



Meeting of the Hawke's Bay Regional Council

LATE ITEMS

Date: Wednesday 24 March 2021
Time: 11.00am
Venue: Council Chamber
Hawke's Bay Regional Council
159 Dalton Street
NAPIER

Agenda

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HAWKE'S BAY REGIONAL COUNCIL

Wednesday 24 March 2021

Subject: STATEMENT OF PROPOSAL FOR CONSULTATION FOR ADOPTION - NEW COUNCIL CONTROLLED TRADING ORGANISATION (CCTO)

Item 14

Reason for Report

1. This report asks Council to adopt the attached Statement of Proposal to establish two new Council Controlled Trading Organisations (CCTOs) to operate FoodEast.
2. The Council is required under section 56 of the Local Government Act 2002 (LGA) to undertake consultation before establishing a CCTO.
3. The Statement of Proposal has been subject to a legal review to confirm the document is fit for purpose.

Officers' Recommendation

4. Council officers recommend that the Council adopts the Statement of Proposal to establish two new CCTOs as proposed, for public consultation.

Background

5. The need for this consultation has arisen from the decision made at the 24 February 2021 Council meeting to:
 - 5.1. Endorse Hawke's Bay Regional Investment Company's intention of investing up to \$4 million in FoodEast.
 - 5.2. Initiate consultation on the formation of a new CCTO.
6. Consultation is on the establishment of the CCTOs which will own and operate the investment, not on the investment opportunity itself.
7. This Statement of Proposal has been presented to Council for adoption prior to it being through committee or workshop review due to the time constraints to meet deadlines to execute foundation documents and meet conditions precedent for funding of the investment.

Scope of the Decision

8. The recommendation in the Statement of Proposal is to establish two new CCTOs, provisionally named Limited Partnership and General Partner, to own and manage FoodEast.
9. The recommended option is based on professional advice having considered a range of options of the legal and tax structures available.

Consultation Process

10. As noted above, the establishment of a CCTO requires consultation under section 56 of the LGA. The Council has discretion under this section of the LGA to decide the form the consultation takes.
11. The key dates for the consultation are:

25 March 2021	Consultation opens
12 April 2021	Consultation closes
28 April 2021	Verbal submissions hearing
28 April 2021	Decision made by the Regional Council

12. The relatively short time frame between hearings and Council decision, is to meet deadlines to execute foundation documents and meet conditions precedent for funding.
13. The Statement of Proposal will be posted on the Council's website as soon as practicable after it is adopted. The consultation will be advertised in Hawke's Bay Today, posted to social media and emailed to interested and affected parties.
14. The Council will invite submissions and feedback over a period of two weeks. Submissions will then be collated, heard and the final decision to establish the CCTOs made on 28 April 2021.
15. Legal advice received considers that this consultation complies with the LGA consultation requirements in light of:
 - 15.1. the nature of the decision (as a procedural step), and
 - 15.2. the Council's discretion under the LGA.

Decision Making Process

16. Council is required to make every decision in accordance with the requirements of the Local Government Act 2002 (the Act). Staff have assessed the requirements in relation to this item and have concluded:
 - 16.1. The decision does not significantly alter the service provision or affect a strategic asset.
 - 16.2. The use of a consultation process is required by legislation for the potential establishment of a new Council Controlled Trading Organisation.
 - 16.3. The decision is not inconsistent with an existing policy or plan.

Recommendations

That Hawke's Bay Regional Council:

1. Receives and considers the "Statement of Proposal for Consultation for Adoption - New Council Controlled Trading Organisation (CCTO)" staff report.
2. Agrees that the decision to adopt the Statement of Proposal for consultation is in accordance with the provisions of the Local Government Act 2002 and that Council can make this decision without conferring with the community or persons likely to have an interest in the decision.
3. Adopts the Statement of Proposal as proposed.
4. Agrees the proposed Submissions and Decisions process timeframes proposed.

Authored by:

Bronda Smith
CHIEF FINANCIAL OFFICER

Kishan Premadasa
MANAGEMENT ACCOUNTANT

Approved by:

Jessica Ellerm
GROUP MANAGER CORPORATE SERVICES

Attachment/s

- 1 [↓](#) FoodEast CCO Statement of Proposal for consultation
- 2 [↓](#) FoodEast CCTO submission form

Consultation on establishing new Council Controlled Trading Organisations

What is the proposal?

Hawke's Bay Regional Council (**HBRC** or the **Regional Council**) seeks community input on a proposal to establish two new Council Controlled Trading Organisations (**CCTOs**) to operate FoodEast.

Background

There is an opportunity to invest in a new innovation food hub, FoodEast, which has been led by Hastings District Council.

Hawke's Bay Regional Council's investment arm - Hawke's Bay Regional Investment Company Limited (**HBRIC**) - is interested in being a majority investor. In order to invest in FoodEast as a majority investor, HBRIC needs to establish two new CCTOs.

HBRIC wants to support food innovation in Hawke's Bay. The region's economy is powered by the agriculture and horticulture sectors, which are large contributors to the region's GDP. Food production has been growing, and a food innovation hub in Hawke's Bay will support and accelerate that growth and build on the region's competitive advantage.

FoodEast will be a food innovation hub which is established to:

- facilitate innovation and collaboration in the Hawke's Bay food and beverage, agritech, horticulture industries and related activities
- have a physical presence that will be designed to be an innovation centre designed to promote more cost-effective food and beverage product innovation
- provide a base for clustering food technology firms, improving co-operation and bringing in scientific and technical expertise in all areas relating to food innovation (including research activity)

This investment, supported by Crown and Local Government funding, aims to generate positive economic outcomes for the region, in addition to commercial returns for investors, including HBRIC and in turn, HBRC.

The nature of the investment is consistent with HBRIC's objectives as outlined in HBRIC's Statement of Intent and agreed by HBRC. HBRIC's mission as set out in the Statement of Intent is to optimise the financial and strategic returns to Council from its allocated investment portfolio to assist Council achieve its vision of "a healthy environment, and a resilient and prosperous community".

For the purposes of this proposal, the two proposed CCTOs will be named Limited Partnership and General Partner. On formation, each entity will be given a name that reflects its role in FoodEast.

What options are considered in this consultation?

This consultation presents two options for people to submit on:

1. Establish the two new CCTOs as presented in this consultation (preferred option).
2. Do not establish the two new CCTOs.

This consultation is not seeking views on the decision to invest in FoodEast. Establishing the CCTOs enables HBRIC to make a decision to invest in FoodEast.

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What is a CCTO?

An entity which is controlled directly or indirectly by one or more local authorities is a council -controlled organisation.

CCTOs are council-controlled organisations that trade for the purpose of making a profit.

The Regional Council has previously established HBRIC as a CCTO to:

- Achieve the commercial and non-commercial objectives of its shareholder (HBRIC), as in the statement of intent;
- Be a good employer;
- Exhibit a sense of social and environmental responsibility considering the interests of the community in which it operates and by endeavouring to accommodate or encourage these when able to do so.

The Regional Council holds 100% of the shares in HBRIC and appoints the Board of Directors.

HBRIC Ltd holds Council's shares in its other CCTOs, monitors their performance and recommends new director appointments for these organisations for Council's approval.

Why do we need to establish CCTOs?

The proposed Investment structure would see the Regional Council controlling "Limited Partnership" and "General Partner". Limited Partnership and General Partner therefore become CCTOs by meeting the Local Government Act 2002 definition of a CCTO.

CCTOs provides a robust governance structure, as they are subject to requirements in the Local Government Act 2002, including accountability by the CCTO to the Council and ongoing performance monitoring.

Why are we consulting?

The Regional Council is consulting anyone who will or may be affected by, or have an interest in, the establishment of the two new CCTOs as required under Section 56 of the Local Government Act 2002.

The Regional Council encourages any interested members of the community to provide their views on the proposed establishment of the two new CCTOs through this consultation process.

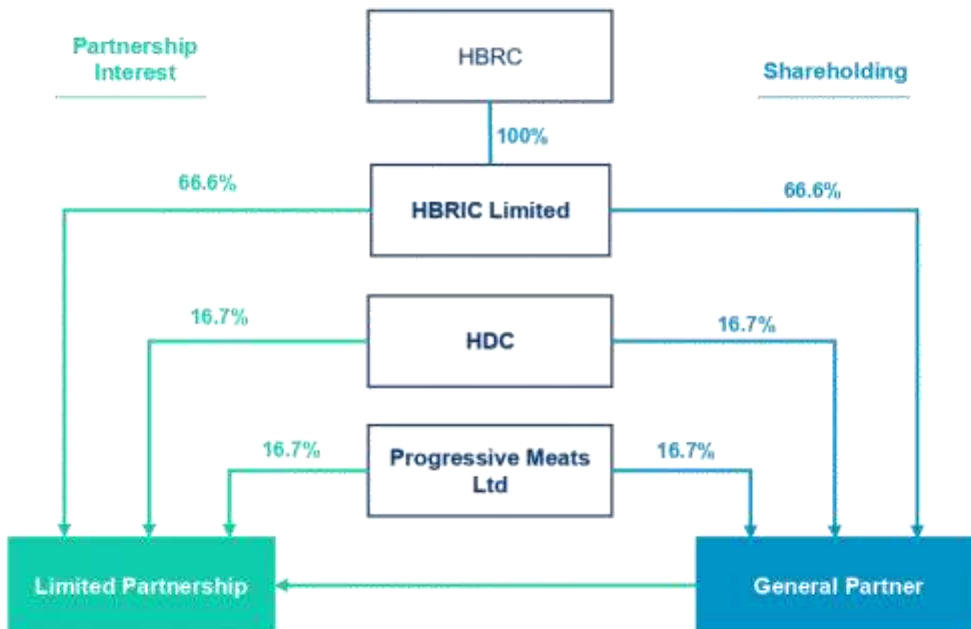
What will the General Partner and the Limited Partnership do?

The Limited Partnership will be a limited partnership established in accordance with the Partnerships Act. HBRIC Ltd, HDC and Progressive Meats Limited (**Progressive Meats**) will be the limited partners and investors.

A Limited Partnership is required to have a general partner to manage the business of the Limited Partnership. The General Partner will be set up as a company under the Companies Act to perform this role. HBRIC Ltd, HDC and Progressive Meats Limited will be the three shareholders in the General Partner.

Shares in the General Partner will be "stapled" to each of HBRIC Ltd, HDC and Progressive Meats Limited's interest in the Limited Partnership. This means the shares in the General Partner will be the same as the proportion of their interest in the Limited Partnership.

The proposed structure is shown in the diagram below.



What is the Process from here?

- 25th March 2021 Consultation Opens
- 12th April 2021 (8 a.m.) Consultation Closes
- 28th April 2021 Set aside for people to present their views in person
- 28th April 2021 Decision made by the Regional Council

Hawke's Bay Regional Council FoodEast CCTO Consultation

Tukua mai ō whakaaro
Have your say

The easiest way is
online at hbrc.govt.nz

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First name: _____

Last name: _____

Email: _____

If you are submitting on behalf of an organisation, please provide organisation name below:

Street address _____

Do you support the establishment of two new CCTOs to operate FoodEast?

Yes No

Please give your reasons and/or any other feedback below (optional)

Do you wish to present your submission to Council at a hearing on 28 April 2021?

Yes No If yes please provide a daytime contact number and/or email address

Need more room? You can attach extra pages, just make sure they include your name and address.

Privacy Statement - Submissions are public information. Your name and feedback will be included in public documents as part of the decision-making process. All other personal details will remain private. This information will be held by Hawke's Bay Regional Council but only for the purpose of this consultation process.

One submission per individual.

Email: haveyoursay@hbrc.govt.nz

Post: Hawke's Bay Regional Council, Private Bag 6006, Napier 4142

Hand deliver: 159 Dalton Street, Napier 4110

Online: hbrc.govt.nz

Feedback must be provided to us no later than 8am on 12 April 2021



Attachment 2

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 24 March 2021

Subject: CHIEF EXECUTIVE'S PERFORMANCE AND REMUNERATION REVIEW

That Council excludes the public from this section of the meeting, being Agenda Item 15 Chief Executive's Performance and Remuneration Review with the general subject of the item to be considered while the public is excluded; the reasons for passing the resolution and the specific grounds under Section 48 (1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution being:

GENERAL SUBJECT OF THE ITEM TO BE CONSIDERED	REASON FOR PASSING THIS RESOLUTION	FOUNDATIONS UNDER SECTION 48(1) FOR THE PASSING OF THE RESOLUTION
Chief Executive's Performance and Remuneration Review	<p>7(2)(f)(ii) The withholding of the information is necessary to maintain the effective conduct of public affairs through the protection of such members, officers, employees, and persons from improper pressure or harassment.</p> <p>s7(2)(a) That the public conduct of this agenda item would be likely to result in the disclosure of information where the withholding of the information is necessary to protect the privacy of natural persons.</p>	The Council is specified, in the First Schedule to this Act, as a body to which the Act applies.

Authored by:

Liana Monteith
MANAGER PEOPLE AND CAPABILITY

Approved by:

James Palmer
CHIEF EXECUTIVE