

2012

Monitoring Steps

Delegations and Transfers



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Delegating functions to council officers or hearings commissioners and transferring functions, powers or duties to another public authority, can improve the efficiency of planning processes, such as the processing of resource consents. This guidance note focuses on monitoring the exercise of delegations and transfers.

Sections 33 and 34 of the Resource Management Act 1991 provide for the transfer of powers and delegation of functions (respectively). Section 35(2)(c) requires every local authority to monitor the exercise of any functions, powers or duties delegated or transferred by it.

Delegations

Local authority officers, acting under delegated authority (section 34A), made 91% of decisions on resource consents (reported in the Ministry for the Environment, [Two-Yearly Survey of Local Authorities](#), 2010/11). It is common for council officers to be delegated the responsibility (by councillors) for decision-making on 'less significant' resource consents. Points to note include:

- delegating functions to council officers can improve the efficiency, timeliness, and consistency of processing resource consent applications and delegating functions to hearings commissioners with expertise in particular areas, can contribute to efficient planning processes
- councils should bear in mind the relative risks involved in delegating and transferring certain decision-making functions. Monitoring any delegations and transfers can help assist in this
- monitoring delegations can ensure that the ability and experience of officers and hearings commissioners is appropriate for the level of decision-making required
- all officers and hearings commissioners should be aware of what functions have been delegated and to whom (a written register can be useful)
- it is important for council officers and hearings commissioners to note any emerging cumulative effects and report these to council
- reporting back regularly to council committees (or in some cases the full council) is important. This is usually done every month, or as often as is necessary
- refer also to the [Contracting Out Resource Consent Processing Guidance Note](#), which discusses issues relating to outsourcing resource consent processing.

Transfers

Transfers of functions, powers, or duties are less common than delegations but do occur. Section 33 transfers under the Resource Management Act have had limited use, partly because of the question of who pays and because some practitioners have been unclear about the requirements of the Act.

Councils remain responsible

- Councils remain responsible for the monitoring of any delegations and transfers of power.
- Councils also retain responsibility for all functions specified under relevant legislation, such as the Resource Management Act and Local Government Act 2002.
- Because councils are politically accountable for any delegations and transfers, and for monitoring these, they also need to report back on the monitoring of delegations and transfers.

RMA provisions

Section 35(2)(c) states that every local authority shall monitor the exercise of any functions, powers, or duties delegated or transferred by it.

Section 35(3) requires every local authority to keep reasonably available at its principal office, information which is relevant to the administration of policy statements and plans, the monitoring of resource consents, and current issues relating to the environment in the area, to enable the public:

- to be better informed of the duties, functions, and powers of the local authority
- to participate more effectively under the Act.

Section 33 deals with transfer of powers including what powers can be transferred, to whom and under what circumstances.

- 33(1) 'A local authority may transfer any one or more of its functions, powers, or duties under this Act, except this power of transfer, to another public authority in accordance with this section.'
- 33(2) 'For the purposes of this section, 'public authority' includes any local authority, iwi authority, Government department, statutory authority, a joint committee set up for the purposes of the section 80, and a local board (within the meaning of [section 4\(1\)](#) of the Local Government (Auckland Council) Act 2009.'

Section 34 deals with delegation of functions by local government including what functions, powers and duties can be delegated to committees, community boards, hearing commissioners and officers.

