

REPORT 1
(1215/55/IM)

**PROGRESS IN IMPLEMENTING AUDIT NEW
 ZEALAND'S RECOMMENDATIONS**

1. PURPOSE OF REPORT

To update the Subcommittee on progress in implementing the recommendations contained in the various Management Letters Audit New Zealand have forwarded to the Council.

2. RECOMMENDATIONS

It is recommended that the Subcommittee:

1. *Receives the information.*
2. *Notes the progress made in implementing the recommendations.*

**3. SUMMARY OF "MOVEMENTS" IN RECOMMENDATIONS
 SINCE THE LAST REPORT**

REPORT	DATE	OPENING BALANCE	NEW ISSUES	IMPLEMENTED ISSUES	OUTSTANDING ISSUES
A: 1998/99 Final Audit	29 March 2000	2	-	-	2
B: 2002/03 Final Audit	12 September 2003	1	-	-	1
Total		3	-	-	3

Report prepared by: Helen Rogers
 MANAGER, FINANCIAL ACCOUNTING

IMPLEMENTATION OF AUDIT NEW ZEALAND'S MANAGEMENT LETTER RECOMMENDATIONS:

POSITION AS AT MARCH 2005

A 1998/99 FINAL AUDIT (Letter Dated 29 March 2000)

Ref	Issue	Responsibility	Priority	Current Status	Original Due Date	Implemented or Due Date
5.4	Trusts					
	<p>Accounting, Tax and Legal Treatment</p> <p>There has been considerable ongoing debate in regard to the appropriate accounting, tax and legal treatment of Trusts which have been established by Local Authorities in order to further community interests and local development:</p> <p>Council has previously sought advice on the Local Government and Income Tax definitions of a LATE and whether the Trusts would fall into these categories under the new legislative definition. Initial advice was that they would not, so long as the Trusts did not own operating companies. However recently there has been some conflicting opinion on this matter and an IRD ruling in regard to the status of the St James Theatre Trust, which suggests that the Trust is a LATE. However, we understand that grounds exist for Council to dispute this ruling.</p> <p>The issue is not confined to Wellington City</p>	Wayne Maxwell	Medium	<p>The issue of whether the Council's various Trusts constitute LATEs is significantly affected by the differing opinions on the subject. Differing opinions have been provided based on legislative requirements (LGA), income tax provisions as well as accounting requirements. This is complicated by changing requirements as a result of the enactment of the Local Government Act 2002 (LGA2002) and the issuance of new accounting standards in this area.</p> <p>The recent enactment of LGA2002 introduces Council Controlled Organisations (CCOs) and Council Controlled Trading Organisations (CCTOs) in place of LATEs. LGA2002 includes consequential amendments to the Income Tax Act 1994 to reflect the change from LATEs to CCOs. We are currently reviewing existing and proposed Trusts with which the Council has a relationship to determine whether they are either CCOs or CCTOs.</p> <p>The Trust, in conjunction with WCC and WRC made application to the High Court for a declaratory judgement on the Trust's status. This application was</p>	30/4/00	

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	<p>Council and is one which needs to be addressed for the sector. We understand that Council is working with the Audit New Zealand tax team and the Office of the Auditor General to reach consensus on the issue.</p> <p>We will be liaising with the OAG and our sector specialists to ensure that the results of the consultation are consistent with views across the sector and with the intention of seeking a resolution to the issue which will enable Council to plan for the future structure and relationships with similar bodies.</p>			<p>heard in the High Court in June 2004. In July 2004, the High Court declared that the Trust was not a CCTO and that Part 5 of the Local Government Act 2002 (which deals with Council-controlled organisations) did not apply to the Trust.</p> <p>The IRD has subsequently appealed this decision. The case will be heard in the Court of Appeal by a panel of three judges on 28 June 2005.</p> <p>We will keep the Sub-Committee informed of further developments.</p>		
	<p>Interest on Loans to Trusts</p> <p>A related issue which needs to be considered is that Council has entered into various loan agreements with several Trusts where no interest is charged. Should the Trusts be deemed to be LATEs under the new legislation, then Council will have breached the requirements of the Local Government Act (s.594 ZPA) which states that loans to a LATE must be made on a commercial/arms length basis.</p>	Wayne Maxwell	Medium	<p>Section 63 of the Local Government Act 2002 (Restriction on lending to council-controlled trading organisation) replaces section 594ZPA of the Local Government Act 1974. The section is essentially the same as s594ZPA, replacing the term “local authority trading enterprise” with “council-controlled trading organisation.”</p> <p>The remaining issue relates to the interest free loan to the WRST. If the Trust was deemed to be a CCTO by the High Court, then section 63 would apply to the \$15 million loan from the Council.</p> <p>As noted previously, the High Court declared that the Trust was not a CCTO and that Part 5 of the Local Government Act 2002 (which deals with Council-controlled organisations) did not apply to the Trust. This decision has been appealed by the IRD.</p>	30/6/00	

B 2002/03 FINAL AUDIT (Letter dated 12 September 2003)

Ref	Issue	Responsibility	Priority	Current Status	Original Due Date	Implemented or Due Date
5.3.2	Wellington Cable Car Limited					
	<p>The Council's 100% owned subsidiary Wellington Cable Car Limited (WCCL) is recorded at cost (\$7.4 million) in the Council's statement of financial position. WCCL has negative retained earnings of \$3.2 million largely as a result of the write-down of the overhead network. These accumulated losses have not been taken into account in determining fair value of the investment.</p> <p>In accepting this valuation, two matters have been taken into consideration:</p> <ul style="list-style-type: none"> • materiality; and • the changed situation in regard to the overhead network. <p>Greater Wellington have indicated support for extending the life of the network which means it is likely that in future periods a business valuation would replace this "lost" equity due to the extended life of the assets.</p>	Helen Rogers	Medium	<p>The Council's investment in WCCL was appropriately reflected within the 2002/03 financial statements. The fair value was assessed taking into account all relevant factors, including accumulated losses. These losses have arisen as a result of uncertainty over the continuation of the funding arrangement with WRC in respect of the trolley bus overhead network. The original funding agreement with WRC, for the provision of trolley bus services, is due to expire in 2004.</p> <p>However, indications at the time of the 30 June 2003 financials were that WRC would continue to fund the trolley bus system for a further ten years to 2014. Given this, the equity of WCCL would be restored in future periods. It was therefore appropriate for the Council to continue to reflect the investment in WCCL at cost as at 30 June 2003.</p> <p>During 2003/04 we continued to monitor the contract negotiation process and considered the impact on the Council's investment. As at 30 June 2004, Council Officers reassessed the Council's investment in WCCL to determine whether it remained appropriate.</p>	30/6/04	

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5.3.2	Wellington Cable Car Limited					
				<p>At the August 2004 meeting to review the draft financial statements, the Sub-Committee accepted that given the continuing uncertainty and the short timeframe for resolution of the future contractual negotiations, the most appropriate course of action for the respective entities was to maintain the status quo until such time as a final decision could be reached in respect of the ongoing funding arrangement.</p> <p>Since the August 2004 meeting, the uncertainty has continued, with increasing public debate over the future of the trolley buses. At its 24 March 2005 meeting, Land Transport New Zealand (LTNZ) considered a cost-benefit analysis of funding for trolley buses against the diesel alternative.</p> <p>An agreement in relation to the future funding and operations of the overhead network is currently being progressed with Greater Wellington. We will update the Sub-Committee on the progress of these negotiations and any implications for the 30 June 2005 financial statements during the August meeting.</p>		