

**STATEMENT OF PROPOSAL
FOR THE ESTABLISHMENT OF A TRUST FOR CHARITABLE PURPOSES**

General Manager responsible:	General Manager Corporate Services, DDI 941-8528
Officer responsible:	Corporate Finance Manager
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In February 2009, the Council proposed through the Special Consultative Procedure used for the Draft 2009-19 LTCCP that a trust be established that would enable companies and/or individuals to make tax deductible donations to the Council that can then be used to pay for the cost of providing infrastructure in the Council's district.

Seven submissions were received, two of whom were in favour of setting up a charitable infrastructure trust. Two were opposed to the proposal as they felt that it was not within the spirit of the Income Tax Legislation.

The remaining three expressed concern around the Council's exposure to risk in consulting before receiving a binding ruling and questioned what alternative arrangements were in place. The officer response was that the Council had considered an alternative, (being dividends from CCHL), and would make a decision on this if a favourable ruling was not received.

Advice has since been received from the Inland Revenue Department that a favourable ruling will not be issued in respect of the Orion proposal, but other organisations have expressed an interest in supporting, by way of a donation, those Council projects which meet the IRD's definition of charitable work.

MAYOR'S RECOMMENDATION

That the Council adopt the proposal that a trust be established that would enable companies and/or individuals to make tax deductible donations to the Council that can then be used to pay for the cost of providing infrastructure in the Council's district.

Christchurch City Council

Changes and proposals

Statement of proposal for the establishment of a trust for charitable purposes

Details of the Proposal

It is proposed that a trust be established that would enable companies and/or individuals to make tax deductible donations to the Council that can then be used to pay for the cost of providing infrastructure in the Council's district.

A recent change to income tax legislation allows organisations to obtain a tax deduction for charitable donations up to the value of their annual taxable income. An opportunity exists for the Council to benefit from this law change, because much of its core business is for the benefit of the public, which is one of the four legally recognised heads of charity. In order to benefit from the change, it is proposed that a charitable trust be established to receive donations and subsequently make distributions that will be applied by the Council for charitable purposes.

The Council is in the process of seeking a binding ruling from the Inland Revenue Department to confirm that the use of a charitable trust for the purpose of funding qualifying Council expenditure is within the terms of the legislation.

The proposed trust does not have to be established before the binding ruling is given. However, because it is to be a Council controlled organisation, it is necessary to consult with the community under the special consultative procedure before a decision on its establishment can be made. This is being undertaken as part of the consultation process for the 2009–19 LTCCP.

Reasons for the Proposal

It is proposed that the trust be a Council controlled organisation (CCO).

If the trust is established, the Council will control the right to appoint 50% or more of the trustees and as a result, control 50% or more of the votes at any meeting of the trust's board. As a CCO, the nature and scope of the trust's activities will be contained in a statement of intent that has to be provided to the Council each year. In addition, the trust is required to give the Council financial reports every six months and at the end of each financial year.

The Council will benefit by being able to receive additional revenue that originates from its trading subsidiaries. These organisations will be able to pass on some of the tax saved through paying a donation rather than their usual dividend. The additional revenue will assist the Council with achieving its goal of keeping annual rate increases to below 5 per cent.

By adopting this proposal, the Council will not be incurring any additional expenditure. Existing budgets are sufficient to meet the cost of administering the proposed trust.

Christchurch City Council

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Options

There are no risks associated with the establishment of a charitable trust. It will not be used for the purpose of receiving tax deductible donations until a binding ruling is obtained from the IRD.

The projects or activities that can be paid for with donations from the proposed trust includes roading and facilities for water, waste water, transport, parks and reserves, recreation. It also covers facilities to be used for community and cultural purposes. The trust will support and encourage the provision of public services and amenities for the benefit of the public.

The alternative option is to do nothing and maintain the status quo. This would mean that the Council would miss out on an opportunity to increase the revenue derived from its trading subsidiaries or other third parties.

Other Considerations

If a charitable trust is established, the Council will benefit from being able to receive additional funds by way of the trust. These organisations will be able to pass on some of the tax saved through paying a donation rather than their usual dividend, which is the current method of transferring revenue to the Council. This is dependent upon the funds being used for a purpose that qualifies as being charitable.

The charitable purposes will be set out in a trust deed. These will be consistent with approved community outcomes, such as the City's social, economic and environmental well being.

Submissions

A copy of this statement of proposal will be available for public inspection during ordinary office hours at the following places:

- Civic Offices, 163 Tuam Street, Christchurch
- Christchurch City Council Libraries and Service Centres

It may be viewed on the Council's website, www.ccc.govt.nz/haveyoursay. The statement will also be distributed as a summary of information for the purpose of providing a basis for general consultation.

Further information on the proposal is contained in a report on the Draft 2009–19 LTCCP considered by the Council at its meeting on 16 – 18 February 2009. This report is available on the Council's website as an Agenda item for that meeting.

Submissions on the proposal may be made in writing to the Council between 10 March and 5.00pm on 16 April 2009. These may be made electronically at www.ccc.govt.nz/haveyoursay, by using the submission form contained in the Draft 2009–19 LTCCP and in this statement of proposal, or in any other written form.

Any person who makes a submission will have the opportunity to be heard by the Council if this is requested. Hearings will be held on 11, 12, 13, 15 and 18 May 2009. Meetings to consider submissions received and to make final decisions will be held before 30 June 2009.

The Local Government Act 2002 requires the Council to make all written submissions available to the public. This requirement is subject to the provisions of the Local Government Official Information and Meetings Act 1987. Any persons who want the Council to withhold information contained in their submission should first discuss this with the Council Secretary, Clare Sullivan, telephone 941 8533.