

ITEM 66 **STATEMENT OF PROPOSAL – KIWI HOUSE LOAN**
TO: **HIS WORSHIP THE MAYOR AND COUNCILLORS**
 ŌTOROHANGA DISTRICT COUNCIL
FROM: **GROUP MANAGER CORPORATE**
DATE: **26 MAY 2020**

Relevant Community Outcomes

- Ensure services and facilities meet the needs of the Community
 - Promote the local economy and opportunities for sustainable economic development
 - Foster an involved and engaged Community
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Executive Summary

Council resolved at its 14 May 2020 Extraordinary Meeting to prepare a Statement of Proposal for public consultation on investing in the redevelopment of the Kiwi House to be operated by the Ōtorohanga Kiwi House Charitable Trust.

Recommendations

It is recommended that Council:

1. Adopt the Statement of Proposal (Attachment 1).
2. Undertake community consultation as follows:
 - a. Commencing as soon as practicable after the adoption of the Statement of Proposal.
 - b. Closing submissions on 9 June 2020 (a two week process)
 - c. Hearing submissions at the 16 June Council Meeting
 - d. Making a decision on whether to approve a loan or not at a Council meeting on 25 June
 - e. Advertise and promote the consultation by publication of the Statement of Proposal and other material on Council’s website, social media, local papers, at council headquarters and library facilities and that no public meetings will be held.

Background

At the 14 May 2020 Extraordinary Council Meeting it was resolved to;

- a) Adopt Option 2 as the process it will use to make a decision on a \$2m loan to the Ōtorohanga Zoological Society for the purpose of the Kiwi House redevelopment. This option is described as “a decision based on the information Council has now using a shorter consultation process.” This process includes:
 - i. 2019 business case pre-COVID-19
 - ii. Current financial statements produced by the Kiwi House
 - iii. Current information from other potential funders provided by the Kiwi House
 - iv. Council formally adopting the Statement of Proposal and consultation information at the Ordinary Council Meeting on 26 May 2020
 - v. A two week consultation period as per s.82 of the Local Government Act
- b) Conclude this process by 30 June 2020

CR CHRISTISON/CR JEFFRIES

Summary of the Statement of Proposal

The Statement of Proposal proposes:

- That Ōtorohanga District Council invests \$2 million in the business trading as Ōtorohanga Kiwi House and Native Bird Park (Kiwi House).
- That investment would be in the form of a loan to the Ōtorohanga Kiwi House Charitable Trust.
- The loan will be used as part funding for the capital costs of the Kiwi House redevelopment.

The Statement of Proposal is 6 pages long and includes:

- a. The proposal.
- b. The reasons for the proposal.
- c. A summary of the options.
- d. The options considered and the advantages, disadvantages and risks of each option.
- e. The high-level conditions of the loan.
- f. The impact on Council's finances.
- g. An explanation for the urgency.
- h. A summary of the Kiwi House redevelopment, its benefits and the impact of COVID-19.
- i. Some key questions to assist Council in understanding the community views.
- j. Timeline
- k. Information on how to make a submission and be heard.

Staff have taken advice from our legal advisor and the Independent Chair of the Risk and Assurance Committee. They have both emphasised that the Statement of Proposal must be upfront about both the opportunities that arise from the Council investing at this time and the financial risks that could arise as they relate to these uncertain times for tourism. The attached Statement of Proposal represents that balanced approach.

Statement of Proposal Summary

A single A4 summary of the proposal will be produced stating the proposal, the options, where to get more information, the key questions and how to make a submission.

This will also be available at Council Offices and libraries and is more easily distributed (if required) than the full Statement of Proposal.

Supporting Information

Council's website will contain supporting information for those that seek a more in-depth review of the information available to Council.

- Link to Kiwi House website.
- Development Plans (supplied by Kiwi House).
- Summary of Kiwi House Business Case 2020 (supplied by Kiwi House).
- Financials May 2020 (P&L and Balance sheet summarised) with commentary on assumptions (supplied by Kiwi House).
- Business Case Analysis – Proposed Ōtorohanga Kiwi House Redevelopment 6 October 2017 (Howarth HTL)
- Ōtorohanga Kiwi House and Native Bird Park Redevelopment – Business Case 1 November 2019 (Horwath HTL)
- Council reports on the Proposal

Changes to Governance of Kiwi House

The Kiwi House has been owned and operated for 49 years by the Ōtorohanga Zoological Society Incorporated (the Society) a registered charity. In August 2019 last year the Society registered with the Companies Office the Ōtorohanga Kiwi House Charitable Trust (the Trust) also a registered charity.

During the consultation period on 31 May 2020 the Society will transfer the assets and operation of the Kiwi House to the Trust. The Society will eventually wind up. The governance of both entities are the same people.

The Statement of Proposal assumes this transfer occurs as scheduled and so has listed the Trust as the borrower. The Statement of Proposal informs readers of this.

Council staff are working with the Society on matters regarding the leases and the loan guarantee as there are legal implications regarding these that may be subject to further consideration by Council.

Consultation process

At its 14 May 2020 meeting Council decided on a two-week consultation process with the whole community.

Consultation period

Staff have prepared a Statement of Proposal, and, if adopted by Council without amendment, consultation can start later on the day of the Council meeting on 26 May 2020. If changes are requested at the meeting, depending on the nature of the changes this may change the start date. It is an important point of law that all consultation information is available at the start of the consultation period.

The length of the consultation is discretionary to Council having regard to the circumstance of the consultation. Given the public has been made aware of the matter, and that Council has previously (December 2019) considered the matter publicly, staff advise that starting a day or two later would not require the closing date to be moved later.

The period for submissions closes at 5pm on 9 June 2020.

Public meetings

Due to the Level 2 COVID-19 restrictions in place public meetings are not proposed. Submitters will have an opportunity to be heard at the Hearing.

Consultation Material

The consultation material is listed above. The Statement of Proposal and the Summary of the Statement of Proposal will be available from Council's website, headquarters and libraries. It can be emailed out on request.

The supporting information will be available on Council's website.

Social media will be used to promote and engage the community on the consultation.

Hearings and Decision Making

Council will receive copies of all submissions, as well as a report on the submissions received and hear verbal submissions at its 16 June Council meeting. It is likely this meeting will have some restrictions on the movement of people due to Level 2 COVID-19 requirements. More details on this will be provided to elected members and submitters closer to the time.

An additional meeting will be scheduled on 25 June 2020 for a decision on the consultation proposal

Implementation of Decision

Once Council has made a decision, and assuming the decision is to proceed with a loan, staff will need to have a loan agreement drawn up to be signed by all parties. The Statement of Proposal covers the key terms of the loan. These matters and delegations to sign the loan agreement should be confirmed by resolution of Council at the decision-making meeting. This should enable the loan facility to be available by 30 June 2020.

Risk

This Statement of Proposal has been prepared for the agenda in 5 working days from the Council decision to choose option 2. The matters the proposal considers are complex and detailed. Staff have not had the opportunity to undertake the level of due diligence that might be expected of a decision of this significance and complexity. Staff have relied on the advice of the Kiwi House and accepted their financial forecasts and assumptions

Options

The decision requested in this report is a decision to consult, confirmation of the material being used in the consultation process, and the methods staff will use to ensure the community has access to the consultation information. The options are that Council:

- 1) Supports the Statement of Proposal and Consultation Plan
 - a. This is consistent with previous decisions of Council.
- 2) Amends the Statement of Proposal and Consultation Plan
 - a. Staff will provide advice on any proposed amendments. The Statement of Proposal, consultation process and decision-making requirements are complex, and if significant changes are made this will potentially affect the timeframe.
- 3) Doesn't support the Statement of Proposal and Consultation Plan
 - a. A decision to not support the statement of proposal and consultation process would have the consequence of Council being unable to provide a loan to the Kiwi House by 30 June 2020. The Kiwi House has advised the outcomes could be similar to Option 3 in the Statement of Proposal: permanent closure of the Kiwi House.

Considerations

1. Significance and Engagement

Adopting the Statement of Proposal for consultation is not significant.

Council considered the significance of the investment proposal at its 14 May 2020 meeting.

2. Financial

The cost of the consultation is met from existing budgets.

The Statement of Proposal considers the impact of the investment on the Council's finances.

Is the loan an investment?

The financial return on the loan as proposed in option 1 after 10 years is calculated at \$166,000 or 0.8% p.a., using the assumptions used in the Statement of Proposal. In itself that is a very small return, even considering today's very low interest environment.

Council however must consider its decisions in the context of the well-beings. As demonstrated by the Horwath Report quotes in the Statement of Proposal, the successful return of the Kiwi House to full operation in a redeveloped facility provide significant investment return across all the wellbeings: environmental, social, economic and cultural.

3. Legal Considerations

Council obtained advice prior to its meeting on 14 May 2020 on the legal requirements for choosing the Option 2 consultation. Elected members have received this advice. This advice is legally privileged and should not be circulated by anyone other than the Chief Executive (if this advice is to be discussed Council should do so public excluded).

In preparing this report and the Statement of Proposal staff have used their best endeavours to implement the advice. In particular the Statement of Proposal and consultation recommended complying with sections 82 and 82A of the Local Government Act 2002.

Given the 14 May 2020 advice of the Chief Executive on consultation options, the legal advice, the statements within the Statement of Proposal and the supporting information supplied by the Kiwi House Elected Members must consider whether the preferred option in the Statement of Proposal is prudent.

Preferred Option and Reasons

The preferred Option is Option 1, “that Council supports the Statement of Proposal” This supports the resolution from the 14 May 2020 Extraordinary Council meeting and also meets the requirements of the relevant sections of the Local Government Act.

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GROUP MANAGER CORPORATE