

Proposal
Establishment of 3 Council Controlled
Organisations
April 2018



PROPOSAL

PURPOSE

1. This document is a Statement of Proposal (“**Proposal**”) prepared by Hamilton City Council (“**Council**”) for consultation, pursuant to sections 56 and 82 of the Local Government Act 2002 (the “**Act**”).
2. This Proposal relates to Council’s plan to establish 3 new council controlled organisations (as defined in the Act) (the “**CCOs**”).
3. Information on this Proposal and more can be found at www.hamilton.govt.nz.

BACKGROUND TO PROPOSAL

4. The proposal to establish the 3 CCOs relates to a proposed investment opportunity being proposed by New Zealand Food Innovation (Waikato) Limited (“**NZFIW**”). Council indirectly owns 70% of the shares of NZFIW. The remaining 30% shareholding of NZFIW is owned by Callaghan Innovation, a government agency supporting hi-tech businesses in New Zealand.
5. NZFIW owns an independent spray dryer situated at Innovation Park, Ruakura, Hamilton (“**Dryer 1**”). Dryer 1 offers open access to New Zealand producers and product developers.
6. NZFIW proposes to construct a new spray dryer to manufacture Sheep, Goat, Bovine and Nutritional Powders (“**Dryer 2**”). Dryer 2 is to be located next to Dryer 1 and is proposed to be a stand- alone spray dryer.
7. Dryer 2 is proposed to be owned by a new limited partnership to be named NZFIW D2 LP (the “**Limited Partnership**”), structured as follows:
 - (a) Third party investors and NZFIW will invest in, and contribute capital to, the Limited Partnership as limited partners via their own investment vehicles. NZFIW will invest in the Limited Partnership via a limited liability company which will be a wholly owned subsidiary of NZFIW and proposed to be named NZFIW D2 LP Limited (“**NZFIW LP Co**”).
 - (b) A wholly owned NZFIW subsidiary will also be the general partner of the Limited Partnership and proposed to be named NZFIW D2 GP Limited (“**NZFIW GP Co**”). Due to its experience with Dryer 1, it is proposed that the current NZFIW board will undertake the governance of NZFIW GP Co;
 - (c) NZFIW will provide management services and employees to the Limited Partnership for the operation of Dryer 2. As manager, NZFIW will prepare and provide to each limited partner financial statements and reports and will charge an agreed management fee.

The proposed structure is set out in Appendix A.

8. Under this structure the 3 new CCO’s will comprise:
 - (a) the Limited Partnership;
 - (b) NZFIW LP Co; and
 - (c) NZFIW GP Co.

RATIONALE

9. The reasons for the proposed structure are as follows:
 - (a) this structure allows Dryer 1 to remain independent of Dryer 2. NZFIW's governance model has shown that operating independently, from the parent investment arm is commercially optimal for the spray dryer "open access model";
 - (b) this structure provides flexibility within New Zealand law and is an internationally recognised structure that investors will expect and be familiar with;
 - (c) the Limited Partnership will have "look through" tax status and this structure provides flexibility to allow an investor to organize its own internal structuring and reporting;
 - (d) this structure will protect the individual investors from exposure to or liability from both the Limited Partnership and other investors.

ALTERNATIVE OPTIONS

10. Council has considered the following reasonable practicable alternative options to the incorporation of the 3 CCOs:
 - (a) **Option 1: Not incorporate the CCOs at all:** Council has considered the option of not establishing the 3 CCOs at all. However, Council considers that this may prevent or delay the construction of Dryer 2 or mean that Dryer 2 would be 100% owned by third party investors; or
 - (b) **Option 2: Revisit the structure so as to remove one or more of the CCO's:** Council has considered the option of amending the proposed structure so as remove 1 or more of the proposed CCO's. However, Council considers that to attract investors and from a liability and management perspective the proposed structure is preferable.
11. Overall, Council's preferred option is to establish the 3 CCOs as set out in this Proposal.

CONSULTATION PLAN AND MAKING SUBMISSIONS

12. Council welcomes your views on the establishment of the 3 CCOs.
13. Anyone can make a submission regarding the proposed incorporation of the 3 CCOs and we encourage you to tell us your views.
14. For information about making a submission, members of the public can visit Council's website (<http://www.hamilton.govt.nz>). Alternatively, simply write us a letter telling us what you agree with, what you don't agree with and why.
15. The period for making written submissions open 12 April 2018 and closes 4.30 pm on 26 April 2018. Submissions should be made online at www.hamilton.govt.nz/haveyoursay.

Appendix A

Structure

