

## 8. CHRISTCHURCH TOWN HALL – TRANSFER TO VBASE LIMITED

<b>General Manager responsible:</b>	General Manager Corporate Services, DDI 941-8528
<b>Officer responsible:</b>	Corporate Finance Manager
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### PURPOSE OF REPORT

1. The purpose of this report is to seek the Council's approval to implement its decision to transfer the Christchurch Town Hall building (not the underlying land) to Vbase Limited.

### EXECUTIVE SUMMARY

2. As part of the process to adopt the 2009-19 LTCCP the Council undertook a special consultative procedure to consult with the public on the proposal to transfer ownership of the Christchurch Town Hall building to Vbase Limited, a wholly-owned Council subsidiary.
3. The draft LTCCP proposed that *"the Land on which the Town Hall sits will not be sold. Part of the site is classified as a reserve under the Reserves Act 1977 and a lease will be granted to Vbase Limited"*.
4. On 25, 26, 29 and 30 June 2009 the Council resolved to:
  - "(a) Adopt the proposal that ownership of the Christchurch Town Hall be transferred to Vbase Limited, a Council controlled Trading Organisation.*
  - "(b) Note that if the proposal is adopted the Vbase Limited Statement of Intent will be amended to provide for the financial arrangements to be put in place for the transaction and the ongoing obligations assumed by Vbase and will be brought back to the Council for final approval of the Statement of Intent."*
5. To implement the Council's decision to transfer the Christchurch Town Hall building to Vbase Limited, certain procedural and contractual steps must be authorised by the Council including the classification of that part of the Town Hall site which is reserve (being the area shown as Area G on the plan attached to this report) as local purpose (town hall) reserve under section 16 (1) of the Reserves Act 1977.

### FINANCIAL IMPLICATIONS

6. This recommendation is in line with that proposed as part of the LTCCP and there are no financial implications outside of those budgeted.
7. The Statement of Intent for Vbase Limited for the 2010/11 year is due to be presented to Council within the next six weeks and will reflect the financial arrangements associated with this transfer.
8. There are genuine commercial reasons for the proposed transfer other than Vbase's entitlement to claim tax deductions for depreciation loss in relation to the Town Hall.
9. Facilities management is a specialist activity and one in which Vbase has proven experience. Its independent board enables Vbase to operate in a dynamic and commercially-focused manner giving due weight to both the ongoing operation and the longer term renewal and development of facilities. Operationally it is more efficient for the management and ownership of the Town Hall to be vested in the same entity. Under the current arrangement, the costs and responsibilities associated with the building are split between the Council and Vbase Limited. This has led to duplication, confusion and potentially errors occurring. The transfer of the building to Vbase Limited would enable financial efficiencies to be achieved.

### **Transfer of Town Hall Building**

10. The specialist tax advice the Council has received from Simpson Grierson in relation to this transaction is that the Town Hall building should be transferred by the Council to Vbase Limited at its current market value as determined by an independent valuer.
11. It is proposed that an agreement will be entered into with Vbase Limited on the following basis:
  - (a) Transfer price – market value.
  - (b) Settlement date – immediately.
  - (c) Otherwise on standard commercial terms.

### **Lease of Town Hall Land**

12. The specialist tax advice the Council has received from Simpson Grierson in relation to this transaction is that the rent payable by Vbase to the Council in respect of the lease over the entire Town Hall land can be set at a peppercorn rental.
13. It is envisaged that a Deed of Lease will be entered into by the Council with Vbase Limited on the basis of an annual rental of \$100,000 plus GST and otherwise on usual commercial terms and in compliance with the Reserves Act 1977.

### **Funding**

14. Valuations have been obtained both by Vbase Limited and the Council. The value ranges from \$35,220,000 to \$31,500,000 and negotiations are underway to agree on the transfer price.
15. The necessary funding is included within the 2009/10 Annual Plan.

### **Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?**

16. Yes.

### **LEGAL CONSIDERATIONS**

#### **Council Decision**

17. The Council has obtained specialist legal advice from Simpson Grierson on the tax, property and Reserves Act aspects of the proposed transaction. The Legal Services Unit has been involved in the discussions with Simpson Grierson leading to the formation of that advice and has concurred with the advice received.

#### **Implementation Steps**

18. To implement the Council's decision to transfer the Christchurch Town Hall building to Vbase Limited certain procedural and contractual steps must be authorised by the Council, as follows:
  - (a) The classification of that part of the Town Hall site which is reserve (being the area shown as Area G on the plan attached to this report) as local purpose (town hall) reserve under section 16(1) of the Reserves Act 1977. Classification of Area G is required before it may be leased.
  - (b) The entering into of an agreement with Vbase Limited to transfer the Town Hall building.
  - (c) The entering into of a lease of the land forming the Town Hall site with Vbase Limited.

- (d) The advance of loan monies to Vbase Limited from the Council sufficient to fund the purchase of the Town Hall building from the Council.

### **Reserves Act Classification**

19. The land upon which the Town Hall building is situated is held by the Council in eight separate legal parcels. A plan showing the eight land parcels which make up the Town Hall site is attached to this report. The majority of the land parcels at the site are held by the Council in fee simple, however, the land shown as Area G on the plan and comprised in Computer Freehold Register CB27K/843 is held subject to the Reserves Act 1977.
20. Area G is reserve that was derived from the Crown being formerly held as a market place. Accordingly, the option of revoking the reserve status of Area G to rationalise the legal nature of the Council's ownership of the Town Hall site is not available as on any revocation of its reserve status Area G would revert to the Crown.
21. Area G has not been formally classified under the Reserves Act 1977. In 1968 the purpose of Area G was changed from a market place to a site for a town hall. The classification process under the Reserves Act 1977 as a Local Purpose (Town Hall) Reserve will formally acknowledge this purpose and ensure that the reserve is held and administered for that purpose and no other purpose.
22. It will not be necessary to publicly notify the intended classification as the purpose of the proposed classification is substantially the same as the purpose for which the reserve was held and administered immediately before the commencement of the Reserves Act 1977.
23. As the proposed classification confirms the existing purpose of the reserve, a delegation is held by the Council from the Minister of Conservation to consent to the classification by Gazette notice.

### **Transfer of Town Hall Building**

24. As part of the process to adopt the 2009-19 LTCCP the Council undertook a special consultative procedure to consult with the public on the proposal to transfer ownership of the Christchurch Town Hall building to Vbase Limited, a wholly-owned Council subsidiary. The recommendations of this report flow consequentially from the decision to adopt the proposal.
25. As no relevant staff delegation exists, a Council resolution is required to authorise the entering into by the Council of an appropriate agreement.
26. Section 73 and Schedule 9 of the Local Government Act 2002 permits the transfer of undertakings to council-controlled organisations.
27. There are no legal impediments for the Council in respect of the transfer of the Town Hall to Vbase Limited and Council met its obligations under the Local Government Act 2002 during the special consultative procedure on the subject.

### **Lease of Town Hall Land**

28. As the Town Hall land includes a parcel of reserve in the form of Area G, before any lease of the Town Hall land is granted it is necessary that the reserve be formally classified under the Reserves Act 1977.
29. Section 61(2A) of the Reserves Act 1977 expressly permits the Council to lease Area G, once classified as local purpose (town hall) reserve, for a number of purposes, including that of a "community building" On the basis that the Town Hall is a "community building" Section 61 specifies that any lease of local purpose reserve be for a term not exceeding 33 years but that a right of renewal may be granted. The remainder of the land can be leased under the Council's usual processes.

30. Section 138 of the Local Government Act 2002 will also apply to the proposed lease, but the Legal Services Unit is of the view that the section 138 requirement to consult has been complied with as a result of the special consultative procedure having been undertaken.

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

31. Yes, see above discussion.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

32. Not applicable

**Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?**

33. Not applicable

**ALIGNMENT WITH STRATEGIES**

34. Not applicable

**Do the recommendations align with the Council's strategies?**

35. Not applicable

**CONSULTATION FULFILMENT**

36. As part of the process to adopt the 2009-19 LTCCP the Council undertook a special consultative procedure to consult with the public on the proposal to transfer ownership of the Christchurch Town Hall building to Vbase Limited, a wholly-owned Council subsidiary. The Council's consultation obligations have therefore been complied with.

**STAFF RECOMMENDATION**

It is recommended that the Council resolve to:

- (a) Pursuant to Section 16 (1) of the Reserves Act 1977, classify as Local Purpose (Town Hall) Reserve all that parcel of land being part of the Town Hall site described as Part Section 1189 Town of Christchurch, containing 3463 square metres more or less comprised in Computer Freehold Register CB27K/843 being a site for a Town Hall by NZ Gazette 1968 p. 1707.
- (b) Subject to paragraph (a) of this resolution, exercise the delegated consent of the Minister of Conservation to consent to the classification referred to paragraph (a) of this resolution.
- (c) Delegate to the General Manager Corporate Services the authority on behalf of the Council to negotiate and conclude with Vbase Limited an agreement to transfer the Town Hall building on commercial terms and conditions satisfactory to him.
- (d) Delegate to the General Manager Corporate Services the authority on behalf of the Council to negotiate and conclude with Vbase Limited a ground lease of the Town Hall land (including a lease of the land comprised in Computer Freehold Register CB27K/843 pursuant to section 61(2A) of the Reserves Act 1977) on commercial terms and conditions satisfactory to him.