

24. SPECIAL CONSULTATIVE PROCEDURES – LOCAL GOVERNMENT FUNDING AGENCY AND COUNCIL CONTROLLED ORGANISATIONS



General Manager responsible:	General Manager Corporate Services, DDI 027 507 3087
Officer responsible:	Corporate Finance Manager
Author:	Ian Thomson, Solicitor

PURPOSE OF REPORT

1. (a) To report on two proposals consulted on through a special consultative procedure undertaken in April and May 2011. The proposals are:
 - for the establishment of new Council Controlled Organisations; and
 - that the Council supports the establishment of a Local Government Funding Agency.

EXECUTIVE SUMMARY

2. At its meeting on 31 March 2011 the Council approved Statements of Proposal in respect of these proposals.
3. The documents were available for public consultation from 11 April 2011 to 16 May 2011.
4. One submission was received in response to the proposal for the establishment of new Council Controlled Organisations. No submissions were received in respect of the other proposal.
5. It is recommended that the Council resolves to adopt the proposals.

BACKGROUND

6. There was one submission received on the proposal that the Council establish three Council Controlled Organisations (CCOs). The submitter questioned the need for new organisations when current CCOs could well be an effective vehicle to use should any new interests come up. The activities undertaken by CCOs are wide and varied and it is the view of Council staff that this is not a viable option.
7. The reasons for the proposal are set out in the staff report to the meeting of 31 March 2011 and in the Statement of Proposal considered and approved at that meeting.
8. Simpson Grierson, the Council's strategic legal advisor, has previously confirmed that establishing CCOs as shelf companies or trusts does not breach the provisions of the Local Government Act 2002.
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 Act. 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. There were no submissions received on the proposal that the Council supports the establishment of a Local Government Funding Agency (LGFA). The reasons for the proposal are set out in the staff report in the 31 March 2011 meeting and in the Statement of Proposal considered and approved at that meeting.
11. The LGFA is being established by a group of local authorities and the Crown to enable all local authorities to borrow at lower interest margins than would otherwise be available. The LGFA will be recognised in legislation, which will modify the effect of some statutory provisions, including the Local Government Act 2002.
12. If the Council adopts the proposal it will join the LGFA's scheme as a Principal Shareholding Local Authority. This means the Council will:
 - (a) subscribe for up to \$2.5 million shares in the LGFA to provide it with establishment capital;

24 Cont'd

- (b) commit to meeting a certain proportion of its borrowing needs from the LGFA;
 - (c) borrow from the LGFA;
 - (d) subscribe for up to \$2.5 million uncalled capital in the LGFA;
 - (e) subscribe for borrower notes;
 - (f) enter into a guarantee;
 - (g) commit to providing additional equity to the LGFA under certain circumstances;
 - (h) provide a rates charge to secure some or all of its obligations under the LGFA scheme.
13. If the staff recommendation is adopted, the Council's Investments and Liability Management Policies will be amended as set out in **Appendices 1 and 2** to this report.

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) Support the establishment of the New Zealand Local Government Funding Agency (LGFA).
- (e) Become a principal shareholding local authority in the LGFA.
- (f) Authorise the General Manager Corporate Services to sign all documents, including resolutions, special resolutions and funding documents required to establish and operate the LGFA.
- (g) Authorise the amendment of the Council's Investment and Liability Management Policies as set out in Appendices 1 and 2 to the staff report.
- (h) Receive the Audit NZ advice **attached** to the same report.