


## 16. 2011/12 STATEMENTS OF INTENT



<b>General Manager responsible:</b>	General Manager Regulation & Democracy Services DDI 941 8462
<b>Officer responsible:</b>	Unit Manager, Legal Services Unit
<b>Author:</b>	Ian Thomson, Solicitor, Legal Services Unit

### PURPOSE OF REPORT

1. To recommend to councillors a process for dealing with statements of intent, following the disruption caused by the 22 February 2011 earthquake.

### EXECUTIVE SUMMARY

2. Council controlled organisations are required to deliver draft statements of intent to their shareholders by 1 March 2011 in each year.
3. CCHL prepares its own SOI and collects those of its subsidiaries for presenting to the council, usually at a workshop. The council has two months in which to make any comments.
4. Completed SOIs must be provided to shareholders by 30 June.
5. CCHL advises that by 22 February about half the required number of draft SOIs from the subsidiary companies had been submitted to CCHL for consideration. The remainder had been partially prepared. CCHL had forwarded its own SOI to the Council before 1 March 2011.
6. CCHL also notes that the forecasts contained in the SOIs are now largely irrelevant as a result of the earthquake. They do not reflect current and future trading conditions.
7. It is proposed that the requirements for dealing with SOIs be relaxed and that all CCOs are given more time in which to prepare revised drafts.
8. An order in council amending the relevant provisions in the Local Government Act 2002 will be sought to validate any decision made by the council.
9. A copy of a letter from Bob Lineham, CEO of CCHL, is attached (**Attachment 1**). This sets out a suggested process for dealing with the situation.

### FINANCIAL IMPLICATIONS

10. There are no financial implications for the council arising from a change to the normal process. The 22 February earthquake will, however, have a considerable impact on the ability of CCOs to accurately forecast future earnings.

### LEGAL CONSIDERATIONS

11. Clause 2 Schedule 8 of the LGA 2002 requires the board of a CCO to deliver to its shareholders a draft SOI on or before 1 March each year.
12. The board must consider any comments on the draft that are made by the shareholders within 2 months of 1 March. The completed SOI must be delivered to the shareholders on or before 30 June.
13. As indicated earlier in this report, although about half the required number of draft SOIs had been prepared by 22 February 2011, the fact is that any SOI will have been rendered ineffectual by the earthquake. Therefore, it is recommended that the Council adopts the suggestion from CCHL that the timeframe for preparing and considering SOIs be extended so that each CCO is given the opportunity to re-evaluate its position..

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14. This can be achieved by the council approving the following process:
  - (a) The council resolving that current SOIs remain in effect as an interim measure.
  - (b) All CCOs to deliver to their shareholders(either individually or through CCHL) draft SOIs on or before 31 July 2011.
  - (c) The two month period in which the board of each CCO is to consider comments(if any) made by its shareholder will expire on 30 September 2011.
  - (d) Completed SOIs to be delivered to shareholders on or before 31 December 2011.
16. This is a sensible and pragmatic approach to the matter. Although it does not comply with the timeframes contained in Schedule 8, the risk of a challenge to the Council's process is considered to be low.
17. It should also be noted that clause 8 schedule 8 states that " a failure by a council-controlled organisation to comply with any provision of this schedule or with any provision in a statement of intent does not affect the validity or enforceability of any deed, agreement, right, or obligation entered into, obtained, or incurred by that organisation".
18. However, the Council will be seeking an Order in Council that would modify a number of the requirements in the LGA 2002 relating to the annual plan process. It is recommended that steps be taken to include in that order an extension of the time frames contained in schedule 8 and referred to above. Providing for fixed dates rather than leaving them open, as suggested by CCHL will make it easier to get central government support and to draft the appropriate provision.

### STAFF RECOMMENDATION

It is recommended that the Council resolves that:

- (a) Because of the effect of the 22 February 2011 earthquake, it is impracticable to expect Council Controlled Organisations to deliver meaningful statements of intent for the 2011/12 year by 30 June 2011.
- (b) The 2010/2011 statement of intent for each Council Controlled Organisation (CCO) is accepted as being the most recent statement of the activities, intentions and objectives of that CCO.
- (c) All CCOs are required to deliver draft statements of intent to their shareholders on or before 31 July 2011.
- (d) Any comments made in respect of the drafts are to be considered by the board of each CCO by 30 September 2011.
- (e) Completed statements of intent are to be delivered to shareholders on or before 31 December 2011.
- (f) The General Manager Regulation and Democracy Services be authorised to take the necessary steps to include in an Local Government Act 2002 Order in Council provision for the extensions of time referred to in this resolution.

### BACKGROUND

19. Attached is a letter from CCHL setting out the reasons for seeking an extension of time to deliver 2011/2012 statements of intent. The recommendations contained in this report support the approach suggested in that letter.