

AGENDA

TABLED

Council
Tuesday 21 May 2019 at 10.30am

Northland Regional Council Tabled Agenda

Meeting to be held in the Council Chamber
36 Water Street, Whangārei
on Tuesday 21 May 2019, commencing at 10.30am

Recommendations contained in the council agenda are NOT council decisions. Please refer to council minutes for resolutions.

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TITLE: Receipt of Tabled Report
ID: A1194776
From: Christine Taylor, Governance Support Manager

Executive summary

Since notification of the Proposed Regional Plan – Decisions Version on 4 May 2019, staff have become aware of a number of minor errors and/or omissions from the Plan. Legal advice was sought regarding the scope of our (staff) ability to make changes to the Plan to fix these minor errors without formality (Clause 16, Schedule 1, RMA). Legal advice was received on Monday 20 May 2019 (the day prior to the May council meeting). It highlighted that the current delegation to staff (Delegations Manual) is worded in a way that it only covers changes to text – one of the minor changes that staff wish to correct is a mapping change.

Staff would like to make these minor amendments before the conclusion of the appeal period (17 June 2019) as it would minimise potential risk to council and give submitters time to lodge appeals. The next ordinary council meeting is on 18 June 2019; hence why this report is being introduced as a tabled item

Recommendation

That as permitted under section 46A(7) of the Local Government Official Information and Meetings Act 1987 the following tabled report be received:

- Amendment to Northland Regional Council Delegations Manual

Authorised by Group Manager

Name: Jonathan Gibbard
Title: GM Strategy, Governance and Engagement
Date: 21 May 2019

TITLE: Amendment to Northland Regional Council Delegations Manual

ID: A1194489

From: Michael Day, Natural Resources Policy Manager

Executive Summary / Whakarāpopotanga

The Proposed Regional Plan for Northland – Decisions Version (the Plan) was publicly notified on 4 May 2019. Following notification, staff have identified a number of minor errors and omissions from the Plan.

Under the Northland Regional Council Delegations Manual, staff have delegated authority to make minor amendments to regional plans, pursuant to Clause 16 of Schedule 1 of the Resource Management Act 1991. However, legal advice has highlighted that this delegation is worded in such a way that it only covers changes to text – one of the minor changes that staff wish to correct is a mapping change.

The report therefore recommends an amendment to Northland Regional Council’s Delegations Manual (specifically to alter the wording with regards to Clause 16, Schedule 1 of the Resource Management Act 1991).

Recommendations

1. That the report ‘Amendment to Northland Regional Council Delegations Manual’ by Michael Day, Natural Resources Policy Manager and dated 20 May 2019, be received.
2. That the Northland Regional Council’s Delegations Manual is amended as set out in Appendix 1.

Background/Tuhinga

The Decisions Version of the Proposed Regional Plan for Northland (the Plan) was publicly notified on 4 May 2019. Following public notification of the decision, staff have identified a number of minor errors or omissions from the Plan. Most of these are minor typing and/or grammatical errors but one error is an amendment to a map overlay.

Under the Northland Regional Council Delegations Manual, staff have delegated authority to make minor amendments to regional plans, pursuant to Clause 16 of Schedule 1 of the Resource Management Act 1991. However, legal advice has highlighted that this delegation is worded in such a way that it only covers changes to text – one of the minor changes that staff wish to correct is a mapping change (and, therefore, is technically not within the scope of staff’s delegation).

The scope for RMA Schedule 1, Clause 16 amendments is essentially whether an error is a mistake or inaccuracy that has crept into a plan. The proposed amendment to the mapping overlay was recommended to the Hearings Panel by Council staff at the Hearing and was simply omitted (inadvertently) in the Decisions Version Map.

As the Plan is currently within the Environment Court appeals phase (until 17 June 2019), staff consider it beneficial to amend the Plan (including the Plan Maps) as soon as possible to correct the identified minor errors. This would ensure that submitters have the ability to see the minor amendments and, therefore, have the ability to appeal the amendments to the Environment Court.

Considerations

1. Options

No.	Option	Advantages	Disadvantages
1	Amend the RMA Schedule 1, Clause 16 delegation ability in the Delegations Manual	<p>Staff will be able to amend all identified minor errors that fall within the scope of a Clause 16 amendment.</p> <p>The Plan can therefore be quickly updated to reflect all amendments.</p> <p>Transparency – submitters know what is being amended and have sufficient time to lodge appeals.</p> <p>Futureproofing – will ensure that if a similar example arises in the future, staff are able to efficiently and effectively carry out all required amendments.</p>	None identified.
2	Do not amend RMA Schedule 1, Clause 16 in the NRC Delegations Manual	None identified.	<p>One identified minor mapping error would not be able to be 'signed off' by staff.</p> <p>The submitter would have to lodge an Appeal to the Environment Court to get the map error fixed. This will have financial implications for them.</p> <p>Without amending the Delegations Manual, there is a risk that a similar situation will occur in the future.</p>

Staff recommend option 1.

2. Significance and engagement

In relation to section 79 of the Local Government Act 2002, this decision is considered to be of low significance when assessed against council's Significance and Engagement Policy, because it has previously been consulted on, is provided for in council's Long Term Plan and is part of

council's day-to-day activities. As the Proposed Regional Plan has been prepared under the Resource Management Act 1991, it is subject to the Schedule 1 process, which involves a robust and thorough public consultative process.


Being of low significance under council's Significance and Engagement Policy does not mean that this matter is not of significance to tangata whenua and/or individual communities, but that council is able to make decisions relating to this matter without undertaking further consultation or engagement.

3. Policy, risk management and legislative compliance

The preparation and notification of the Proposed Regional Plan was subject to various sections of the Resource Management Act 1991, including sections 30, 32, 34A, 39B, 63–70 and Schedule 1. The decisions being recommended are consistent with the relevant sections of the Resource Management Act, specifically Clause 16 of Schedule 1.

Being a purely administrative matter, Community views, Māori impact statement, Financial implications and Implementation issues are not applicable.

Attachments/Ngā tapirihanga

Attachment 1: Proposed Amendment to Delegations Manual [↓](#) 

Authorised by Group Manager

Name: Jonathan Gibbard
Title: Group Manager - Strategy, Governance and Engagement
Date: 20 May 2019

	to, primary submissions on proposed policy statements and plans, and related variations and changes, of other local authorities.	Natural Resources Policy Manager	meeting. The council reserves the right to modify or withdraw such further submissions. This delegation shall only be exercised where time does not permit the matter to be first reported to the council or the appropriate committee of the council.
Schedule 1 Clause 11	To serve on parties copies of council decisions on submissions on proposed policy statements and plans, and related variations and changes.	Technical officers Policy analysts Policy specialists	A copy of the relevant decision or decisions shall be served on each person who made submissions. The technical officer / policy analyst, in consultation with the policy specialist, may arrange other notice of the decision as appropriate.
Schedule 1 Clause 14	To refer to the Environment Court, decisions of other local authorities on council submissions on proposed policy statements and plans, and related variations and changes, and to make formal agreements to resolve those appeals.	Group Manager – Strategy, Governance and Engagement Strategy Policy and Planning Manager	This delegation shall only be exercised following consultation with the Chief Executive Officer and the Chairperson, and only where the decision of a local authority is contrary to the Regional Policy Statement, a Regional Plan or a Proposed Regional Policy Statement or Proposed Regional Plan or to the fundamental basis of the submission the council has made, that gives the right of referral. Exercise of the delegation shall be reported to the next meeting of the council. The council reserves the right to modify or withdraw such appeals.
Schedule 1 Clause 16	To make minor amendments to a proposed Regional Policy Statement or a proposed Regional Plans.	<u>Group Manager – Strategy, Governance and Engagement</u> Strategy Policy and Planning Manager <u>Natural Resources Policy Manager</u>	This delegation shall only be exercised to <u>alter any information, where such an alteration is of minor effect, or to correct any minor errors</u> . correct minor formatting or grammatical errors where the correction will not alter the legal interpretation of the relevant policy statement or plan provision.
Schedule 1 Clause 17	Affixing the seal of the council to approve proposed policy statement or plan.		Refer Part B of the manual for the process to affix the Common Seal.
Schedule 1 Clause 18	Affixing the seal of the council to approve coastal plan.		Refer Part B of the manual for the process to affix the Common Seal.