

## APPENDIX 14

**INSTRUMENT OF DELEGATION UNDER THE**  
**NATURAL RESOURCES MANAGEMENT ACT 2004**  
**THE NATURAL RESOURCES MANAGEMENT (GENERAL) REGULATIONS 2005**  
**AND THE NATURAL RESOURCES MANAGEMENT (TRANSITIONAL**  
**PROVISIONS LEVIES) REGULATIONS 2004**

### **NOTES**

1. Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument. Refer to the Schedule of Conditions at the back of this document.
2. Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended.
3. In this delegation:

*'Council'* means the Council.

*'constituent council'* has the meaning given in Section 3 of the Act, namely:-

- (a) in relation to a regional Natural Resources Management board ("NRM board"), or the region of a regional NRM board, a Council whose area, or part of whose area, comprises or is included in the region of the regional NRM board;
- (b) in relation to a Natural Resources Management group ("NRM group"), or the area of an NRM group, a Council whose area, or part of whose area, comprises or is included in the area of the NRM group

### **Sub-delegation**

In exercise of the power provided to me by the Council on the 21 February 2017 as above, I, Colin John Davies, Chief Executive Officer on this Twenty-First day of February 2017 hereby sub-delegate the following powers to the officer or officers of the Council as indicated in the column marked "Subdelegate" (including any person appointed to act in any such position).

### **POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT**

	<b>SUB-DELEGATE</b>
<b>1. Collaboration with NRM board</b>	
1.1 The power pursuant to Section 29(4)(d) of the Natural	

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Resources Management Act 2004 (“the Act”) to work collaboratively with a regional NRM board in the performance of its functions.	
2. The power pursuant to Section 30 of the Act to act in conjunction with a regional NRM board in relation to the NRM board doing anything necessary, expedient or incidental to –	
a) performing the functions of the NRM group under the Act or any other Act; or	
b) assisting in the administration of the Act; or	
c) furthering the objects of the Act	
<b>3. Special Vesting of Infrastructure</b>	
3.1 The power pursuant to Section 33(7) of the Act to give consent on behalf of the Council in respect of making, varying or revoking a proclamation under Section 33(1), 33(2) or 33(6) of the Act.	
<b>4. Approval of Delegation by NRM board to Council Officers</b>	
4.1 The power pursuant to Section 36(1)(c) of the Act to give approval to a regional NRM board to delegate a function or a power of the board under the Act or any other Act to the Council or a Council officer.	
<b>5. Use of Facilities</b>	
5.1 The power pursuant to Section 41 of the Act to enter into arrangements with a regional NRM board for the board to make use of the services of the staff, equipment or facilities of the Council.	
<b>6. Boards Power to Provide Financial Assistance etc</b>	
6.1 The power pursuant to Section 42(2) of the Act where a Council wishes to obtain financial or any other form of assistance from a regional NRM board under Section 42(1) of the Act, to make a written submission to the board setting out –	
6.1.1 the nature of the assistance requested (and, in the case of financial assistance, the	

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amount requested); and	
6.1.2 the purpose or purposes for which and the manner in which the assistance will be used; and	
6.1.3 the reasons why, in the Delegate's opinion, the granting of the assistance by the regional NRM board is justified.	
<b>7. Assignment of Responsibility for Infrastructure</b>	
7.1 The power pursuant to Section 43(2) of the Act to make a submission to a regional NRM board in response to notice given by the board under Section 43(2) of the Act of the proposed assignment of the responsibility for the care, control or management of infrastructure to the Council as a third party pursuant to Section 43(1) of the Act.	
7.2 The power pursuant to Section 43(3) of the Act to enter into an agreement in accordance with the Regulations with a regional NRM board as contemplated in Section 43(1) for the assignment of the responsibility for the care, control or management of infrastructure to the Council as a third party pursuant to Section 43(1) of the Act.	
<b>8. Appointment of Body to act as a Board</b>	
8.1 The power pursuant to Section 44(4)(c) of the Act to agree that by way of a regulation revoking a regulation made under Section 44(1) of the Act, the assets, rights and liabilities of a body appointed by such regulation to be a regional NRM board under the Act, will vest in or attach to the Council.	
<b>9. Establishment of Areas</b>	
9.1 The power pursuant to Section 45(5) of the Act to receive notice as a constituent council from a regional NRM board and to make a submission to the regional NRM board within a period (being at least 21 days) specified in the notice.	
9.2 The power pursuant to Section 46(5) of the Act to enter into an agreement pursuant to which the	

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property, assets, rights or liabilities of the local NRM group will vest in the Council pursuant to a notice under Section 46(4) of the Act.	
<b>10. Composition of NRM groups</b>	
10.1 The power pursuant to Section 48(2)(b)(i) of the Act to consult with the relevant regional NRM board or boards, if the Council is also a constituent council for the area of the NRM group to which that board belongs, before an appointment is made by the board under Section 48(1) of the Act.	
<b>11. Functions of Groups</b>	
11.1 The power pursuant to Section 52(2)(c) of the Act, to work collaboratively with an NRM group in the performance of its functions under Section 52(1) of the Act.	
<b>12. Acting in Conjunction with NRM Group</b>	
12.1 The power pursuant to Section 53(2)(g) of the Act to act in conjunction with an NRM group in relation to the NRM group doing anything necessary expedient or incidental to:	
a) performing its functions under the Act or any other Act	
b) assisting in the administration of the Act or	
c) furthering the objects of the Act pursuant to Section 53(1) of the Act.	
<b>13. Power of Delegation</b>	
13.1 The power pursuant to Section 55(2) of the Act, to approve a delegation made by an NRM group in accordance with Section 55(1) of the Act to the Council or a Council subsidiary, or to an officer of the Council or a Council subsidiary (as the case requires), of a function or power of the NRM group under the Act or any other Act.	
<b>14. Use of Facilities</b>	

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14.1 The power pursuant to Section 60 of the Act to enter into an arrangement with an NRM group for the NRM group to use the services of the staff, equipment or facilities of the Council.	
<b>15. Appointment of Body to Act as Group</b>	
15.1 The power pursuant to Section 61(4)(c) of the Act to agree that by way of a regulation revoking a regulation made under Section 61 of the Act, the assets, rights and liabilities of a body appointed by such regulation, to be a regional NRM group under the Act, will vest in or attach to the Council.	
<b>16. Regional Authorised Officers</b>	
16.1 The power pursuant to Section 67(10) of the Act to agree to the appointment of an officer of the Council as an authorised officer by a regional NRM board	
<b>17. State NRM Plan</b>	
17.1 The power pursuant to Section 74(8) of the Act to consult with the Minister in relation to any proposal to create or amend the State NRM Plan as defined in Section 74 of the Act, where the Local Government Association has nominated the Council pursuant to Section 74(14)(b) of the Act.	
<b>18. Regional NRM Plans</b>	
18.1 The duty pursuant to Section 75(9) of the Act, when performing functions or exercising powers under the Local Government Act 1999 or any other Act, to have regard to any regional NRM plan that applies within the relevant area and in particular to give consideration to the question of whether changes should be implemented to the manner in which, or the means by which, the Council performs a function or exercises a power or undertakes any other activity that has been identified in the regional NRM plan as requiring change.	
<b>19. Deliberately left blank</b>	
19.1 Deliberately left blank	

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<b>20. Preparation of Plans and Consultation</b>	
20.1 The power pursuant to Section 79(6)(a)(vii) of the Act where a draft plan has been completed by a regional NRM board, to receive a copy of the draft plan.	
20.2 The power pursuant to Section 79(8) of the Act to prepare and furnish a response to the regional NRM board within the period prescribed by the Regulations to a draft plan provided to the Council as a constituent council in accordance with Section 79(6)(a)(vii) of the Act.	
<b>21. Submission of Plan to Minister</b>	
21.1 The power pursuant to Section 80(5) of the Act to receive a copy of a draft plan as amended by the Minister, or if it appears to the Minister that the part or parts of the plan that have been amended can conveniently be substituted in the draft plan – a copy of that part or those parts as amended.	
<b>22. Review and Amendment of Plans</b>	
22.1 The power pursuant to Section 81(7)(a)(ii) of the Act, to consult with a regional NRM board within the prescribed period (being a period of at least 21 days), in respect of amendments to a regional NRM plan which are within the ambit of Section 81(8) of the Act.	
<b>23. Time for Implementation of Plans</b>	
23.1 The power pursuant to Section 82(2) of the Act to give consent to the implementation by a regional NRM board of a draft plan or amendments to a plan that have not been adopted by the Minister.	
<b>24. Contributions by Constituent Councils</b>	
24.1 The duty pursuant to Section 92(1) of the Act if a regional NRM plan for a regional NRM board specifies an amount (the base contribution amount) to be contributed by the constituent councils for the region towards the costs of the board performing its functions under the Act in a particular financial year, to make a contribution based on that amount in accordance with the requirements of Part 1 of	

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Chapter 5 of the Act in respect of that financial year.	
24.2 The power pursuant to Section 92(7) of the Act to receive notice from the Minister of the Minister's determination.	
<b>25. Payment of Contributions by Councils</b>	
25.1 The duty pursuant to Section 93(1) of the Act, subject to Section 93(2) of the Act, to pay the Council's share of the amount to be contributed by the constituent councils in approximately equal instalments on 30 September, 31 December, 31 March and 30 June in the year to which the contribution relates, including any interest which accrues on any amount unpaid at the rate and in the manner prescribed by regulation.	
25.2 The duty pursuant to Section 93(2) of the Act, if notice of a regional NRM levy imposed by a Council in respect of a financial year could not be included in the notice of general rates for that year because the share to be contributed was not approved by the Governor on or before 1 June preceding that year, to pay the Council's share of the amount to be contributed by constituent councils in approximately equal instalments on 31 December, 31 March and 30 June in that year.	
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26.1 Deliberately left blank	
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<b>27. Cost of Councils</b>	
27.1 The power pursuant to Section 96(1) of the Act, subject to Section 96(2) and 96(3) of the Act, to receive an amount from a regional NRM board determined in accordance with the regulations on account of the costs of the Council as a constituent council in complying with the requirements of Part 1 of Chapter 5 of the Act.	
<b>28. Declaration of Prescribed Water Resources</b>	
28.1 The duty pursuant to Section 125(5)(b) of the Act, to receive a copy of a notice from the Minister outlining a proposed recommendation to the Governor declaring that part of the State is a surface water prescribed area.	
<b>29. Requirement for notice of certain applications</b>	
29.1 The power pursuant to Section 136(3) of the Act, where the Council is a person specified in the plan to whom notice of an application must be given pursuant to Section 136(2) of the Act to make representations in writing to the relevant authority in relation to the granting or refusal of a permit.	
29.2 The duty pursuant to Section 136(6) of the Act, if the Council has made a representation under Section 136(3) of the Act, as part of that representation indicated an interest in appearing before the authority, to appear personally or by representative before the authority to be heard in support of the representation.	
29.3 The power pursuant to Section 136(11) of the Act to lodge an appeal with the ERD Court.	
<b>30. By-Laws</b>	
30.1 The power pursuant to Section 171(7)(a) of the Act to consult with a regional NRM board before a by-law is made by the NRM board under Section 171 of the Act that directly affects the area of the Council.	
30.2 The power pursuant to Section 171(7)(c) of the Act to submit to the regional NRM board the Council's views	



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on a by-law proposed to be made under Section 171 of the Act.	
<b>31. Orders made by ERD Court</b>	
31.1 The power pursuant to Section 201(5) of the Act, where the Council's interests are affected by the subject matter of the application to make an application to the ERD Court for Orders under Section 201 of the Act.	
31.2 The duty pursuant to Section 201(7) of the Act where an application is made to the ERD Court to serve a copy of the application on the Minister within 3 days after filing the application with the ERD Court.	
<b>32. Management Agreements</b>	
32.1 The power pursuant to Section 205(3) of the Act to receive notice from the Minister of a proposal to provide for the remission of any Council rate under Section 205(2)(j) of the Act by way of a management agreement.	
<b>33. Service of notices or other documents</b>	
33.1 The duty pursuant to Section 208(1) of the Act, subject to Section 208(2) of the Act, where required or authorised by the Act to serve a notice or other document on a person, to effect service of the notice or other document by –	
33.1.1 giving the notice or document to the person or an agent of the person; or	
33.1.2 leaving the notice or other document for the person at his or her place of residence or business with someone apparently over the age of 16 years; or	
33.1.3 if the notice or document is to be served on the owner of the land and the land is unoccupied, and the Delegate has taken reasonable steps to effect service under the other paragraphs of Section 208(1) of the Act, to serve the notice or document by fixing it to some conspicuous part of the land; or	

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<p>33.1.4 if the notice or document is to be served on the occupier of the land, be sent by post to the occupier of the land; or</p>	
<p>33.1.5 be served on the person by fixing it to, or leaving it on, a vessel or craft that the person is apparently in charge of, or expected to board at some stage, if the Delegate has reasonable grounds to believe that service in this manner will bring the notice or document to the attention of the person to be served; or</p>	
<p>33.1.6 send the notice or document to the person by facsimile transmission; or</p>	
<p>33.1.7 serve or give the notice or document to a person in a manner prescribed by the Regulations.</p>	
<p>33.2 The power pursuant to Section 208(3) of the Act, subject to the Regulations, if a notice or document is required or authorised to be given to an owner of land, if it is to be served personally, to serve the notice on the owner, one of any joint owners, or the agent of the owner.</p>	
<p><b>34. Vesting of Property</b></p>	
<p>34.1 The power pursuant to Clause 46(1)(d) of Schedule 4 of the Act to consent to the vesting in the Council by proclamation of the Governor any asset, right or liability of a statutory body or of a related body nominated by the proclamation.</p>	
<p><b>35. Special Provisions relating to the repeal of the Water Resources Act 1997</b></p>	
<p>35.1 The duty pursuant to Clause 54(17) of Schedule 4 of the Act, subject to Clause 55 of the Act, to pay any amount payable by the Council under Part 8, Division 2 of the Water Resources Act 1997 under a scheme established by the Minister for the purposes of Clause 54 of Schedule 4 of the Act (and such a scheme may provide that an amount be paid to a regional NRM board rather than a catchment water management board).</p>	

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35.2 Deliberately left blank	
<b>36. Special Provisions related to levies</b>	
36.1 Deliberately left blank	
36.2 Deliberately left blank	
36.3 Deliberately left blank	

**DELEGATIONS UNDER THE NATURAL RESOURCES MANAGEMENT  
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37. The power pursuant to Regulation 35(2) of the Natural Resources Management (General) Regulations (“the Regulations”), when making an agreement under Section 43 of the Act, to include provisions terms or conditions other than those identified in Regulation 35(1) of the Regulations.

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**38. Contributions by Councils**

38.1 Deliberately left blank

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**SCHEDULE OF CONDITIONS**

**CONDITIONS OR LIMITATIONS  
APPLICABLE TO DELEGATIONS  
CONTAINED IN THIS INSTRUMENT**

[Instructions for use: any conditions or limitations which apply to delegations under this Act should be inserted here – DELETE this note once conditions/limitations are entered. If no conditions apply insert “NIL”]

Paragraph(s) in instrument to which conditions/limitations apply	Conditions / Limitations