Statement of Proposal under Special Consultative Procedure as per Section 83 of Local Government Act 2002:

Proposal to amalgamate

Hokitika Airport Limited

and

Westland District Property Limited

November 2017

Submit online at

www.westlanddc.govt.nz

Summary

The proposal

Council is proposing to amalgamate Hokitika Airport Limited (HAL) and Westland District Property Limited (WDPL).

Reason for the proposal

Westland District Council is seeking to establish a leaner structure for its Council Controlled Organisations (CCOs)[1] that will provide more cost effective governance.

The assets and activities that the companies manage and deliver are not affected by this proposal.

Council is seeking community views on the proposed amalgamation of HAL and WDPL.

More Information

Copies of the Proposal

Copies of this proposal are available online at www.westlanddc.govt.nz and at Council offices at 36 Weld Street, Hokitika, or you can call us on 0800 474 834 to receive a copy by e-mail.

Next steps and decision-making

After receiving submissions and hearing community views, Council will make a decision about whether to proceed with the proposal.

Council's decision will take into account many matters, including the views of expressed by the community.

Key dates

23 November 2017	Council adopts Statement of Proposal for consultation with community

[1] The organisations considered in the review are technically classed as council controlled trading organisation (CCTOs), which are CCOs that trade to make a profit.

27 November 2017	Public notice of proposal and consultation process in Local newspapers, Council website, and electronic newsletter.
28 December 2017	Public submissions on the proposal close at 4pm
25 January 2018	Hearings held by Council to hear those who wish to speak to their submissions
25 January 2018	Council makes a decision whether to proceed with the proposal or not or to proceed in an amended form

Have Your Say

Making a submission

Council wants to hear whether you support the proposal to amalgamate HAL and WDPL (name to be confirmed). Have your say and it will be considered by Council as part of the decision-making process.

The proposal is open for submissions from 27 November 2017 to 28 December 2017.

There are several ways you can make a submission.

Online

Fill in a submission form at www.westlanddc.govt.nz

Post

CCO amalgamation submission
Westland District Council
Private Bag 704
Hokitika 7842

Deliver

Bring your submission in to the Westland District Council Offices, 36 Weld Street, Hokitika.

If you would like a hard copy submission form, you can download one from www.westlanddc.govt.nz or collect one from the Council offices or at Council libraries.

You can also phone us on 0800 474 834 and we will post one to you.

When making a submission please make sure you include:

- Your name and email or postal address
- Whether you wish to speak in support of your submission at the Council hearing.

Closing date:

Submissions must be received by Council no later than 4pm, 28 December 2017.

Once the submission period is closed, Council will notify submitters who wish to speak of the date and time at which the Council hearing will be held.

Please note: All submissions are public documents and will be uploaded onto the Council's website with the names and contact details of the submitters included.

Statement of Proposal

Introduction

This proposal involves assets of Council which are listed as Strategic Assets in Council's current policy on significance. On this basis and because there has been substantial community interest in the activities undertaken by and the performance of Councils subsidiaries, Council is undertaking a Special Consultative Procedure under the Local Government Act 2002. This Statement of Proposal is prepared in accordance with the requirements set out in sections 83 and 83AA of the Local Government Act 2002.

Council Vision

In September 2014 Council adopted a new strategic vision:

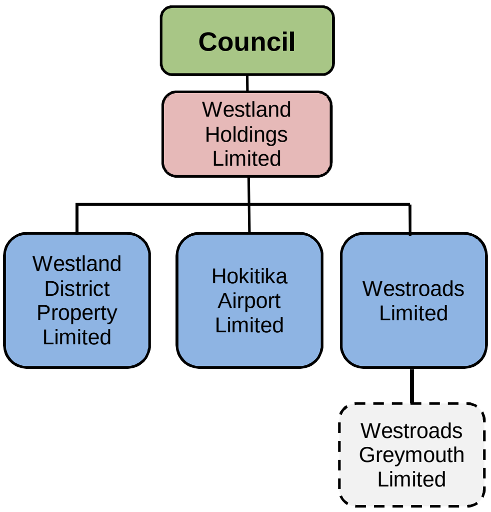
Westland District Council will facilitate the development of communities within its district through delivery of sound infrastructure, policy and regulation.

This will be achieved by:

- *Involving the community and stakeholders.*
- *Delivering core services that meet community expectations and demonstrate value and quality.*
- *Proudly promoting, protecting and leveraging our historic, environmental and natural resource base to enhance life style and opportunity for future generations.*

Background

In 2002, Westland District Council formed Westland Holdings Limited to consolidate its CCOs under one governance and reporting entity. This structure has developed over time and the current structural arrangement is shown in the diagram below.



In late 2013 Council commissioned an independent review of the structure, governance and effectiveness of its CCOs. The review included Westland Holdings Limited, Westland District Property Limited, Hokitika Airport Limited, and Westroads Limited and its subsidiary Westroads Greymouth Limited.

In 2015 Council resolved for the structure to remain unchanged, however Council have reviewed the structure again and further propose a change to the structure.

Review Approach

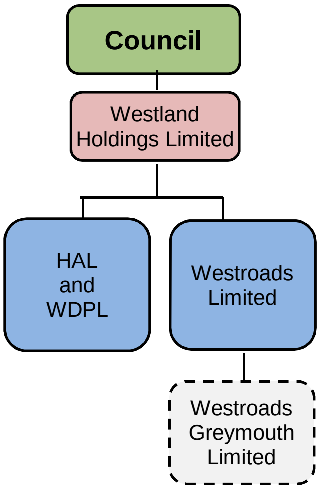
The review was informed by an analysis of key governance and reporting documents, such as the CCOs' constitutions and Statements of Intent, and the available Annual Reports of Council and the CCOs. The review was also informed by a survey of and present elected members, senior staff and CCO Directors.

The review findings and potential options to improve the structure, governance and effectiveness of the CCOs, and the advantages and disadvantages of each option, were discussed with Councillors and senior council staff.

The Proposal

Council is proposing to amalgamate Hokitika Airport Limited and Westland District Property Limited. Retain Westroads Limited as a separate CCO.

Proposed Structure



The Proposal

Council is proposing to:

- Amalgamate Hokitika Airport Limited and Westland District Property Limited.
- Retain the amalgamated company, to be known as (name to be confirmed), and Westroads Limited as its key operating CCOs, with the shares of each company held by Westland Holding Company.

Reason for the proposal

An independent review of the structure, governance and effectiveness of Council's CCOs, including Westland Holdings Limited, Westland District Property Limited, Hokitika Airport Limited, and Westroads Limited. The review was in part driven by community concern about Westland's CCO activities.

Findings of the independent review recommended changes to the way in which Council assets and services are managed and to the structure and governance of Council's CCOs.

The review found that the current structure of Council's CCOs is not optimal and is more complicated than it needs to be given the size and scope of what is being delivered. This has led to a lack of awareness of the activities of or the risks being entered into by subsidiaries.

Management of community assets (such as the Hokitika Swimming Pool, pensioner housing and the Jackson's Bay Wharf), mining license royalties, properties on road reserves, and disposal of surplus land may benefit from a commercial focus, however the scale of activity is too small to justify a commercial company on its own.

Hokitika Airport Limited is a strategic asset and provides value to the Westland community. The airport is now making a small profit and it would benefit from remaining a Commercial company.

Westroads Limited has proved to be a well performing maintenance and construction company engaged in roading, utilities and parks with significant third party revenue and is highly regarded in the community.

When considering Council and Westland Holdings Limited balance sheets together, the restructure will have no material effect on the financial result.

The objectives of the restructure is, through a reduction in the number of companies, for reduced governance, compliance and operational costs, whilst still enabling appropriate transparency over the individual operations.

Alignment with Council's Vision

Council's new vision promotes a focus on the delivery of core services that meet community expectations and demonstrate value and quality. This proposal to amalgamate HAL and WDPL allows Council to focus more directly on core business in alignment with Council's strategic direction whilst providing a commercial focus for the merged CCO's.

Advantages of the proposed option

The advantages of the proposal are that:

- It facilitates an understanding of important and strategic issues between Council and its key operating companies.
- There is likely to be long term savings from the simplified structure in respect of directors' fees, and audit costs.
- Strict divisional reporting will be maintained to ensure that HAL remains responsible for all operating costs and capital expenditure with no Council or ratepayer funding. WDPL will continue to manage Council assets therefore will continue to receive ratepayer funding through a management charge, however with overall reduced costs in respect of directors' fees, audit costs and a more commercial environment, there is a possibility of reducing ratepayer contributions.

Disadvantages of the proposed option

The disadvantages of the proposal are:

- There is a requirement to closely manage the process of the amalgamation.
- There will be some initial costs associated with the proposed amalgamation.
- There will be a need to set up divisional reporting.

Timing

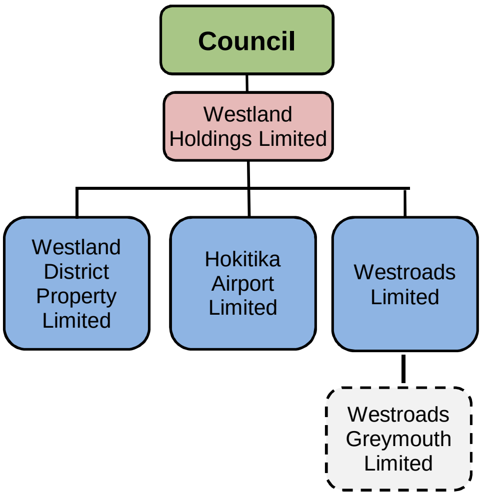
It is usual for an amalgamation to be undertaken on either the last day or the first day of the financial and tax year. The main reason for this is that an income tax return must be lodged up to the date of amalgamation for the company that will cease to exist after the amalgamation. If an amalgamation takes place part way through a tax year there is an additional compliance burden and cost.

The companies are at present operating under one board therefore reducing Directors fees.

Other options considered

<u>Option A – Status Quo</u>

Structure



Description

Under this option:

- Westland Holdings Limited would remain a wholly owned Council Controlled Trading Organisation of Westland District Council.
- Westland Holdings Limited continues to own Westland Property Limited, Hokitika Airport Limited and Westroads Limited.

The advantages are:

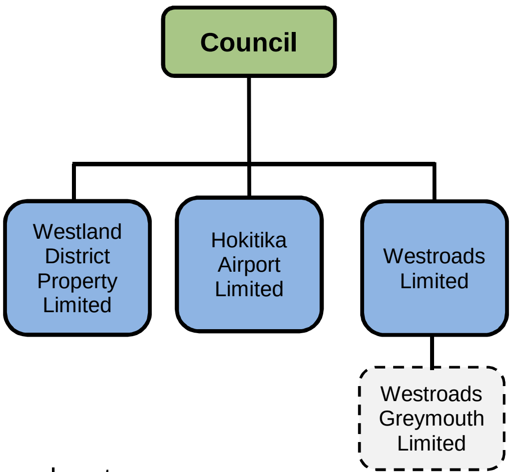
- There would be no need to change the structure.

The disadvantages are:

- This option would not address issues identified in the review, such as WDPL not gaining the benefit of a commercial environment.
- There would be no scope for reduction of operating and audit costs.

<u>Option B – Removal of Westland Holdings Limited</u>

Structure



Description

Under this option Council would:

- Disestablish Westland Holdings Limited.
- Assume ownership and governance of
- Westland District Property Limited,
- Hokitika Airport Limited
- Westroads Limited.

The advantages are:

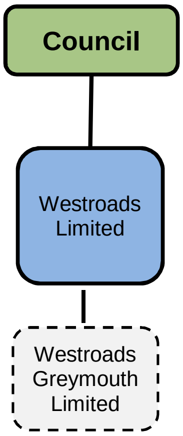
- It simplifies the governance structure of Council's operating entities, provides for greater clarity of accountability between the operating companies and Council, and makes it easier for Council to exercise its shareholder role.
- It provides for a closer relationship and understanding of important and strategic issues between Council as shareholder and its operating companies, Westroads Limited, Hokitika Airport Limited and Westland District Property Limited.
- There may be some slight savings resulting from the simplified structure in respect of directors' fees, audit costs and reporting.

The disadvantages are:

- There would be no change in focus on Council's core business of infrastructure and community facilities provision.
- There will be costs associated with the proposed restructure.
- **<u>The main risk to this proposal is that if shares transfer to Council, under Section CW 10 of the Income Tax Act 2007 this could be a deemed distribution and create a potential tax liability of $1.2m.</u>**
- This risk has been estimated by Council's tax advisors as between 15% and 35%.

Option C – Amalgamate all CCO's.

Structure



Description

Under this option Council would:

- Amalgamate all four companies

The advantages are:

- There is likely to be some long term savings from the simplified structure in respect of directors' fees, audit costs and reporting.
- There would be improvement in the governance relationship between Council and the operating subsidiary company.
- Transparency over the individual operations could be maintained through divisional reporting.

The disadvantages are:

- Westroads Ltd is performing well and has significant third party revenue, and it is unlikely to benefit from amalgamation.
- There will be costs associated with the proposed restructure.
- There will be a need to set up Divisional reporting.

Short form amalgamation under the companies act 1993

The New Zealand amalgamation regime was introduced in order to facilitate company restructures and ensure uninterrupted and continuous operation of all amalgamating companies. The Companies Act provides that two or more companies may amalgamate and continue as one company, which may be one of the amalgamating companies or be a new company. The companies that disappear during the amalgamation are referred to as the 'amalgamating companies' and the continuing company is referred to as the 'amalgamated company'.

The effect of an amalgamation can be summarised as follows:

- Each amalgamating company, except the amalgamated company will be removed from the New Zealand Companies Register;
- The amalgamated company succeeds to all the property, rights, powers, and privileges and all the liabilities and obligations of each of the amalgamating companies;

A short form amalgamation is available to companies which are part of a wholly-owned group of companies. A short form amalgamation is procedurally less onerous than a long form amalgamation. It can be carried out without the need to obtain approval from the shareholders, also without issuing an amalgamation proposal and giving public notice, however discussed above, Hokitika Airport Limited is classed as a Strategic Council asset and by way of the Significance and Engagement Policy, Council intends to consult.

A short form amalgamation requires the following steps:

- Approval of amalgamation by way of resolution by the board of each amalgamating company;
- The directors who vote in favour of the resolution to amalgamate must sign a certificate stating that they are satisfied on reasonable grounds, that the amalgamating company will immediately after the amalgamation is effected, satisfy the solvency test;
- Written notice of the proposed amalgamation is provided to every secured creditor of the amalgamating company;
- All relevant documentation being delivered to the Registrar of Companies for registration.
- A certificate of amalgamation will be issued by the Registrar specifying the effective date of amalgamation.

Income tax implications of the proposed amalgamation

A short form amalgamation of HAL and WDPL on 30 June 2018 will be deemed to be a resident's restricted amalgamation for New Zealand tax purposes.

As a result, there should be no adverse income tax implications arising from the amalgamation.

Due to the short nature of this proposal, no summary document will be produced.