

4. SPECIAL CONSULTATIVE PROCEDURES – PROPOSALS TO ESTABLISH 3 COUNCIL CONTROLLED ORGANISATIONS AND TO CHANGE THE OWNERSHIP AND CONTROL OF CHRISTCHURCH CITY NETWORKS LTD

General Manager responsible:	General Manager Corporate Services, DDI 941-8528
Officer responsible:	Corporate Finance Manager
Author:	Ian Thomson ,Solicitor

PURPOSE OF REPORT

1. (a) To report on two matters consulted on as part of the special consultative procedure undertaken in respect of the 2010/11 Annual Plan. These matters are:
 - Establishment of 3 Council Controlled Organisations; and
 - Amendment of the Council's 2009/19 LTCCP to include a proposed change in the ownership and control of Christchurch City Networks Ltd.
- (b) To seek approval of the recommendations made by staff contained in the report.

EXECUTIVE SUMMARY

2. At its meetings on 25-26 February and 11 March 2010 the Council approved Statements of Proposal and Summaries of Information in respect of these matters.
3. The documents were distributed for public consultation at the same time as the draft 2010/11 Annual Plan.
4. Written submissions were received and opportunities given for people and organisations to appear before Councillors to express support for or opposition to the matters proposed.
5. Comments in response to the submissions are contained in the background section of this report.

BACKGROUND

6. There were six submissions received to the proposal that the Council establish three Council Controlled Organisations (CCOs). The reasons for the proposal are set out in the staff report to the meeting of 25-26 February 2010 and in the Statement of Proposal considered and approved at that meeting.
7. The concerns of the submitters were that by establishing "shelf" companies the Council was acting contrary to the provisions of the Local Government Act 2002 and that they should not be used to avoid consultation.
8. Simpson Grierson, the Council's strategic legal advisor, has previously confirmed that establishing CCOs as shelf companies or trusts does not breach the Act.
9. Having a number of non-trading CCOs available for use, does not remove any control from the Council. A proposal to activate a CCO would be put to the Council for approval and would be subject to the requirements of the Local Government Act 2002. Any financial support (capital injection or debt) would need to be separately considered and approved. If the commencement of a particular activity triggered the Council's significance policy, the use of the special consultative procedure may be required.
10. The Council would be required by the Act to consider the views of the community in the course of any decision-making process to activate a non-trading CCO.
11. There were no submissions received on the proposal to amend the 2009/19 LTCCP to reflect a proposed change in the ownership and control of Christchurch City Networks Ltd. The reasons for the proposal are set out in the staff report to the meeting of 11 March 2010 and in the statement of proposal considered and approved at that meeting.

12. If the proposal is adopted by the Council the LTCCP will be amended by adding the following words on page 211 (Volume 2).

“Christchurch City Networks Ltd (trading as Enable Networks) has made a bid to become a partner with the Crown in the Crown’s ultra-fast broadband initiative in Christchurch and surrounding urban areas. Under the proposal Crown Fibre Holdings Limited would fund the extension of the existing network to all streets and in exchange be issued shares. If successful with this bid Crown Fibre Holdings Limited could become the major shareholder in Christchurch City Networks Limited for a period of several years.

Although the Council could technically lose control for several years under this scenario the shares would all be held through a publicly owned enterprise and the community would benefit from access to a more comprehensive network.

If Christchurch City Networks Ltd is unsuccessful in partnering with Crown Fibre Holdings Limited, then an option would be for the company and/or its assets to be sold in order to optimise the value of the current investment. As the company was originally established to ensure that ultra-fast broadband was available to Christchurch, its sale, if pursued, would ensure the existing network remains in use in the future.”

STAFF RECOMMENDATION

It is recommended that the Council resolves to:

- (a) Approve the establishment of three Council Controlled Organisations to be used, following further Council approval, should appropriate opportunities arise.
- (b) Authorise an initial nominal capital of \$100 for the companies and the appointment of the Chief Executive and the General Manager Corporate Services as Directors whilst the companies are non-trading.
- (c) Authorise the appointment of the Chief Executive and the General Manager Corporate Services as interim trustees of the trust to be formed.
- (d) Approve the proposed change in the ownership and control of Christchurch City Networks Ltd should the Company enter into a contract with the Crown for the installation of ultra-fast broadband in Christchurch.
- (e) Authorise the amendment of the Council’s 2009/19 LTCCP as set out in the staff report.
- (f) Receive correspondence from Audit NZ confirming its report on the proposed amendment.