

Establishment of a Council Controlled Organisation (CCO) – Rotorua District Council Holdings Limited (RDCHL)

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Introduction

In Council's Ten Year Plan 2009-19 there is a strong theme of partnership and investment with the private sector, Crown agencies and Iwi. The objectives of establishing partnerships with these groups are to ensure economic growth by stimulating the economy, having a sustainable development approach to Council's activities and services and sustainability. Sustainability and growth are part of the key themes of the Ten Year Plan which now needs to have a mechanism to allow Council to enter into partnerships with other organisations.

The Rotorua District Council will set up a company (Rotorua Holdings Ltd) which is a Council Controlled Organisation (CCO) in terms of the provisions of the Local Government Act 2002 (LGA).

Description

The Rotorua District Council will set up a CCO which will be used as an umbrella company for partnerships at a strategic level and include as examples:

- Attracting inward investment and wealth creation initiatives
- CBD revitalisation and lakefront development integration
- Any energy and geothermal use
- Waste 2 Gold project
- Airport capital expenditure funding
- Property development.

The specific objectives of the CCO will be decided each year in accordance with the constitution of the CCO and the Statement of Intent to be agreed between the board of the CCO and the shareholders.

Shareholding

Rotorua District Council (the 'Council') is the only shareholder in the umbrella company. Subsidiary companies will be established to govern any partnership arrangements with private companies, iwi groups or Government. Separate constitutions will be established for all of these companies and separate statements of intent produced.

Reasons

A limited liability company has been identified as the best vehicle to coordinate Council's involvement with external parties to provide, develop or own new or non-core services.

This company is a council controlled organisation under the terms of the Local Government Act. This status imposes certain legal requirements in terms of having a statement of intent, reporting and monitoring.

The Company is defined by three documents:

- Statement of Intent;
- Shareholder Agreement; and
- Constitution.

An appropriate structure is required to do this for the following reasons:

- It will provide for a more transparent governance structure and keeps subsidiary companies at arms length from Council and any liabilities these subsidiary companies may attract
- It will provide an entity that can enter into commercial arrangements with partners on behalf of Council
- In some instances a separate entity allows Council to appoint directors or members of the governance arrangement who have specialist knowledge beyond that which is available from the Mayor, councillors and council management.
- A separate entity with shareholding from Council and other organisations is a way of sharing the risk and cost associated with any new development.
- A separate entity is a way of very formally ring fencing all the inputs and outputs associated with a particular activity. This may be required when Council does not want to be associated with any of the negative affects that may be associated with an activity or is a way of shielding itself from the risks.
- The Local Government Official Information and Meeting Act (LGOIMA) provides for open and transparent governance but it also threatens intellectual property that may be developed with a local authority and therefore acts as a disincentive for the private sector to engage.
- Separate entities with shares that can be issued to partners other than Council are another source of funding for Council activities. This applies particularly those activities that have a strong commercial emphasis and where there is a longer term opportunity for profits and dividends.
- Establishment of separate entities and the transfer of assets into those entities, followed by sale, is a way of Council divesting itself from the ownership of major assets.

The other structures considered included:

- Joint Venture / Partnership with commercial interest
- Business Unit of Council.

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While the charitable trust option could provide some taxation benefits (though this is doubtful) it is not considered viable because it could limit the organisation's ability to respond to future initiatives.

Consideration of each of the options was undertaken, consistent with the requirements of s77 of the Local Government Act 2002.

Summary

Following consideration of all submissions received, Council resolved to establish a Council Controlled Organisation as a Limited Liability Company.

This holding company will enable Council to progress the strong theme of partnership and investment with the private sector, Crown agencies and Iwi as set out in the 2009 – 2019 Ten Year Plan.

The main reasons for establishing a Council Controlled Organisation are:

- Ability for Council to influence the entity to ensure that there is effective stewardship and utilisation of ratepayer funds (particularly via the Statement of Intent)
- Potential additional funding, reduced risk for ratepayers and strong accountability requirements.
- CCO director's legislative role is to assist the organisation to meet its objectives and any other requirements of the Statement of Intent.