

# **STRATEGIC OPTIONS**

**JANUARY 1998**

## **ANIMAL WELFARE SERVICES**

*a business unit of City Enterprises*

## **WAITAKERE CITY COUNCIL**

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## **CLARIFICATION OF TRUST VERSUS CHARITABLE TRUST**

*The options within this document focus upon an animal welfare charitable trust. It is important that the reader is aware of the dissimilarities between an ordinary trust and a charitable trust as the two operate in distinctly different ways.*

It is proposed that the "National Animal Welfare Trust of New Zealand" (which is referred to later in this document) is established under the provisions of the Charitable Trusts Act 1957.

It is important that a charitable trust is distinguished from an ordinary trust. An ordinary trust is "an equitable obligation under which a person having the control of property is bound to deal with that property for the benefit of definite persons or for some object or purpose permitted by law." An ordinary trust has stakeholders

In a local government sense ordinary trusts can be set up for the benefit of definite persons or corporate bodies and typically will be set up to operate a business venture for the benefit of ratepayers. The Auckland Regional Services Trust is an example.

In contrast a charitable trust does not have stakeholders and cannot be set up for the benefit of definite persons. It must have charitable objects and the boundaries of what is a charity are well defined. If a charitable trust directly benefits persons or corporate bodies financially it is no longer charitable. However, the activities of a charitable trust can indirectly benefit persons. For example, a charitable trust that has as one of its objects the advancement of education will benefit those who receive the education but the beneficiaries are not financial stakeholders.

Charitable trusts enjoy certain privileges that are not accorded ordinary trusts such as exemption from filing income tax returns, donations are tax deductible in the hands of the

donor, and the rule against perpetuities does not apply. This means in lay terms that a charitable trust can go on forever but an ordinary trust must have a pre-determined life.

The Guidelines on Trust Ownership and Governance Accountability of Councils are not applicable to charitable trusts. Because the beneficiaries in an ordinary trust are usually the council and/or ratepayers the Council and elected councilors have a vested interest. In a charitable trust the beneficiaries are the charitable purposes of the trust. The Council and ratepayers have no direct vested interest.

It is proposed that the charitable objects of the National Animal Welfare Trust of New Zealand are: to promote principally in New Zealand effective means for the protection, control and conservation of animals, for the prevention of ill-treatment of and the relief of suffering to animals, and in furtherance of these purposes:

- a) To promote the welfare, control, protection and conservation of animals;
- b) To encourage and develop by humane education individual responsibility for the welfare, control, protection and conservation of animals, and the promotion of humane attitudes in society to people and animals;
- c) To provide animal welfare and veterinary services;
- d) To establish a scientific institute or institutes to study animal protection, control and welfare problems;
- e) To seek reform of laws for the welfare, protection, control and conservation of animals, and the promotion of humane attitudes in society to people and animals;
- f) To advance the aims of the Trust by seeking the support and advice of all available moral, educational, legislative and scientific institutions;
- g) To maintain effective liaison and to seek co-operation with organisations in New Zealand and elsewhere having similar objectives.

These objects would be fine tuned during the pre-establishment phase of the Trust.



## **PREFERRED OPTION**

Animal Welfare Services prefers and therefore recommends to the Advisory Board, Option Four: The Charitable Trust as a foundation for business growth.

### **Rationale:**

#### **An animal welfare charitable trust...**

1. provides a natural and logical progression to the pioneering direction which Waitakere City Council has already successfully undertaken within the Animal Control and Welfare industry and embraces then builds upon the progressions outlined within option three. Animal Welfare Services has successfully initiated the merger of welfare and control within the animal related industry thus prompting legislative changes which will open the path for other Territorial Authorities to follow Waitakere City's lead. A charitable trust provides the vehicle to further develop the unique and efficient Animal Welfare Services operation into a facilitator of business opportunities (and hence profits) for the charitable trust and Council. The charitable trust will also provide a vehicle which achieves financial benefits for the Animal Welfare Services operation.
2. is relatively inexpensive to establish yet has the potential to generate significant revenue for council and the citizens it represents. Seed funding required to establish the trust is \$20,000. The number of organisations which have on occasions approached Animal Welfare Services (see "3" below) seeking to donate moneys is testimony to the untapped resources available. Likewise, business opportunities, such as providing a national training program for animal welfare inspectors, would be accessible via a charitable trust but not if provided through a Territorial Authority.



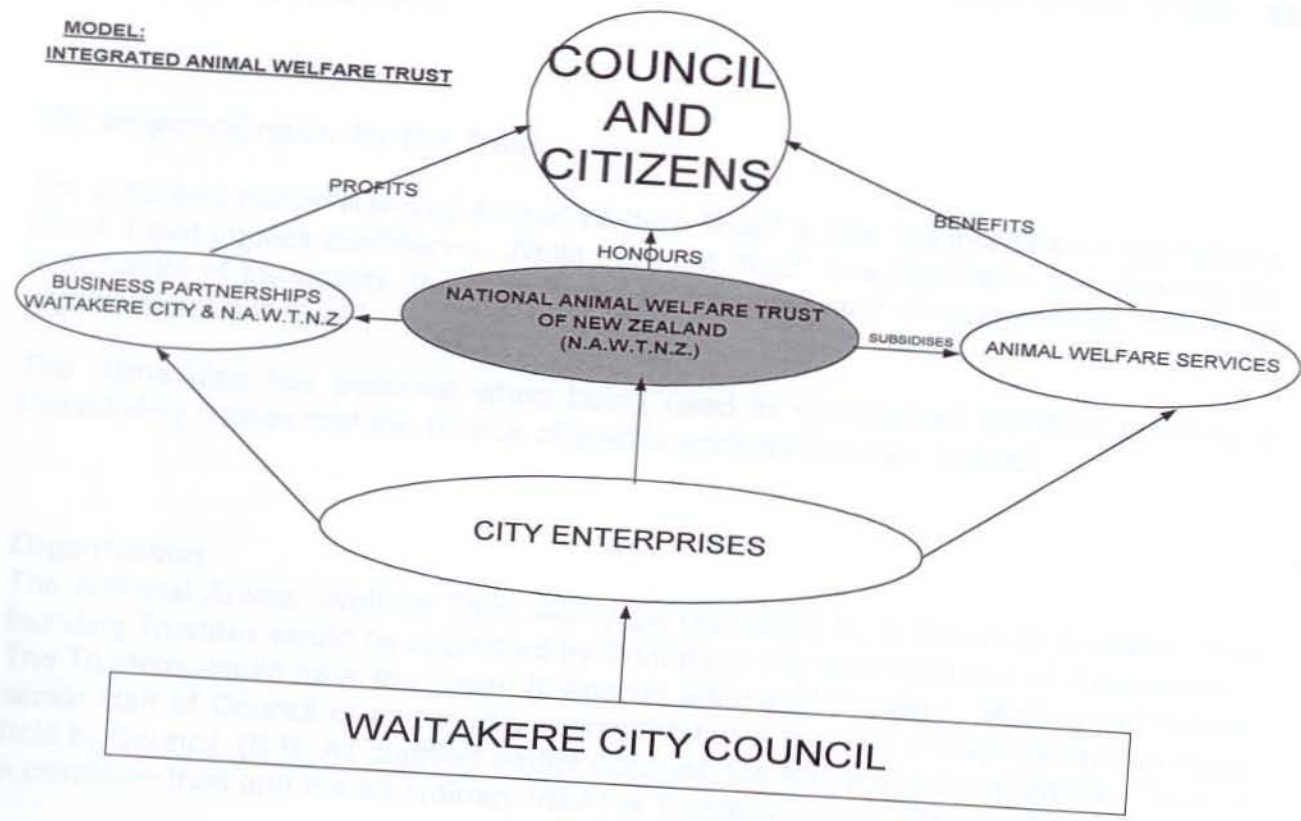
3. attracts donations from sources such as events, public donation boxes and posted moneys because people "love" animals. Animal Welfare Services has held a non advertised, passive Animal Welfare fund for 12 months into which around \$3,000 has been gifted. Significant "free" revenue may be gained from a number of sources including lotteries commission, public donations, events, corporate fund raising competitions (we have already been approached by NZI), legacies (also been approached by two lawyers and an individual regarding legacies) and Harrah's Sky Casino (also has approached Animal Welfare Services). *It is significant that Animal Welfare Services has received responses from organisations and individuals wishing to donate moneys and this situation is indicative of the good will which has been fostered in the general community, including the community beyond the borders of Waitakere City.*
4. can enter into business ventures with Council as a business partner thereby creating revenue streams which can assist the citizens Council represents. Due to the Animal Welfare nature of potential ventures such opportunities would not otherwise be available to Council.
5. provides opportunities where animal related revenue gifted from the Trust to Animal Welfare Services may be used for purposes other than solely Dog Control Act enforcement. Under the terms of the Dog Control Act 1996 any funds collected through the Act may be used only for the purposes of the Act. Funds sourced from the Trust could be used for any animal welfare related activities including those which are not dog species specific.
6. could fund the animal welfare aspects of Council's Animal Welfare Services business unit thereby eliminating the necessity to have ratepayer contribution into dog control and also providing the opportunity to minimise dog registration fee levels.

7. could fund a large variety of animal related activities in the community (such as desexing, education, dog training, construction of public dog exercise areas) which would in turn assist significantly in the achievement of improved animal care and control within Waitakere City.
8. could subsidise the animal welfare aspects of the Animal Welfare Services business unit so that more competitive tender prices are submitted. With the establishment of the business unit in areas other than Waitakere City the Trust would be provided with a platform to tap into other area's revenue sources
9. can be operated in line with eco city principles and once again demonstrate that Waitakere City Council and it's Animal Welfare Services business unit are leading the way in which animal Control and Welfare are undertaken, not just in New Zealand, but internationally.



# PROPOSED OPTION DETAIL

MODEL:  
INTEGRATED ANIMAL WELFARE TRUST



## **PREFERRED OPTION DETAIL**

**Point to note:** The purpose of this paper is to present strategic options along with an introduction to the preferred option. A truly detailed exploration of the potentials would occur commencing with the pre-establishment phase as referred to in the following.

### ***The proposed name for the Trust***

The proposed name "National Animal Welfare Trust" is new but it still has a familiar ring about it that implies confidence. While the term "trust" is a legal term that denotes the trust nature of the assets, the term "trust" to the public and consumer says, "this is an organisation I can trust."

The name also has potential when being used in commercial activities because it immediately implies that the service offered or endorsed can be trusted.

### ***Organisation***

The National Animal Welfare Trust would be controlled by a Board of Trustees. The founding Trustees would be appointed by Waitakere City and comprise of Councillors. The Trustees would have the power to appoint additional Trustees, which could include senior staff of Council or community representatives, but with a majority always being held by Council. (N.B. As clarified earlier because the National Animal Welfare Trust is a charitable trust and not an ordinary trust the Trustees can be appointed from Council.

The Board of Trustees would be able to appoint committees including an Advisory Board the latter of which could be the current City Enterprises Advisory Board which would advise on animal welfare policy issues and business strategies but would have no decision making authority over the Trust itself.

The National Animal Welfare Trust would have an administrative unit headed by an Administrator or Chief Executive Officer.

The Trust would receive and administer funds from fund-raising activities such as donations, legacies, sponsorships, grants, and other fund-raising projects, and profits from business enterprises.

Council would receive profits from any business ventures it may enter into as a business partner of the Trust.

Funds received by the Trust would be spent only within the charitable purposes of the Trust which would include supporting Council's Animal Welfare Services business unit



but funds received by Waitakere City as a business partner of the Trust would benefit ratepayers.

### **Trust Administration**

The Trust would be administered by a small administration unit headed by a CEO.

The administration unit would be responsible for:

- administration of the Trust itself
- providing support services to the Board of Trustees
- providing advice to Trustees on administration of trust funds
- developing strategies
- promoting the trust and its objectives
- conducting fund-raising initiatives such as:
  - public relations
  - commercial sponsorships
  - legacies
  - grant funding
  - appeals
  - lotteries
  - local fund-raising (galas, stalls etc.)
- conducting feasibility studies into new business ventures
- establishing educational programmes
- expanding the activities of the Trust nationally and internationally.

### **Trust Development**

#### **Phases**

- Pre-establishment
- Establishment
- Launch
- Development

#### **Pre-establishment**

Could be carried out on a part-time consultancy basis.

1<sup>st</sup> 3 months – 3 days per week

After 6<sup>th</sup> month – full-time.

### ***Funding***

Normal consultancy fee is \$94 an hour. However, this could be carried out for a fee of \$400 per day plus GST and expenses.

### ***Ball-park Budget for Pre-establishment phase (3 months)***

Consultancy fees – 3 days per week	15,600.00
Telephone fax etc. – say	750.00
Printing stationary postage – say	300.00
Vehicle say 3000 km @ 60c	1,800.00
Contingencies – say	1,500.00
	<hr/>
	19,950.00

Substantial detailed budgeting would be need for the next fiscal year (July 1998 – June 1999).

### ***Establishment***

This phase would involve establishing the trust, setting up the administrative systems, one-on-one contact with potential leaders and supporters, etc.

This stage should be low-key.

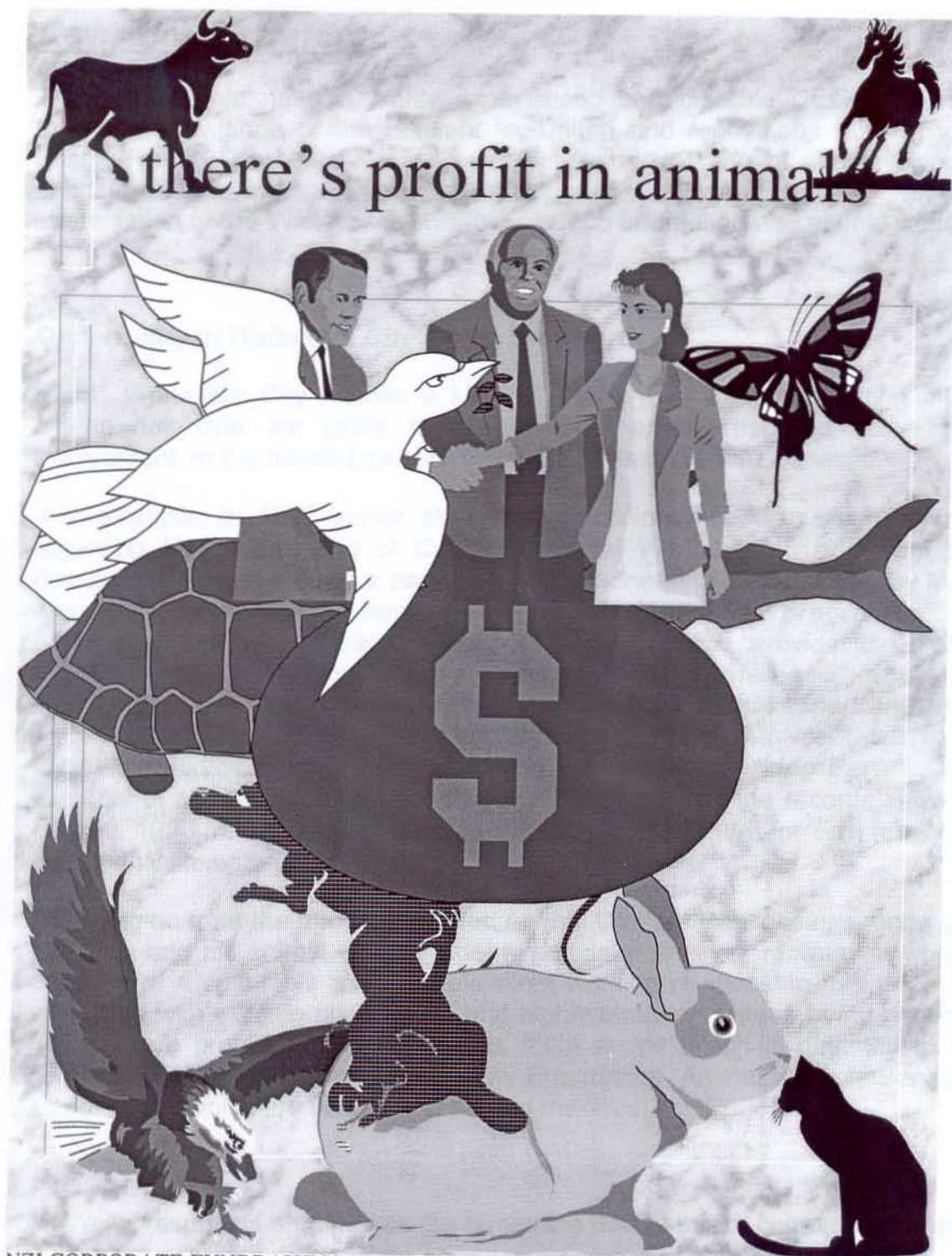
### ***Launch***

This should be a very high level full-on launch with an event that will attract media attention.

### ***Sustaining and Development***

This phase would involve sustaining current activities and ongoing development would involve feasibility studies of potential projects, development of new business ventures, etc.





NZI CORPORATE FUNDRAISING EVENTS

JOINT BUSINESS VENTURES

HARRAH'S SKY CASINO

LOTTERIES COMMISSION

ENVELOPE APPEALS

PUBLIC DONATIONS

LEGACIES

SPONSORSHIPS

## **Key Administrator**

The Trust would need a highly experienced and capable CEO who possesses a thorough knowledge of the relevant legislation and regulations relating to charitable trusts. The CEO must have an extensive understanding of and involvement in the animal welfare industry and advertising/public relations industry along with an appreciation of the Waitakere City Council's eco orientation and animal welfare focus.

### ***Opportunity in Waitakere City's own back yard***

Within Waitakere City resides a Mr Neil Wells who along with fitting all the above criteria has over the years maintained both an interest and active professional involvement in the development of Council's Animal Welfare Services.

For example, in 1990 senior staff and councillors had discussions with Mr Wells regarding MAF warranting of Council's Animal Welfare staff and from those seed discussions has developed a partnership and pioneering activity whereby Mr Wells and Animal Welfare Services have developed the **MAF pilot program** with Mr Wells performing the role of training provider and guidance provider on behalf of the Waitakere City staff. The Mayor's **"pooch power conference"** would have been incomplete without Mr Wells' extensive input as both a legal expert and as an animal welfare expert of good repute and substantial experience. Mr Wells was in addition an invaluable participating member of Council's **"Canine Working Party"**. As a further example of Mr Wells long term involvement with the City the records show that as far back as 1986 Mr Wells was awarded the certificate of merit for community services to the then Waitemata City.

Following on from the above examples Animal Welfare Services has made good use of Mr Wells and his animal welfare legal expertise in seeking information which explores the idea of a charitable trust. An excellent working relationship has once more been enhanced with exciting discussions and highly motivating ideas being generated which in turn have provided the ingredients for a recipe which is destined to be a huge success for Waitakere City Council, City Enterprises, Animal Welfare Services and the communities which are served and indeed the Trust itself.

Mr Wells' resume is attached as the remaining part of this document for consideration.