified time.
16. General delegations will be updated in this Policy as they are confirmed. Specific delegations may not necessarily be recorded in this Policy due to the fact that they would be largely historical by the time they are recorded.

Legal basis

17. The delegations in this Policy are made in accordance with the Local Government Act 2002 and any other legislation permitting delegation.
18. **Council cannot delegate** the power to:
- make a rate; or
 - make a bylaw; or
 - borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan or otherwise as expressly covered in this Policy; or
 - adopt a long-term plan, annual plan, or annual report; or
 - appoint a Chief Executive; or
 - adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the long-term plan or developed for the purpose of the local governance statement; or
 - adopt a remuneration and employment policy.

(Local Government Act 2002 - Schedule 7, Clause 32 (1))

Council has reserved other matters for its sole decision, which are recorded in the Governance Structure.

19. The **Chief Executive and other specified officers** can further delegate their delegations to any other officer, subject to certain restrictions.

(Local Government Act 2002 – Schedule 7, clause 32B)

Delegations by the Council to Elected Members

20. Delegations from Council to specified Elected Members are detailed in Schedule 1.

Delegations by the Council to Chief Executive and Specified Officers

21. Delegations from Council to the Chief Executive and specified officers (including Financial Delegations) are detailed in Schedule 2.
22. The Policy is to be read alongside the Hamilton City Council management policies that record the delegations from the Chief Executive to subordinate officers. The Policies, read together, record compliance with the statutory norm allowing only one sub-delegation.

Review of Policy

23. This Policy was reviewed in April 2020 to allow an appropriate and agile response to Covid-19 response issues, with an intent to review the April 2020 amendments to financial limits no later than 30 June 2021. As such, these changes will have effect until 30 June 2021 unless earlier revoked or extended.

24. Further changes were also made to the Policy in April 2020 to delegations to the Local Civil Defence Controller in order to mirror the operational structure of the Civil Defence Emergency Management Group for the Waikato Region Emergency Operating Area during the Covid-19 state of emergency. Again, these changes will have effect until 30 June 2021 unless earlier revoked or extended.

23,25. The Policy shall remain in effect until such time as it is varied or revoked by resolution of the Council. It is intended that the Policy will be reviewed and updated from time-to-time; at the start of each triennium as a minimum.

Schedule 1 - Delegations by the Council to Elected Members

Position	General Delegations
Mayor	<p>The Mayor is elected by Hamilton City as a whole and as one of the elected members shares the same responsibilities as other members of Council.</p> <p>Authorities</p> <ul style="list-style-type: none"> • Lead the development of Council's plans (including the long-term plan and the annual plan), policies and budgets for consideration by the Council.* • To appoint the Deputy Mayor.* • To establish committees of the Council.* • To appoint the chairperson of each committee.* • Act as a Justice of the Peace. • Requisition a meeting of Council. • Declare a local Civil Defence emergency. • Authority of a chairperson of a Council meeting under Standing Orders. • In relation to the Chief Executive's employment contract, has delegated authority to manage <u>routine</u> employment matters such as; approving leave provisions; deduction and overpayment arrangements; approving expenditure and travel reimbursement claims, but excluding changes to employment contract provisions. <p>*Note: Subject to the provisions of Section 41A of the Local Government Act 2002.</p>

Position	General Delegations
Deputy Mayor	<p>Authorities</p> <ul style="list-style-type: none"> • All the authorities of the Mayor when the Mayor is not available and including, in relation to the Chief Executive's employment contract, the delegated authority to manage <u>routine</u> employment matters such as; approving leave provisions; deduction and overpayment arrangements; approving expenditure and travel reimbursement claims, but excluding changes to employment contract provisions, and the Mayor's powers under section 41A(3) of the Local Government Act 2002.

Position	Signing and Sealing of Formal Documents
Elected Members	<p>Authorities</p> <ul style="list-style-type: none"> • The Mayor, Deputy Mayor, or any other two elected members acting at the specific request of the Mayor or Chief Executive, are authorised to sign any document required by law to be signed under seal, provided those documents have been: <ol style="list-style-type: none"> a) approved by the Council or a Committee (in accordance with its delegations); or b) authorised by an officer (including the Chief Executive) under delegated authority. <p>Note: Where a document does not need to be executed under Council seal it may instead be signed by the Chief Executive or any other officer who is authorised under delegated authority, whether under this Policy or otherwise, to approve the transaction involved.</p>

Schedule 2 - Delegations by the Council to the Chief Executive and Specified Officers

Item 9

Attachment 2

Position	General Delegations
Chief Executive Officer	<p>In accordance with clause 32(1) of Schedule 7 of the Local Government Act 2002, the Chief Executive is hereby delegated all Council's responsibilities, duties and powers, and to further delegate such responsibilities, duties and powers on any matter, and shall exercise this delegation subject to the Exclusions, Conditions and Notes below.</p> <p>To the extent that they are relevant, the following Exclusions, Conditions and Notes below also apply to the Financial Delegations section in this Schedule.</p> <p>Exclusions:</p> <ul style="list-style-type: none"> Any responsibilities, duties and powers that the Council is prohibited by legislation or operation of law from delegating to officers. Any responsibilities, duties and powers conferred on Council by an external entity that the entity has prohibited the Council from delegating to officers. Any matter that can only be given effect to by a resolution of the Council. Any power, responsibility or duty that has been delegated to a Committee, unless sub-delegated by resolution of that Committee. Any matter that is outside the Chief Executive's delegated financial authority (refer below). In relation to the Resource Management Act 1991 ('RMA'): <ol style="list-style-type: none"> Council's own power of delegation (section 34A(1)). Notification of a Proposed District Plan. Approval of a Proposed District Plan (section 34A(1)(a)). Appointment of a hearings commissioner. Decisions on submissions and further submissions to a Proposed District Plan. Rejection of a private plan change request. Hearing and determining objections to officer-declined resource consent applications which will be heard by independent hearings commissioners. <p>Conditions:</p> <ul style="list-style-type: none"> The Council's delegations to the Chief Executive do not preclude the Chief Executive from referring any matter to the Council or a Committee for decision if the matter is particularly significant; of political importance or sensitivity; of special community interest or for any other reasons the Chief Executive determines. The Chief Executive shall exercise this delegation in accordance with any plans, policies, and procedures and by-laws adopted by Council and with any specific directives given by way of resolution of the Council or a Committee.

- Under section 125 of the Privacy Act, the Chief Executive is authorised to sub-delegate all or any of Council's powers under that Act, subject to the Exclusions above.
- The Chief Executive has the Council's general authority to delegate to any officer any of the Chief Executive's functions, powers and duties under the Sale and Supply of Alcohol Act 2012, other than the general power of delegation.

Notes:

- For the purposes of the Trespass Act 1980, the Chief Executive is the person in lawful occupation of land owned, occupied or controlled by the Council.
- For clarity, the Chief Executive has the Council's general authority to exercise all of the Ministerial powers that have been delegated to the Council under the Reserves Act 1977. This differs from the specific delegation to the General Manager Community in this Policy.
- Where exercised by a General Manager (other than the Deputy Chief Executive) in the unplanned or unforeseen absence of the Chief Executive, that prior consultation occurs with the Senior Leadership Team.
- The Council may from time to time appoint the Chief Executive (or other senior officers) to act in Council's interests as director or shareholder representative with associate organisations. Any such appointment should be considered a specific delegation and to be fulfilled in terms of the requirements of each specified appointment rather than as a general delegation as provided by this Policy.

Position	General Delegations
Deputy Chief Executive	<p>The Deputy Chief Executive is delegated all the responsibilities, duties and powers of the Chief Executive and may act for the Chief Executive in:</p> <ul style="list-style-type: none"> the formal and recorded absence of the Chief Executive; or an emergency where the Chief Executive cannot be contacted.
General Managers and Executive Directors	<p>General Managers and Executive Directors are delegated the following responsibilities, powers and duties within their respective areas of responsibility, where that is permitted by law, in accordance with any Council policy (as appropriate) and subject to any condition, limitation or prohibition imposed by Council or any statutory limitation:</p> <ul style="list-style-type: none"> The responsibilities, powers and duties delegated to them from the Chief Executive, as are recorded in management policies or specific written delegations, from time to time. The power to enter into contracts subject to their delegated financial authority¹. The power to sub-delegate, unless expressly restricted by law or the terms of Council's delegation to the General Manager or Executive Director. All such sub-delegations must be recorded in writing. The power to undertake their specific delegations without further reference (though some may require to be reported). The power to establish staff committees or working groups. The power to act for the Chief Executive in an emergency where the Chief Executive and the Deputy Chief Executive cannot be contacted, provided this is done through prior consultation with the Senior Leadership Team.
GM - Community	<p>The General Manager may exercise the following specific powers where that is permitted by law, in accordance with any Council policy (as appropriate) and subject to any condition, limitation or prohibition imposed from time to time by Council or any statutory limitation:</p> <ul style="list-style-type: none"> All the powers and functions of the Council, as an administering body under the Reserves Act 1977, to the extent that the Reserves Act affects reserves held by or under the control of Council.
City Safe Manager	<p>The City Safe Manager is to act as Secretary of the District Licensing Committee with authority to perform all responsibilities, duties and powers of the Secretary under the Sale and Supply of Alcohol Act 2012.</p>

¹ Refer to the Council Management Policy – *Financial Delegations to Officers*
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<p><i>Legal Services Manager</i></p>	<p>The Legal Services Manager is appointed Privacy Officer for the Council pursuant to Section 23 of the Privacy Act 1993 and is delegated the responsibilities, duties and powers associated with that position pursuant to section 124 of the Privacy Act. The Legal Services Manager may sub-delegate such responsibilities, duties and powers to other officers, except for the power to delegate under that Act.</p> <p>The Legal Services Manager may exercise the powers of the Council under Parts 2 to 5 of the Local Government Official Information and Meetings Act 1987, except any powers specified in section 32 of that Act; such delegation to be exercised in accordance with any condition, limitation or prohibition imposed from time to time by Council. The Legal Services Manager may sub-delegate such powers to other officers, except for the power to delegate under that Act.</p>
<p><i>Rates Administration Officers</i></p>	<p>The responsibility for exercising the functions, powers or duties and administering the provisions under the Local Government (Rating) Act 2002 are delegated to the following officers:</p> <ul style="list-style-type: none"> • Chief Executive • General Manager Corporate • Financial Controller • Rates and Revenue Manager <p>In addition, the Rates and Revenue Manager is specifically delegated the responsibility to:</p> <ul style="list-style-type: none"> • make decisions as to the allocation of rating units to differential rating categories in terms of Section 27(5)(a) of the Local Government (Rating) Act 2002; and • amend any entries in the district valuation roll (under section 14 of the Rating Valuations Act 1998) or the rating information database (under section 40 of the Local Government (Rating) Act 2002) which are the result of an error or which are no longer correct as a result of changed circumstances. <p>Note:</p> <ul style="list-style-type: none"> • The functions, powers or duties under the Local Government (Rating) Act 2002 and the Rating Valuations Act 1998 delegated by the Council to the above specified officers, including the Chief Executive, may not be sub-delegated. <p>Exclusion:</p> <ul style="list-style-type: none"> • Council must not delegate to any officer, including the Chief Executive: <ol style="list-style-type: none"> a) the power to delegate; or b) a function, power or duty conferred by subpart 2, Part 1 or subpart 1, Part 5 of the Local Government (Rating) Act 2002.

The Local Civil Defence Controller ('the Controller') and the Civil Defence Emergency Management Group (CDEMG) for the Waikato Region during a State of Local Civil Defence Emergency shall have the powers vested as described in the Civil Defence Emergency Management Act 2002 ('CDEM Act').

Authority has been delegated by Council to the CDEMG/Controller under the CDEM Act. A summary of the powers and obligations of the Controller are contained in the CDEMG Plan.

Under section 94 of the CDEM Act, the CDEMG/Controller and Alternate Controllers for Hamilton City Council and the Civil Defence Emergency Management Group for the Waikato Region Emergency Operating Area are authorised to enter into urgent contracts on behalf of Hamilton City Council for the purposes of the Act as outlined in the Waikato Civil Defence Emergency Management Group Plan, subject to the following limitations:

- In a declared emergency, the Controller is delegated automatic uncapped delegated financial authority when formally identified as acting as a Controller. The Controller is required to present incremental reporting to the Chief Executive and Group Controller for every \$500,000 of expenditure incurred when exercising this delegation to ensure there is appropriate oversight.
- In a non-declared emergency, the Controller is delegated uncapped delegated financial authority when formally identified as acting in control of that emergency. The Controller is required to present incremental reporting to the Chief Executive and Group Controller for every \$250,000 of expenditure incurred when exercising this delegation to ensure there is appropriate oversight.

During the state of emergency initially declared on 25 March 2020 in relation to Covid-19, the above delegation is also extended to any Local Controller for the CDEMG for the Waikato Region Emergency Operating Area who has been appointed by the Group Controller to operate within Hamilton City Council's territorial boundary, with the above limitations applying. This extension shall automatically expire on 30 June 2021 unless extended by resolution of Council or revoked at an earlier date.

Note: A non-declared emergency is an emergency, as defined under the CDEM Act, where a formal declaration of state of local emergency has not been made pursuant to section 68 of that Act.

Financial Delegations

- The limits of the specified sum(s) applicable to various financial transactions delegated to the Chief Executive (and other specified officers, as applicable) under this Policy or otherwise, are as follows²:

Expenditure Type – Refer to Terms of Delegation below

Expenditure Type	Overspends/Unbudgeted (Operating and Capital)	Capex B/Fwd	Contracts	Purchase/Sale of Land	Debt Write-off	Legal Proceedings	Financial Operations (Admin disbursements)	Development Contributions	Reprioritisation Budget – Renewals and Compliance Programme
Limited to the approved budget	\$250,000	\$500,000	\$3,000,000 Total contract term not exceeding 5 years including renewals For contracts not going to tender: \$250,000 <u>\$3,000,000</u> (subject to same restriction above on contract term).	\$3,000,000	\$10,000	\$500,000 for weather-tight building claims (leaky buildings) \$250,000 for all other legal proceedings	Limited to the approved budget	\$1,500,000	\$1,000,000 (Within years 3 of any approved 10-Year Plan) For individual movement of budget between capital projects and activity classed and timing (subject to terms of delegation below).

Notes:

- There is a cumulative cap of \$1,000,000 per financial year for the aggregate total (whole of Council) of all unbudgeted items, overspends and operational expenditure (Opex) brought forward and approved under delegated authority during that financial year. Any significant overspends or underspends will be recorded and reported to the Finance Committee on a quarterly basis.
- The ~~\$250,000~~ delegated financial limit for contracts not going to tender shall not apply in the following situations:
 - For Private Developer Agreements, which is a contract with a developer to upsize or deliver infrastructure on behalf of the Council in a new subdivision or development that will eventually vest in the Council;
 - For appointment of utility service providers to relocate, connect or alter utility services for the purpose of capital works budgeted within the applicable Long Term Plan, where a provider is the only possible supplier by virtue of being the owner of, or otherwise being legally responsible for, the relevant utility infrastructure. Examples of such utility service providers include, but is not limited to, Transpower, WEL Networks and Kiwirail.

The Chief Executive must ensure that appropriate mechanisms are in place and implemented to ensure, as far as is reasonably possible, the Council obtains Best Value from any appointed utility service provider.
- [Any other capital works contract award prior to 1 July 2021.](#)

² The delegated financial authority limits specific to General Managers, Executive Directors and officers are set out in the Council's Management Policy - *Financial Delegations to Officers*.

- c. The Chief Executive's general delegated authority limit (\$3,000,000 and a term not exceeding 5 years, including renewals) shall apply for contracts under 1(b)(i), ~~and 1(b)(ii)~~ and 1(b)(iii) above.

Expenditure Types – Terms of Delegation

Unexpended Budget

2. Operating and capital expenditure including deferred capital expenditure (approved by Council resolution) that has been budgeted in the applicable Long Term Plan/Annual Plan and not yet spent. All expenditure must comply with the requirements of Council's Procurement Policy.

Overspend and Unbudgeted

3. Any expenditure on an item that exceeds the amount budgeted for that item in the applicable Long Term Plan/Annual Plan or is not budgeted but required to deliver the level of service and outcomes outlined in the applicable Long Term Plan/Annual Plan e.g. contract or project cost over-run.
4. A Local Civil Defence Controller has an uncapped delegated financial authority in the event of a declared or non-declared emergency, subject to the conditions and reporting provisions in this Policy (See: *Local Civil Defence Controller* [above](#)).

Capex – Capital Expenditure Brought Forward

5. Capital expenditure occurring in financial periods in advance of the planned expenditure timeframe in the applicable Long Term Plan. This delegation is to the Chief Executive, General Managers and Executive Directors only (limits apply to officers in accordance with the Hamilton City Council Management Policy - *Financial Delegations to Officers*) and cannot be further delegated.

Contracts

6. The delegated financial authority limit for contracts applies on a 'per contract' basis. For clarity, the delegated financial authority limits apply to contracts involving revenues receivable by Council, including contracts and agreements with promoters and relating to the organising of events.
7. The Approved Contract Sum is the aggregate of all amounts most likely to be paid to the contractor (including retentions made, or to be made in respect of a contract), or amounts received from the other party (as applicable), for that contract, over the life of the contract. Disaggregation of supplies or contractual arrangements in order to comply with this requirement is expressly prohibited.
8. For the purposes of determining whether a specified officer has the necessary delegated financial authority in relation to a contract that involves both; (a) expenditure (payable by Council) and (b) revenue (receivable by Council), the Approved Contract Sum for that contract is the greater of either the expenditure or revenue in that contract. That is, there must be no offset of expenditure and revenues.
9. If a contract has been approved by Council resolution, the Chief Executive, or relevant General Manager or Executive Director (as appropriate), can:
- execute the contract (other than those contracts required to be signed under the Council's seal);
 - authorise payments up to the Approved Contract Sum or delegate the authorisation of payments to a nominated position; or
 - (if applicable) correct and re-issue invoices, issue credit notes or refunds up to the Approved Contract Sum, in relation to revenue receivable by Council under an approved contract.

10. If a contract has been approved under this Policy or by management delegation:
 - a. the payment/s or any correction to invoices (as applicable) must be authorised by an officer with the correct financial delegated authority for that payment or invoice³;
 - b. a brief summary of such contracts are to be reported quarterly to Elected Members.

For clarity, no reporting is required under section 10(b) above for contracts approved by Council or a Committee.
11. Contracts exceeding five years total term (including renewals) must be authorised by Council or the relevant Committee⁴.
12. All contracts approved by the Chief Executive or management under delegated authority in sections ~~1(1.b)(1.b.i)~~, ~~and 1(1.b)(1.b.ii)~~, and (1.b.iii) are to be reported to the relevant committee for noting on a quarterly basis.

Purchase/Sale of Land

13. Includes any expenditure occurring in respect to the purchase and sale of land where the purchase or sale is provided for in the applicable Long Term Plan/Annual Plan either separately or as an integral part of a project, or authorised by a resolution of Council. For clarity, the purchase and sale of land includes the acquisition or disposal of land under the provisions of the Public Works Act 1981.
14. In exercising this delegation, the Chief Executive is permitted to negotiate sale and purchase of land, where appropriate, at not less than 90% of the estimated market value determined by a registered valuer.

Debt Write-off

15. The delegated financial authority limit applies on a 'per debtor' basis.
16. Irrespective that the Chief Executive, General Managers, Executive Directors and Financial Controller may have delegated authority to write-off bad debts⁵, all such debts written off must be reported to the next Finance Committee meeting on an aggregate basis for each Group.

Legal Proceedings

17. The delegated financial authority is determined on a per proceeding basis.
18. Includes commencing or defending, negotiating, settling or withdrawing from legal proceedings (including prosecutions and claims) on the Council's behalf in any New Zealand court or tribunal. The Chief Executive is also delegated the authority to take all steps necessary to enforce any court or tribunal judgment in favour of the Council, and to recover debts owing to the Council, subject to the delegated financial authority limit.
19. All legal claims or other proceedings undertaken by, or on behalf of, the Chief Executive, for an amount in excess of \$100,000 are to be reported to the next meeting of Council or the relevant Committee.

Financial Operation

20. Subject to any Council or management policies, the Chief Executive, General Manager Corporate and Financial Controller are each delegated the authority to operate (including opening and closing accounts) all of the Council's bank accounts, investment accounts, sinking funds, loan accounts, special funds, tax related matters, and other financial matters including exercising

³ For management delegations, refer to Council's Management Policy - *Financial Delegations to Officers*.

⁴ Refer to the *Governance Structure*.

⁵ Refer to the Management Policy – *Financial Delegations to Officers*

signing authority where appropriate. This includes payment of regular sums for administrative matters such as: power, heat and light; tax and GST payments; rates; etc.

Reprioritised budget – Renewals and Compliance programme

21. The Renewals and Compliance Programme will be managed and reported as a programme against 3-year periods being 2018-21, 2021-24. Reprioritisation changes to the programme can be:

- a) between projects and / or activity classes (e.g. stormwater)
- b) related to timing of expenditure on a project (e.g. reprioritised from year 2 to year 1).

22. Any reprioritisation of budgets should be reported to the relevant Council Committee following use of this delegation. Reporting should include:

- a) programme expenditure to demonstrate that the 3-year funding provision is not exceeded
- b) providing assurance that the limits in the Financial strategy are not breached by any expenditure changes from the 10-Year Plan Renewal and Compliance budgets
- c) reporting by 10-Year Plan activity (and group of activity) to give assurance that the Renewals and Compliance expenditure for the 3-year period is spread appropriately across Councils services.

Development Contributions

23. Subject to the development contributions provisions in the Local Government Act 2002 and the provisions of the Council's Development Contributions Policy, the Chief Executive is delegated authority to approve a remission, postponement, or refund of a development contribution levied on a developer to the delegated financial authority limit specified in this Policy. All remissions, postponements or refunds are to be reported, for noting purposes, at the next relevant Committee meeting.

24. For clarity, Council will not delegate to the Chief Executive any powers in relation to hardship related remissions or remissions not provided for in the Development Contributions Policy.

Waiver of Council Fees & Charges

25. Subject to any specific waiver policies adopted by Council, the Chief Executive, General Managers and Executive Directors are each delegated authority to waive fees and charges for their respective areas of responsibility **provided:**

- a. the waiver and the amount are recorded and available for audit purposes;
- b. the circumstances of the specific waiver will not create a precedent;
- c. the act of waiving such fees and charges reflects 'good citizen' conduct;
- d. any waivers in excess of \$10,000 (calculated on an aggregate basis per Group) are to be reported to the next Finance Committee meeting.

For clarity, development contributions are not within the scope of the delegated authority detailed in this section 2522.