

# STRATFORD DISTRICT COUNCIL

<b>SECTION:</b> <b>DELEGATIONS</b>	
<b>POLICY:        <u>LOCAL GOVERNMENT ACT 1974</u></b>	
<b>RESPONSIBILITY:</b> [Click here]	<b>REVIEW DATE:</b> April 2008
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<b>DELEGATIONS</b> <b>REGISTER NO:</b> [Click here]	

Section 715 of the Local Government Act 1974 enables the Council to delegate to any officer, all or any of the powers of the Council under the Act except the:

- (a) Power to make a rate
- (b) Power to make a By-law
- (c) Power to institute an action for the recovery of any amount in excess of \$500
- (d) Power to borrow money
- (e) Power to enter into a contract otherwise than in accordance with the provision of Section 4 of the Public Bodies Contracts Act 1959
- (f) Power to declare a regional road or to vary, alter, or revoke any such declaration
- (g) Power to make assessments upon contributing authorities
- (h) Powers and duties under the Public Works Act 1981

Section 715 (b) states that any delegation made under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Council.

Similarly, Section 716 (b) states that any delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Council.

The following provisions are recommended under the provisions of the Local Government Act 1974:

1.        **Section 119c(2) Chief Executive Officer - Employment of Staff**

That under Section 119c(2) the Chief Executive Officer shall be responsible for employing all staff on behalf of Stratford District Council, and for negotiating their terms of employment.

2.        **Section 223H - Inspection of Accounting Documents** (ie. Prime entries into financial records, including ledger accounts).

- (a) That under Section 223H, all salaried Officers shall be authorised to inspect accounting documents and take copies from any part thereof provided however, that this delegation shall apply only insofar as the Officer's duties directly relate to the accounting documents and such inspections shall be made only at such times and in such manner as may from time to time be approved by the Corporate Services Manager or the Accountant.

3. **Section 223I - Payment to and Withdrawal from Bank Accounts**

- (a) Subject to Section 223I, all money belonging to or held in trust by the Council shall be paid into an account or accounts of the Council at such bank or banks as the Council from time to time appoints.
- (b) All money shall be paid by the Council in cash or by cheque, direct credit schedule or withdrawal notice signed by one of the following: Corporate Services Manager, Accountant or Revenue Clerk and countersigned by any other of the above or the General Manager (the Deputy General Manager in the absence of the General Manager).  
*Policy & Services Committee (9/8/94)*  
*Council (23/8/94)*
- (c) Every payment of money shall be authorised by a resolution of the Council.
- (d) The General Manager is hereby authorised under Section 716 to delegate any or all of the above powers to the Corporate Services Manager.
- (e) That the Corporate Services Manager and the Accountant be authorised to invest the funds of the District Council in the most appropriate manner, such investments to be reported to the Council.

4. **Section 226 - Disposal of Council Property (other than land)**

That subject to Section 226, the General Manager may:

- (a) Let out on hire, on such terms as he thinks fit, any building (not land) or part thereof, or any equipment, machinery, furnishings or vehicles.
- (b) Sell or otherwise dispose of, on such terms as he sees fit any equipment, furnishings or vehicles that are surplus to requirements.
- (c) Any contract which in the General Manager's opinion is of a major nature made under this authority shall be reported to the respective Committee as soon as practicable.

5. **Section 247B - General Powers of Council in respect of Works**

Subject to Section 247B the General Manager is hereby empowered to authorise such members of his staff as he thinks fit whether generally or in any particular case:

- (a) To enter, without being deemed to commit trespass, upon any unoccupied land or building, or upon any occupied land or building after giving to the occupier thereof, and where practicable, to the owner if he is not also the occupier, 24 hours previous notice of the intended entry, for the purpose of doing anything which the Council is empowered to do under the aforesaid Act or any other Act.

Provided that where the occupier is not also the owner and notice has not been given to the owner, notice of that entry shall be given to the owner as soon as practicable thereafter.

Provided also that in any sudden emergency causing or likely to cause loss of life, injury, or damage to property, or in the case of danger to any works or property adjoining, the delegate may, for the purpose of doing anything which the Council is empowered to do under this Act or any other Act, enter, any occupied land or building without such prior notice, but shall, as soon as practicable thereafter, inform the occupier and, where he is not the owner, the owner also of the land or building.

- (b) To make surveys or inspections for or in connection with any proposed public work, or with a view to carrying out any of the purposes of this Act, and for any such purpose to exercise all or any of the powers given by Part VII of the Public Works Act 1981.

6. **Section 252 - Authentication of Documents by Council**

That subject to Section 252 the General Manager is hereby authorised to sign every order, notice, or other document requiring authentication by the Council.

7. **Section 254 - Loss or Destruction of Documents**

- (a) That subject to Section 254 - where any document belonging to the Council is destroyed or lost and the same is necessary for immediate use, but no copy is available for that purpose, the General Manager may do all such acts and things as he thinks necessary for repairing the loss, and for providing for making a new document in place of that which was destroyed or lost as aforesaid.
- (b) The General Manager is hereby authorised under Section 716 to delegate any or all of the above powers to the Corporate Services Manager.

8. **Section 321 - Road Access**

That pursuant to Section 715 of the Local Government Act 1974 Council delegate to the Chief Executive with associated powers of Section 716 of the Local Government Act 1974 the powers conferred on it in Section 321 (Road Access) of the Local Government Act 1974.

**Reason**

The delegation will allow the expeditious processing of subdivision applications.

*(Policy and Services Committee Meeting 26/2/00, Confirmed by Council 10/10/00).*

9. **Section 335 - Vehicle Crossings**

That the Operations Manager, Roading Asset Manager and Project Engineer be "officers" authorised by the Council under Section 335.

**(Note:** The Principal Officer is an authorised Officer under the Act. This Section enables the Officers to require an owner or occupier to pay the cost of constructing a crossing. There is a right of objection to the requirement).

10. **Section 337 - Alteration of Pipes and Drains**

- (a) That under Section 337, the General Manager and Operations Manager, may require the owner of any pipe, drain or apparatus of any kind or under a road to raise, lower or otherwise alter the same. If the alteration is not made within a reasonable time, the matter is to be referred to the Council.

- (b) That under Section 716 the Operations Manager be authorised to delegate this power to other officers within his Department.

11. **Section 342 - Stopping and Closing of Roads**

That subject to Section 342, and pursuant to Clause 12 of the Tenth Schedule the General Manager, Operations Manager, Roading Asset Manager, Project Engineer and Services Asset Manager, may close any road or part thereof to any specified type of traffic under Clause 11 of the Tenth Schedule.

12. **Section 344 - Gates and Cattle Stops Across Roads**

- (a) That subject to Section 344, the General Manager may permit the erection of a swing gate or a cattle stop across any road. Any objection under this Section shall be referred to the Policy & Services Committee.
- (b) The General Manager is hereby authorised under Section 716 to delegate any or all of the above powers to the Operations Manager.

13. **Section 353 - General Safety Provision as to Roads**

That subject to Section 353 the Operations Manager, Roading Asset Manager, Project Engineer, Services Asset Manager and Planning & Regulatory Manager be empowered to take all such sufficient precautions for the general safety of the public and traffic and workmen employed on or near any road as they think fit and in particular these delegates shall:

- (a) Take all reasonable precautions to prevent accidents during the construction or repair by the Council of any road, or when any opening is made therein by the Council for the repair of drains or gas pipes or for any other purpose, and require other persons doing such work to take such precautions, by erecting barriers, devices to cause traffic to slow down, or fences across any such road or around any dangerous place therein, or otherwise, and shall cause, and require other persons doing such work to cause any such dangerous place to be sufficiently lighted by night; and any person removing any such protective work, or removing or extinguishing any such light, without the authority of the Council, commits an offence.
- (b) Require the owner or occupier of any land upon which there is any hole, well, excavation, or other place dangerous to persons passing along any road forthwith to fill in, cover, or enclose the same.
- (c) Whenever the public safety or convenience renders it expedient require the owner or occupier of any land not separated from a road by a sufficient fence to enclose the same by a fence to the satisfaction of the Council.

14. **Section 354 - Construction of Cellar or Making an Excavation in Vicinity of Road**

That subject to Section 354, the General Manager may by notice in writing permit the above, subject to:

- (a) the consent of the Operations Manager where the cellar or excavation is within 20 metres of any road; or
- (b) the written consent of the adjoining property owner where the excavation or cellar is within 20 metres of a property boundary.

Any objection under this Section shall be referred to the Policy & Services Committee.

15. **Section 355 - Council May Require Removal of Overhanging Trees, etc.**

That subject to Section 355 - the General Manager may by notice in writing require the owner of any land abutting upon any road within the district to do any of the following acts:

- (a) To remove, lower, or trim to the satisfaction of the Council any tree or hedge overhanging or over-shadowing the road in cases where, in the opinion of the Council, the removal, lowering, or trimming is necessary in order to prevent injury to the road or obstruction to the traffic thereon or to any channel, ditch, or drain appertaining thereto.
- (b) To cut down or grub up, as the Council directs, and remove all obstructions to traffic or drainage arising from the growth of plants or the spreading of roots upon or under the road up to the middle line thereof along the whole frontage of the land occupied or owned by him.
- (c) To remove, lower, or trim to the satisfaction of the Council any tree or hedge, or to lower any fence or wall, if in the opinion of the Council the tree, hedge, fence or wall is likely, by reason of its obstructing the view, to cause danger to the traffic on that or any other road.
- (d) The General Manager is hereby authorised under Section 716 to delegate any or all of the above powers to the Operations Manager.

(Note: The owner has a subsequent right of objection to the District Court).

16. **Section 356 - Removal of Abandoned Vehicles from Roads** *(Updated by the Policy & Services Committee at its meeting held on 9/2/93 - Confirmed by Council 23/2/93)*

That pursuant to Section 356 of the Local Government Act 1974, the General Manager be an "authorised person" and be delegated Council's powers and responsibility under Section 356 of the Local Government Act 1974 (Removal of Abandoned Vehicle from Roads).

Pursuant to Section 716 of the Local Government Act 1974, the General Manager is authorised to delegate any or all of the above powers (including appointment of "authorised person(s)") to Council employees.

17. **Section 357 - Fences and Structures on Road Reserve**

- (a) That subject to Section 357 (2), the General Manager may by notice in writing permit the encroachment of structures and fences on road reserve subject to such encroachments not interfering or in any way obstructing the right of the Crown or any utility so authorised by any Act.
- (b) All such approvals shall be included in the Departmental Managers monthly report to their respective Committee.
- (c) The General Manager is hereby authorised under Section 716 to delegate any or all of the above powers to the Operations Manager.
- (d)\* That the General Manager in considering applications to either keep or plant production forestry on road reserves (excluding roads beyond pegs) use the following guidelines for approval:

1. That the main ground for granting approval to such an application be that the trees will provide soil stability to the road and will not detrimentally effect the roadway and driving visibility of motorists on the road. Evidence is to be provided by the applicant that satisfies the General Manager that the above grounds can be met. If the General Manager is satisfied that the grounds can be met then consent will be granted subject to the following conditions:
  - (i) That the applicant prune or trim the branches of trees near the road reserve so that they do not overhang or interfere with road traffic. This is to be completed at the applicant's expense. If the applicant does not carry out this duty then Council will complete this task and charge the applicant.
  - (ii) That all trees which fall onto the road will be removed by the applicant within 12 hours or sooner, of being notified and at his/her expense. If the trees are not removed within 12 hours then Council will remove them and charge the applicant.
  - (iii) Trees are the property of the applicant and remain at the Council's pleasure.
  - (iv) That the applicant obtains public liability insurance to the value of at least \$300,000 to cover the contingency of any injury by the public from falling trees or branches etc.

\* *Ex Council Meeting 14 December 1993 to give General Manager guidelines when considering granting permits in respect of trees that have been or are going to be planted on road reserve.*

(Note: Any objection under this section shall be referred to the respective Committee).

18. **Section 382 - Persons Supplied with Water to Provide Appliances**

That subject to Section 382 the General Manager, or the Operations Manager, be authorised to stop the supply of water to any person in such manner as either of them thinks fit for the reason that that person is in default of providing or keeping in good repair such proper taps, stop cocks, and other apparatus as the Council requires, or is wilfully allowing water to run to waste.

19. **Section 383 - Notice of Removal of Water Pipes to be Given to Council**

That subject to Section 383 (3) the General Manager, or Operations Manager, be authorised to consent in writing to notices of intention to remove pipes or other apparatus connected to the waterworks.

20. **Section 393 - Factories, etc. to be Examined**

That the Planning & Regulatory Manager, Building Inspector and the Environmental Health Inspector be "authorised officers" for the purposes of Section 393.

(Note: This section authorises inspections for the purpose of determining whether or not any pollution is flowing into any water or waterworks).

21. **Section 394 - Diversion of Water from Waterworks in Case of Emergency**
- (a) That subject to Section 394, the General Manager and Planning & Regulatory Manager may in time of flood or emergency lead any water from any waterworks vested in the Council into any natural water with a view to the protection of the waterworks.
  - (b) That under Section 716 the Operations Manager be authorised to delegate these powers to any officer in the Operations Department.
22. **Section 397 - Council may Stop Supply of Water in Certain Cases**
- (a) That subject to Section 397 where any person:
    - (i) Fails or refuses to do any act or thing that he is required to do by Part XXIII of the Act; or
    - (ii) Fails or refuses to do any act or thing that he has undertaken or agreed to do in respect of the supply of water to his land under Part XXIII of the Act; or
    - (iii) Commits any offence against Part XXIII of the Act.

The General Manager be authorised to stop the supply of water to the land of that person in any manner he thinks fit and to prevent him from using the water until he has ceased to make default or failure as aforesaid.
  - (b) That any action taken under this authority be reported to the Policy & Services Committee as soon as practicable.
23. **Section 442 - Drainage of District**
- (a) That under Section 442 the Operations Manager may cleanse, repair and maintain all drainage works necessary for the efficient drainage of the District or any part thereof.
  - (b) That under Section 716 the Operations Manager be authorised to delegate these powers to any officers in the Operations Department.
24. **Section 451 - Diversion, etc. of Drainage Works**
- (a) That subject to Section 451, the General Manager and Operations Manager may enter into an agreement with any person as to the manner in which drainage works shall be diverted, altered, protected or replaced when such works are essential to the erection of a building or the carrying on of works, and it is practicable for the work to be done without material interference with Council's services subject to the entire cost of all such works being borne by the applicant.
  - (b) That the Operations Manager be authorised to delegate these powers to the Roading Asset Manager, Project Engineer and Services Asset Manager.
25. **Section 459 - Council may Require Owners of Land in Certain Cases to Provide Private Drains**
- (a) That subject to Section 459 the General Manager, Operations Manager, Planning & Regulatory Manager or Building Inspector/Planning Assistant, shall be authorised to, by notice in writing under either of their hands, require the owner of any land or building within the district to do all or any of the following things:

- (i) To provide, construct, and lay a private drain from any land or building which is not drained by some drain to their satisfaction and to connect that private drain with any public drain or watercourse or the sea, as the delegate thinks fit.
  - (ii) To cleanse and repair or to relay or alter the course, direction, and outfall or any existing private drain of or belonging to the premises.
  - (iii) To connect any such existing private drain with any public drain or watercourse other than the public drain or watercourse with which the private drain was previously connected.
  - (iv) To provide and affix in and to any such existing private drain, and in and to any such new private drain, all such traps, methods of ventilation, and other fittings whatever as the delegatee directs.
  - (v) To connect or disconnect any existing or new private drain with or from any water closet, urinal, bath, sink, grease trap, or other sanitary appliance.
  - (vi) To execute, provide, and do generally any works, materials, and things which in the opinion of the delegatee are necessary or expedient for the efficient drainage of the premises and every part thereof.
- (b) Should the owner object to the notice or fail to carry out any of the work specified therein the matter shall be referred to the appropriate Council Committee for direction as to the action is to be taken.

26. **Section 467 - Unlawful Connection of Private Drain**

That where, under Section 467, any person commits an offence by unlawfully connecting any private drain with a public drain or covered watercourse, the General Manager or Operations Manager may authorise the replacement or repair of any property destroyed or damaged by such unlawful connection or remove or alter any such private drain, and may recover from that person the full cost of the work and the full amount of any damage done or caused by him, and when that amount is not in excess of \$500, may institute an action for its recovery.

27. **Section 468 - Tree Roots Obstructing Public Drains**

That subject to Section 468 the General Manager or Operations Manager shall be authorised, in writing under either of their hands, to require the occupier or in any case where there is no occupier, the owner of any land within the district to cut down or remove any tree on that land, or any specified part of any such tree, the roots of which in the opinion of the delegate enter or are likely to enter any public drain.

(Note: There is a subsequent right of objection to the District Court).

28. **Section 511 - Removal of Obstruction from Drainage Channel or Watercourse**

- (a) That subject to Section 511 where in the opinion of the Operations Manager the free flow of water in any drainage channel or in any watercourse that is not under the control of any other local authority -
  - (i) Is impeded by any obstruction, and that obstruction is likely to cause loss of life, injury, or damage to property in the district or to obstruction navigation; or

- (ii) Is likely to be impeded by any such obstruction - the Operations Manager may, by notice in writing, require the occupier or, if there is no occupier, the owner of the land on the banks of the drainage channel or watercourse within the district to remove the obstruction from the drainage channel or watercourse and from the banks of the drainage channel or watercourse to a distance not exceeding 3 metres from the nearest margin of the drainage channel or watercourse.

(Note: There is a subsequent right of objection to the District Court).

29. **Section 602 - Information Services**

- (a) That under section 602, the General Manager may, within any estimate which may from time to time be approved by the Council, prepare and publish hand books, abstracts or other publications containing information and matters of interest relative to the histories, administration and affairs of the District, purchase publications containing photographic views of the County and disseminate information concerning Local Government activities.
- (b) That under Section 716, the General Manager be authorised to delegate this power to such other members of the staff as he thinks fit from time to time.

30. **Section 695 - Recovery of Amount of Destruction, Damage etc to Works or Property**

That under Section 695, the General Manager and Operations Manager may replace or repair any works or property established, constructed, used or acquired by the Council under the Act and wilfully or negligently destroyed or damaged, or remove or alter it as they think fit and may recover from the person who caused the destruction or damage in any Court of competent jurisdiction the full cost of the work and the full amount of all the damage done or caused by him where the amount to be recovered is not in excess of \$500.

31. **Section 715 - Recovery of Money**

That the General Manager and Corporate Services Manager be empowered to institute an action for the recovery of any amount owed as a debt to Council, except where this institutes proceedings in the High Court.

32. **Part XXI - Roads (Other than Regional Roads) Service Lanes and Access Ways**

That Council delegate powers and duties as required to process and resolve a subdivision resource consent under the Resource Management Act 1991. (*Council 25/2/92*).

33. **Part XX Subdivision & Development**

That the Chief Executive Officer or an officer appointed by him/her be delegated powers and duties of Council during the transition phase under the Resource Management Act 1991.