

## 1.1. Delegations COVID-19 Recovery (Fast Track Consenting) Act 2020

**Prepared for:** Council  
**Report No.** GOV2114  
**Activity:** Governance Report  
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### PURPOSE

- [1] To amend Council's Delegation Manual to provide delegation to make nominations on membership of Expert Consenting Panels for projects being considered under the COVID-19 Recovery (Fast-Track Consenting) Act 2020.

### EXECUTIVE SUMMARY

- [2] In 2020, Central Government introduced the COVID-19 Recovery (Fast-track Consenting) Act 2020. The purpose of this Act is to fast-track projects that can boost employment and economic recovery. Decisions on applications that use this process are made by Expert Consenting Panels. Membership of these panels can include those nominated by relevant local authorities.
- [3] As this is new legislation, Council currently has no delegations which authorise the nomination of persons to this panel. It is recommended that this delegation be provided to the Chairperson of the Council.

### RECOMMENDATION

*That the Council:*

- 1) **Receives** this report.
- 2) **Approves** the delegation to make recommendations for panel members under the COVID-19 Recovery (Fast-Track Consenting) Act 2020 to the Chair of the Council.
- 3) **Approves** the Chief Executive to amend the Council's Delegations Manual to include the recommended addition.

### BACKGROUND

- [4] In 2020, Central Government introduced the COVID-19 Recovery (Fast-track Consenting) Act 2020. The purpose of this Act is to fast-track projects that can boost employment and economic recovery. The Environmental Protection Authority (EPA) is the Government Department responsible for this legislation and for administering the process. Projects can gain access to this process two ways – be written into the legislation or apply to use the process.
- [5] Individuals and groups can apply to the Minister for the Environment to have public or private projects referred to Expert Consenting Panels. Before an application is approved to use the process, the Minister seeks comments on the consents required from all relevant local authorities. Council staff have provided comments to the EPA on 8

applications that may be approved to use this process. The focus of these comments has been on consents required and applicable rules and not on the merits of the proposals.

- [6] In June and November 2020, Council updated its delegation's manual and provided delegations to staff under several pieces of legislation. The COVID-19 Recovery Act 2020 was not included in either update. Therefore, Council has not delegated any ability to nominate persons to be a member of the Expert Consenting Panels.

## **DISCUSSION**

- [7] Once an application has been approved to use the fast-track process the Panel Convenor for the project contacts the relevant local authority for a nomination of a person to sit on the Expert Consenting Panel. This person may be a Councillor, or an independent decision maker. However, they must be a certified decision maker. The nominated person may not be appointed to the panel, but they must be considered by the Panel Convenor.
- [8] A recommendation can only be provided once the Council has received a request from the Panel Convenor. One request for a nomination to sit on an Expert Consenting Panel has been received by Council to date. This relates to a project planned in Central Otago, specifically Northbrook Wanaka Retirement Village. It is this request and the likelihood of other requests, that has led to the need to add in the delegation relating to nominating a decision maker for the Expert Consenting Panel.
- [9] Consistent with best practice and statutory requirements, Council has already delegated specific regulatory responsibilities to several Council staff. These delegations are a necessary operational requirement to promote effective and efficient decision-making and to ensure legal compliance. Delegated authority allows for administrative efficiency and ensures timeliness in the conduct of Council's daily business activities.
- [10] The EPA only provides a short time frame to make a recommendation on who should be on the panel. As these nominations relate to decision makers and a specific process under new legislation, it is recommended that delegation sits with the Chair of the Council. It is also recommended that this follows the same process as the current delegations for decision makers on hearings for consent applications. This is where the nomination is based on a recommendation from the General Manager Regulatory.
- [11] The risk with providing the delegation to the Chair for deciding who sits on the Expert Consent Panels is low. It will also ensure that Council meets the timeframe to make a nomination. If nominations are not made, then this reduces the potential level of local participation in the decision-making process. This is because if Council does not nominate a decision maker, then the Panel Convenor will choose the decision maker. This choice is someone who they consider has the appropriate skills and experience to be a member of the panel.

## PROPOSED DELEGATIONS

- [12] The proposed amendment to the delegation manual is outlined as below:  
COVID-19 Recovery Act 2020

Section	Function	Delegated to
Clause 3(2) of Schedule 5	Nominate a person to be part of an Expert Consenting Panel set up under the COVID-19 Recovery Act 2020	Council Chairperson

## CONSIDERATIONS

### Strategic Framework and Policy Considerations

- [13] This paper proposes a continuation of current Council policy of providing delegation to Council staff and Councillors. There are sufficient procedures and oversight in place so that Council can have confidence in the decisions made under these delegations.

### Financial Considerations

- [14] There are no financial considerations in relation to the recommendations in this paper.

### Significance and Engagement

- [15] The recommended decision is not a significant decision in terms of the Council's significance policy and no community engagement is required.

### Legislative and Risk Considerations

- [16] The key legislative considerations in relation to this paper are to ensure that decisions be made with certainty and to avoid any doubt as to the standing of delegated authorities. Adding in the delegation ensures that Council complies with the requirements of the COVID-19 Recovery Act 2020.

- [17] If Council did not formalise the delegated authorities, then there is no ability for Council to nominate parties to sit on the Expert Consenting Panels. If this ability is not available, then the Panel Convener will appoint a decision maker without Council's input.

### Climate Change Considerations

- [18] There are no considerations relating to this matter.

### Communications Considerations

- [19] There are no considerations relating to this matter.

## NEXT STEPS

- [20] Make the proposed change to the Council's Delegations Manual.

## ATTACHMENTS

Nil