

25. ELLERSLIE INTERNATIONAL FLOWER SHOW - ESTABLISHMENT OF CHARITABLE TRUST

General Manager responsible:	General Manager Regulation and Democracy Services DDI 941-8549
Officer responsible:	Legal Services Manager
Author:	Robert O'Connor, Solicitor, Legal Services Unit

PURPOSE OF REPORT

1. The purpose of this report is to request that the Council adopts, in accordance with section 56 of the Local Government Act 2002, the special consultative procedure to consult with the public on the proposal to establish a charitable trust as part of the legal and financial structure to operate the Ellerslie International Flower Show ("the Flower Show").

EXECUTIVE SUMMARY

2. At an extraordinary meeting of the Council held on 19 November 2007 the Council generally authorised the purchase of the Flower Show.
3. In the report considered by the Council at that meeting it was signalled to the Council that the previous operators of the Flower Show adopted an operating structure or model that included a charitable trust. In particular it was noted in that report that:

"The current structure adopted by New Zealand Flower and Garden Show 2004 Limited [the previous operator] includes a trust that works alongside the company for the purpose of sourcing community grants and gaming funding and a management contract with an associated company. It is recommended that the Council authorise the Chief Executive to take the appropriate steps to establish and put in place such financial and legal structures that he considers appropriate for the operation of the event."

4. At its extraordinary meeting of 19 November 2007 the Council specifically resolved, inter alia:
 - (d) *That the Chief Executive be authorised to take the appropriate steps to establish a vehicle to be settled by the Council, for the purpose of ensuring that outside funding sources can be obtained.*
 - (e) *That the Chief Executive be authorised to establish and put in place the financial and legal structures that he considers appropriate for the establishment and operation of the event."*
5. As the proposed charitable trust will constitute a Council controlled organisation, to implement the Council's resolution of 19 November 2007 it will be necessary to comply with the consultation requirements of the Local Government Act 2002. It is therefore necessary for the Council to adopt the special consultative procedure before the Council formally makes its decision to establish the proposed charitable trust.
6. The name of the proposed Trust is proposed to be the 'New Zealand Community Garden Trust', subject to formal approval of that name by the Registrar of Charitable Trusts and subject to formal Council adoption of that proposal following completion of the special consultative procedure. At that time, the Council will also be asked to approve the appointment of the first trustees of the Trust.

FINANCIAL IMPLICATIONS

7. There are no direct financial implications for the Council with the establishment of the Trust. The establishment of the Trust will provide an ability to link into other funding sources which would not otherwise be available to the Council.
8. One of the benefits of establishing the Trust will be that some of the costs of operating the Flower Show may be met without recourse to the other financial resources of the Christchurch City Council. It is expected that approximately 40% of the Flower Show's content will be based on exhibitions by not-for-profit community groups or organisations. The monies collected by the Trust will be distributed to these not-for-profit community groups or organisations as grants to enable them to compete and exhibit at the Flower Show.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

9. Yes. The establishment of the Trust will have no affect on current LTCCP budgets. The Ellerslie International Flower Show budget aims to break even with no extra funding being required from the Events and Festivals Fund.

LEGAL CONSIDERATIONS

10. Establishing a charitable trust as part of the operation of the Flower Show is expressly authorised by the resolution of the Council at its extraordinary meeting of 19 November 2007 as detailed in paragraph 4 above.
11. As it is proposed that the Council will have the right to appoint the trustees, the proposed charitable trust will be a Council controlled organisation in terms of Section 6 and Part 5 of the Local Government Act 2002. This will enable the Council an element of control to ensure that the charitable trust functions, as far as is legally possible, in concert with the operation of the Flower Show.
12. A draft Deed of Trust for the proposed Trust has been prepared by Kerry Ayers of the law firm of Helmore Ayers. Mr Ayers is a legal practitioner of recognised experience in the trusts law area and is currently a member of the New Zealand Charities Commission.
13. Mr Ayers has advised the Council that the draft Deed of Trust will meet the necessary statutory requirements to enable the proposed Trust, if formed, to be registered under the Charitable Trusts Act 1957 and the Charities Act 2005. He has also advised that the intended functioning of the proposed Trust in support of the Flower Show will meet the additional statutory requirement that the operation of the Trust be in accordance with the charitable objects set out in the draft Deed of Trust.
14. Section 56 of the Local Government Act 2002 requires the Council to adopt the special consultative procedure before it can make a decision on whether or not to establish a Council controlled organisation. A Statement of Proposal and a Summary of Information has been prepared and are attached to this report.

Have you considered the legal implications of the issue under consideration?

15. Yes – see above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

16. The Flower Show is aligned with the current Events and Festivals Activity Management Plan and will be factored into the draft 2009 – 2019 Events and Festivals Activity Management Plan and the next LTCCP. The Flower Show aligns with the following key community outcomes:
 - A City of Inclusive and Diverse Communities
 - A Prosperous City
 - A City for Recreation, Fun and Creativity

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

17. Yes. The Flower Show fits well into Council's objective specified in the 2006–2016 LTCCP – that is to "ensure that events and festivals contribute to the enjoyment of living in Christchurch. The Council's strategic direction is to provide and support a year round programme of events that:
 - Attracts visitors and generates economic activity
 - Strengthens the distinctive identity and lifestyle qualities of Christchurch
 - Provides multiple and lasting benefits to the city
 - Celebrates and promotes Christchurch's culture and diversity.

ALIGNMENT WITH STRATEGIES

18. The Events Strategy 2007 - 2017 was adopted in December 2007. The Flower Show delivers on several goals of the Events Strategy:
 - Goal One: Events attract visitors and strengthen the distinctive identities and lifestyle qualities of Christchurch, where the strategy aims to deliver 2 icon events by 2010
 - Goal 2: A vibrant calendar of events that enhance Christchurch as a place to live and visit

19. The Flower Show also delivers on the Christchurch Visitor Strategy 2007 vision to maximise the Garden City identity for the city and its visitors. That Strategy's vision is:
- In 2017, Christchurch is the leading destination for both domestic and international visitors in New Zealand.
 - Visitors are drawn by our **Garden City identity**, unique stories, culture, landscape and world-class facilities.
 - We are the world's gateway to the South Island and New Zealand.
 - Our visitor industry is a vibrant and robust sector that provides a sustainable flow of benefits for residents and businesses.
20. The Christchurch Visitor Strategy also contains the stated objective to:

'Strengthen and broaden the Christchurch 'The Garden City' identity'

Do the recommendations align with the Council's strategies?

21. Yes.

CONSULTATION FULFILMENT

22. The adoption of the staff recommendation will meet the Council's consultation obligations.

STAFF RECOMMENDATION

23. It is recommended that the Council resolves to:
- (a) Approve the Statement of Proposal and the Summary of Information attached to this report.
 - (b) Adopt the special consultative procedure for consulting with the public on the proposal to establish a charitable trust as part of the operation of the Ellerslie International Flower Show.
 - (c) Appoint a hearings panel of three Councillors to consider any oral submissions that may be made in respect of the proposal.

BACKGROUND

24. At an extraordinary meeting of the Council held on 19 November 2007 the Council generally authorised the purchase of the Flower Show.
25. In the report considered by the Council at that meeting it was signalled to the Council that the previous operators of the Flower Show adopted an operating structure that included a charitable trust. In particular it was noted in that report that:

"The current structure adopted by New Zealand Flower and Garden Show 2004 Limited [the previous operator] includes a trust that works alongside the company for the purpose of sourcing community grants and gaming funding and a management contract with an associated company. It is recommended that the Council authorise the Chief Executive to take the appropriate steps to establish and put in place such financial and legal structures that he considers appropriate for the operation of the event."

26. At its extraordinary meeting of 19 November 2007 the Council specifically resolved, inter alia:
- "(d) That the Chief Executive be authorised to take the appropriate steps to establish a vehicle to be settled by the Council, for the purpose of ensuring that outside funding sources can be obtained.*
 - (e) That the Chief Executive be authorised to establish and put in place the financial and legal structures that he considers appropriate for the establishment and operation of the event."
27. The purpose of the charitable trust is to source charitable donations, community grants and gaming funding to enable grants to be made by the Trust to not-for-profit exhibitors to support their participation in the Ellerslie International Flower Show.