

REPORT 4

EXEMPTION OF A COUNCIL CONTROLLED ORGANISATION FROM THE STATUTORY MONITORING REGIME: WELLINGTON WATERFRONT LIMITED

1. Purpose of report

To seek Council approval for the exemption of a Council Controlled Organisation (CCO) from the statutory monitoring regime set out in the Local Government Act 2002 (LGA or the Act).

2. Executive summary

Under Section 6(4)(i) of the Local Government Act 2002, an organisation is not a CCO if it is exempted under Section 7 of the Act. Wellington Waterfront Limited (WWL) is deemed to be a CCO and would normally be subject to the prescribed monitoring regime set out in the LGA. However, Section 7 of the Act allows the Council to exempt a small organisation. The exemption is required to be granted by resolution of the Council and must be reviewed every three years.

From 1 July 2014, the management services carried out by WWL under the overview agreement, including aspects of planning, management of day-to-day operations and property development in respect of the Waterfront, will be carried out within Council. The company, however, will remain in order to function as a holding company for Waterfront assets as a bare Trustee.

3. Recommendations

Officers recommend that the Council:

- 1. Receive the information.*
- 2. Agree in accordance with the provisions of Section 7 of the Local Government Act 2002 to treat Wellington Waterfront Limited as an exempted organisation for the purpose of compliance with Section 6(4)(i) of the same Act.*

4. Background

A CCO is one in respect of which the City Council, either on its own or jointly with other local authorities, has the right directly or indirectly to appoint 50% or more of the trustees, directors or managers of the organisation. Under this definition, Wellington Waterfront Limited (WWL) is deemed a CCO and is subject to the prescribed monitoring regime set out in the LGA. However, Section 6(4)(i) of the Act provides that an organisation is not a CCO if it is

exempted under Section 7. Section 7 allows the Council to exempt a small organisation for the purposes of Section 6(4)(i), after having taken account of:

- the nature and scope of the activities provided by the organisation, and
- the costs and benefits, if an exemption is granted, to the Council, the CCO and the community.

The exemption is required to be granted by resolution of the Council and must be reviewed every three years.

The benefits of exemption for WWL are:

There will be no requirement:

- a) to produce an annual Statement of Intent, incorporating measures by which the Council can assess the achievement of its objectives;
- b) to submit to the Council a half yearly report on its operations;
- c) to submit to the Council, and make available to the public, an annual report on its operations; and
- d) to submit its annual report for audit by an auditor appointed by the Auditor-General.

Being exempted from these requirements will relieve WWL of a significant additional administrative and cost burden.

On 11 December 2013, the Council's Governance, Finance and Planning Committee agreed that the Board of WWL be disestablished on 1 April 2014 and that the Chief Executive of WWL report directly to Council through the Chief Executive. From 1 July 2014, the operations of Wellington Waterfront Project will come back into Council.

5. Discussion

From 1 July 2014, the operations of Wellington Waterfront Project will come back into Council.

However, the company structure of WWL is required to be retained to hold the Council's Waterfront assets in trust with respect to the Marine and Coastal Areas Act (2011). As such, from 1 July 2014, WWL will essentially function as a holding company for Waterfront assets; the day to day operations formerly delivered by the company will have been transferred to the Council.

The Board of WWL is now made up of Council officers appointed by the Chief Executive who will carry out administrative and compliance duties as necessary on behalf of WWL.

6. Conclusion

On the basis of the criteria set out in Section 7 of the Act, Wellington Waterfront Ltd should be exempted from the provisions of the CCO monitoring regime. It is appropriate that the Council resolves to treat it as an exempted organisation in compliance with Section 6(4)(i) of the Act.

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SUPPORTING INFORMATION

1) Strategic fit / Strategic outcome

Even as a council controlled organisation, the small size of the trust referred to means it does not contribute significantly to the Council's strategic objectives. This supports the exemption recommendation as outlined in the report.

2) LTP/Annual Plan reference and long term financial impact

N/A

3) Treaty of Waitangi considerations

N/A

4) Decision-making

This is not a significant decision.

5) Consultation

a) General consultation

N/A

b) Consultation with Maori

N/A

6) Legal implications

N/A

7) Consistency with existing policy

This is consistent with Council policy.