

6. COUNCIL-CONTROLLED TRADING ORGANISATION FOR NEW CIVIC BUILDING



General Manager responsible:	General Manager Corporate Services, DDI 941-8540
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PURPOSE OF REPORT

1. The purpose of this report is to recommend a new Council-Controlled Trading Organisation (CCTO) to construct, own and lease the new civic building.

EXECUTIVE SUMMARY

2. On 8 June 2006 the Council approved Travis Finance Ltd (now Tuam Ltd) as a Council-controlled trading organisation (CCTO) to be the vehicle to construct and own the new civic building and also purchase the current Tuam Street building and the Tuam Street car park.
3. Officers have been working through the various recommendations associated with the Council resolution (refer to background section for details of the 8 June resolution). The appointment of directors for Tuam Ltd is still outstanding.
4. As staff have been working through the various resolutions, it became apparent during discussions with the Chair and some Board members of CCFL, that it was somewhat limiting to have both the current civic building at Tuam Street and the new civic building in the same company. Industry practice for property development/investment companies is that each development/project is undertaken in a separate company structure. Having both the old civic building and new civic building in separate companies would maximise options for the ultimate use of the old civic building.
5. Considering the industry practice described in paragraph 4, it would be logical to establish another company. The establishment of another company would see the creation of a CCTO. Whether it was a company directly owned by the Council or a subsidiary of an existing CCTO, it would by law be a CCTO.
6. Officers have considered the options of whether a new company should be in a subsidiary structure under Tuam Ltd or be a separate CCTO owned directly by the Council. Based upon advice from Deloitte, the direct ownership option provides the most financial flexibility and efficiency.

FINANCIAL AND LEGAL CONSIDERATIONS

7. From a financial perspective, the establishment of a separate company to own the new civic building should not have any financial impact on the Council. There will be some additional costs associated with the creation of a legal structure and some minor administrative-type expenses, although the expectation would be that they would ultimately be more than covered by the returns from any individual developments.
8. Section 56 of the Local Government Act (LGA) 2002 requires that a proposal to establish a CCTO must be adopted in accordance with the special consultative procedure (SCP) before the Council can establish or become a shareholder in that organisation.
9. Section 56(2) allows the consultation required to be undertaken as part of another proposal or as part of a Long Term Council Community Plan (LTCCP).
10. A suggested approach regarding the consultation requirements would be to incorporate the proposal into the 2007/08 Annual Plan/amended LTCCP procedures.

STAFF RECOMMENDATIONS

It is recommended that the Council:

- (a) Approve in principle the establishment of a new CCTO (Tuam 2) to construct and own the new civic building.
- (b) Include this proposal in the special consultative procedure adopted for its Annual Plan/amended LTCCP.

BACKGROUND ON COUNCIL-CONTROLLED TRADING ORGANISATION FOR NEW CIVIC BUILDING

11. At its meeting on 8 June 2006, Council adopted the following resolutions:

13. OWNERSHIP OF NEW CIVIC BUILDING AND SITE

It was **resolved** that the Council:

- (a) Approve Travis Finance Limited as the council-controlled trading organisation for the purposes of:
 - (i) Entering into an Agreement for Sale and Purchase with the Council in respect of the Tuam Street properties, with the exception of Peter Scoular Reserve.
 - (ii) Entering into a Deed of Lease with the Council in respect of the Tuam Street properties.
 - (iii) Entering into an Agreement for Sale and Purchase in respect of a site for the new civic building once the Council approves the purchase of a site.
 - (iv) Subject to prior Council approval of the design of the building, entering into contracts in respect of the design and construction of the new civic building.
 - (v) Entering into an Agreement with Christchurch City Facilities Limited for the management of the new civic building project and the lease arrangements for the existing Tuam Street properties and the new civic building.
 - (vi) Entering into a Deed of Lease with the Council in respect of the new civic building once it is completed.
 - (vii) Borrowing from Christchurch City Holdings Ltd or the Council sufficient finance to complete the purchase of the Tuam Street properties and the site for the new civic building and construction of the building once the Council approves the purchase of a site.
- (b) Authorise the General Manager Corporate Services to initiate the recruitment of directors for appointment to the board of Travis Finance Limited in accordance with the Council's policy on such appointments and with a view to appointing current directors of CCFL to the board, with the names of the proposed appointees to be submitted to the Council for approval prior to their appointment.
- (c) Authorise the General Manager Corporate Services to arrange completion of an Agreement for the Sale and Purchase and Deed of Lease between Travis Finance Limited and the Council in respect of the Tuam Street properties.
- (d) Authorise the General Manager Corporate Services to take all steps necessary to ensure that Travis Finance Limited is able to undertake all transactions required for the purposes set out in (a)(i)-(vii) of this resolution. This will include reviewing the company's constitution and statement of intent.
- (e) Borrow from CCHL and on-lend to Travis Finance Limited sufficient finance to enable Travis Finance Limited to complete the purchase of the Tuam Street properties, the purchase of a site approved by the Council for the new civic building and construction of the new building.

- (f) *Authorise the General Manager Corporate Services and the Director Strategic Investment to:*
- (i) *Arrange completion of the documentation required to enable the Council to borrow from CCHL the finance referred to in (e) above.*
 - (ii) *Arrange completion of the documentation required to enable the Council to lend to Travis Finance Limited the finance referred to in (e) above.*
 - (iii) *Arrange completion of the documentation required to enable Travis Finance Limited to issue redeemable preference shares and up to \$15 million of uncalled capital to the Council.*
 - (iv) *Manage the financial arrangements referred to (i)-(iii) above in accordance with the Council's liability management policy.*
12. The substantive matters contained in the resolutions have been actioned regarding the sale of the Tuam Street properties to Tuam Ltd and Tuam Ltd commencing work on the new civic building.
13. We are yet to come back to the Council with recommendations regarding the appointment of directors for Tuam Ltd, as during the discussions with CCFL regarding this matter, a number of issues have arisen that officers consider need to be resolved before we can put forward recommendations for directorships.
14. The prime issues are as follows:
- Having both the new civic building and the Tuam Street properties as assets within the one single company.
 - The desire of the Council to ensure that the old civic building and parking land be ultimately disposed of in a manner that is consistent with the Central City South Master Plan.
15. Dealing with the first matter, clearly it has always been our intention that Tuam Ltd ultimately be the owner of the new Civic Building and that Council enter into lease arrangements with Tuam for its office accommodation requirements. This would see Tuam Ltd as a long-term holder of the new civic building (one of the advantages of having the new building under a CCTO, as distinct from it being owned by a developer). Clearly once the new building is complete and the Council has moved into it, then the Tuam Street properties are available for alternative uses. One of these options could be a straight sale.
16. Under the current structure (both the old and new civic buildings being in Tuam Ltd), any sale options could only involve a physical sale of the asset itself. This may not be the most effective method. If the Tuam Street properties were in a separate company, then far greater choice is available in terms of dealing with these properties, e.g. sale of shares or establishment of a joint venture for future development.

FINANCIAL

17. As currently Tuam Ltd owns the old civic building, the newly created CCTO (Tuam 2) would undertake the construction and ownership (and lease with Council) for the new civic building.
18. This would require a "reorganisation" of existing capital and debt structures within Tuam 1 and 2, but **will not change the numbers at a group level nor from a financial impact on the LTCCP nor from a rating impact.**

LEGAL

19. As indicated earlier in this report, the Council is required to adopt the special consultative procedure before it can establish or become a shareholder in a CCTO. That consultation may be undertaken as part of another proposal or as part of a LTCCP.
20. The Council will be shortly using the special consultative procedure before making a decision on the adoption of its Annual Plan. At the same time, the Council will be consulting on a number of amendments to the LTCCP, in particular the new development contributions policy.
21. Section 83A of the Act allows the Council to combine one SCP in relation to any decision with another SCP that it is required to carry out. It is recommended that the SCP in respect of the new company be carried out at the same time as the SCP in respect of the Annual Plan and amendment of the LTCCP.
22. Section 60 of the Act requires all decisions relating to the operation of a CCTO to be made in accordance with its statement of intent and constitution. It is intended that the new company will have an initial statement of intent and constitution that can be amended once the CCTO is activated. Any new statement of intent and/or constitution required will be brought back to the Council for approval. The provisions in the Act requiring performance monitoring, half-yearly and annual reports, and financial statements will apply to the CCTO.
23. If the Council approves in principle the establishment of the new CCTO and the result of the SCP is that a decision to establish it is made, a further report will be submitted seeking the adoption of appropriate resolutions that will enable Tuam 2 to be used as the CCTO for the purposes of advancing the development of the new civic building.