


13. ESTABLISHMENT OF NEW COUNCIL-CONTROLLED ORGANISATIONS



General Manager responsible:	General Manager Corporate Services
Officer responsible:	Corporate Finance Manager
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PURPOSE OF REPORT

1. The purpose of this report is to approve for distribution and consultation a statement of proposal that the Council supports the establishment of two companies and one trust as Council-Controlled Organisations, (CCOs), (attached as **Appendix 1**).

EXECUTIVE SUMMARY

2. It is proposed that three CCOs be established, two companies and one trust. The intention is that these will be non-trading organisations until such time as appropriate activities for them are identified.
3. Section 56 of the Local Government Act 2002 states that any proposal to establish a CCO must be adopted in accordance with the special consultative procedure. Consultation may be undertaken as part of another proposal, in this case the Council's 2011/12 Annual Plan.
4. The purpose of establishing the organisations before an activity is identified for them is to enable the Council to respond in a timely manner to any new initiative that is available to it. An activity proposed for the organisations will be put before the Council for consideration before a decision on whether or not to proceed with that initiative is made.
5. The trust would be established with broad objectives that could be amended if necessary at some future time. It is proposed that two trustees be appointed initially, the Chief Executive and the GM Corporate Services.
6. Having a number of non-trading CCOs available for use does not remove any control from the Council. Each individual opportunity would be put to it for approval and any activated CCO 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 by the Council. If the commencement of a particular activity triggered the Council's significance policy then a special consultative procedure may still be required.
7. In recent years the Council has established a number of non-trading CCOs. They were shelf companies, used only when an appropriate activity was identified. One of the companies was registered as Ellerslie International Flower Show Limited, principally for the purpose of protecting the intellectual property in that name.
8. Another, EcoCentral Limited was used to purchase assets and liabilities from Meta and now operates the businesses that were acquired as a Council-Controlled Trading Organisation (a CCO that operates a trading undertaking for the purpose of making a profit).
9. Each time it was proposed that a shelf company be activated, there was a report to Councillors setting out the reasons for the proposal. In the case of EcoCentral Limited, it was so that the Council could take immediate steps to protect its interest in the waste collection and processing facilities owned and/or operated by Meta.
10. The reason for establishing a trust as one of the CCOs is that often a trust structure is preferred over a company. This has been the case with The World Buskers Festival and a trust established by Vbase Limited for the purpose of acquiring a collection of sport memorabilia.

FINANCIAL IMPLICATIONS

11. There are no financial implications.

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

12. Not applicable.

13 Cont'd

LEGAL CONSIDERATIONS

13. As indicated above the Council is required to adopt the special consultative procedure before it can establish or become a shareholder in a CCO.
14. Section 60 of the Local Government Act 2002 requires all decisions relating to the operation of a CCO to be made in accordance with its Statement of Intent and constitution.
15. It is intended that each new CCO will have an initial Statement of Intent and constitution that can be amended once the organisation is activated. A new Statement of intent and/or constitution will be put before the Council for approval.
16. The provisions in the Act requiring performance monitoring, half yearly and annual reports and financial statements will apply to each CCO that is activated.

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

17. Yes, see paragraphs above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

18. Not applicable.

ALIGNMENT WITH STRATEGIES

19. Not applicable.

CONSULTATION FULFILMENT

20. Section 56 of the Local Government Act 2002 states that any proposal to establish a CCO must be adopted in accordance with the specific consultation procedure.

STAFF RECOMMENDATION

It is recommended that the Council resolves to:

- (a) Approve for distribution and consultation the statement of proposal for:
 - (i) The establishment of two new companies and one trust as Council-Controlled Organisations.
- (b) Adopt the following timetable for consultation:
 - (i) Public notification ("The Star", "The Press" and the Council's website) by Monday 11 April 2011.
 - (ii) Closing date for submissions is 5pm on Thursday 12 May 2011.
 - (iii) Hearing of submissions will be held on Monday 30 May 2011.
 - (iv) Council meeting to formally adopt the proposal on Tuesday 21 June and Wednesday 22 June 2011.
- (c) Authorise the General Manager Corporate Services to make any necessary amendments to the documents referred to in this resolution.