

## 5.8. WATER DELEGATION TO CEO - EXEMPTIONS

**REPORT AUTHOR(S)  
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**DEPARTMENT** Governance/Operations

### RECOMMENDATION

**That Council resolves to delegate under Section 257(1)(b) of the *Local Government Act 2009*, the authority to provide an exemption to a water restriction under Section 41(5) of the *Water Supply (Safety and Reliability) Act 2008* to the Chief Executive Officer.**

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### EXECUTIVE SUMMARY

The *Local Government Act 2009* gives Council the authority to do its work, and also provides for the delegation of this authority from Council through to the Chief Executive Officer (CEO), and through the CEO to Council Officers, in order to provide the effective delivery of services to the community.

An update of delegations from Council to the CEO enabling the CEO to provide an exemption to a water restriction under Section 41(5) of the *Water Supply (Safety and Reliability) Act 2008* has now been completed and is presented to Council for consideration.

### BACKGROUND

There are over 70 Acts and Regulations that relate to local government. The legislative framework to undertake delegations is as follows:

- Section 257 of the *Local Government Act 2009* (the Act) allows a Council to delegate a power, other than where an Act specifically states that the power must be exercised by Council resolution.
- Section 257(1)(b) of the Act provides for a power to be delegated to the CEO.
- Section 259 of the Act allows a CEO to on-delegate their powers to appropriately qualified Officers, other than where the local government specifically directs that the power not be further delegated or it is a power to keep a register of interests.

### COMMENT

When reviewing an application for an exemption during the current water restrictions it was found that the authority to approve this application had not been delegated to the CEO.

The *Water Supply (Safety and Reliability) Act 2008* provides in Section 41 (restricting water supply) that a service provider may impose restrictions on the supply of water to a premises. Section 41(5) further states that the service provider may provide an exemption from all or part of the restriction. This section of the clause has not previously been delegated to the CEO.

As the granting of water restriction exemptions to individual land owners is an operational matter, officers recommend that the following delegation be added to the existing Council to CEO Delegations Register:

- *Water Supply (Safety and Reliability) Act 2008* section 41(5) A restriction may provide an exemption from all or part of the restriction.

## FINANCIAL/RESOURCE IMPLICATIONS

There are no financial implications to this process. Appropriate implementation of delegations to the CEO ensures the efficient use of Council resources.

## RISK MANAGEMENT IMPLICATIONS

The administration of Council's responsibilities under the Acts and Regulations carries with it inherent risk. Appropriate delegations form part of the risk management framework associated with these responsibilities.

This process is part of Council meeting its legislative delegation requirements under the *Local Government Act 2009*. It also plays a major role in Council eliminating legal non-compliance issues impacting on the legal validity/enforceability of Council decisions, or Council's ability to legally enforce or litigate breaches of Local Government legislation.

## CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE

This report has been prepared in accordance with the following:

### Corporate Plan 2014-2019 Initiatives:

#### Theme 5 – Governance

*5.2.1 - Provide Councillors and community with accurate, unbiased and factual reporting to enable accountable and transparent decision-making.*

*5.2.2 - Implement adopted policies and guidelines to ensure consistency in administrative management which also encourages innovation in Council operations.*

## COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:

**Regulator** Meeting the responsibilities associated with regulating activities through legislation or local law.

## CONSULTATION

**Internal:** Relevant Managers and other key staff  
**External:** Nil

**ATTACHMENTS** Nil