

POTENTIAL SALE - AURORA ENERGY LIMITED - STATEMENT OF PROPOSAL AND COMMUNICATION AND ENGAGEMENT PLAN

Department: Legal Services and Finance

EXECUTIVE SUMMARY

- 1 Aurora Energy Limited (Aurora) is an electricity distribution business that owns and operates regulated electricity distribution networks in Dunedin, Central Otago (including Wānaka) and Queenstown Lakes.
- 2 Aurora is 100% owned by Dunedin City Holdings Limited (DCHL), and DCHL is 100% owned by Council.
- 3 DCHL recommends a sale of Aurora, with the proceeds being used:
 - a) to repay Aurora's debt (forecast to be \$576 million by mid-2025); and
 - b) to establish a diversified investment fund worth hundreds of millions of dollars (Fund).
- 4 DCHL recommends the sale for many reasons, including:
 - a) to increase income to Council by having a more consistent and sustainable income stream.
 - b) to reduce DCC Group debt by paying down Aurora's debt.
 - c) to avoid the DCC Group's debt increasing to fund Aurora's future capital requirements.
 - d) to reduce risk through having a more diversified portfolio.
- 5 The capital in the Fund would be protected and inflation adjusted, so that the fund is not eroded over time. Council would receive the income from the Fund. The Council would need to plan how to apply revenue received in future long term and annual plans. This could include such things as paying down debt or offsetting rates.
- 6 Interest in purchasing Aurora is expected to be high, which could generate a price premium.
- 7 Consumer rights would continue to be protected by the Commerce Commission and Electricity Authority under any new ownership.
- 8 DCHL cannot sell Aurora without Council's approval as 100% shareholder.
- 9 On 12 March 2024, Council decided:
 - a) to consult the public on a potential sale of Aurora;

- b) to use the special consultative procedure for the consultation; and
 - c) that Council's preferred option for consultation is to sell Aurora and to use the proceeds of any sale to repay Aurora's debt and use the remainder to generate income through a diversified investment fund.
- 10 DCC staff have now prepared a draft:
- a) statement of proposal (consultation document); and
 - b) communication and engagement plan.
- 11 The purpose of this report is to seek Council's approval to the draft statement of proposal and draft communication and engagement plan.

RECOMMENDATIONS

That the Council:

- a) **Adopts** the statement of proposal (consultation document) referred to in this report.
- b) **Approves** the communication and engagement plan referred to in this report.
- c) **Decides** that a further summary document to summarise the statement of proposal is not required under section 83(1)(a)(ii) of the Local Government Act 2002.
- d) **Delegates** to Council's Chief Executive Officer the authority:
 - i) To make any amendments to the statement of proposal and/or communication and engagement plan as are requested by Council.
 - ii) To make minor editorial changes to the statement of proposal.
 - iii) To amend the communication and engagement plan if the Council's Chief Executive Officer considers that further or different consultation would assist in the consultation process.

BACKGROUND

Ownership of Aurora

- 12 Aurora is 100% owned by DCHL and DCHL is 100% owned by Council.
- 13 Under the Companies Act 1993 and DCHL's Statement of Intent, DCHL can only sell Aurora if it obtains Council's prior approval. This is because a sale of Aurora would constitute a major transaction for DCHL under the Companies Act 1993, which requires shareholder approval (by a Special Resolution). The sale also requires Council's approval under DCHL's Statement of Intent, which requires DCHL to obtain Council approval before disposing of any shares exceeding \$5 million in value.

About Aurora

- 14 Aurora owns and operates the regulated electricity distribution networks for Dunedin, Central Otago (including Wānaka) and Queenstown Lakes.



- 15 Aurora's electricity network was largely built in the 1950s and 1960s. It now requires significant capital investment to renew aged assets, build resilience in its network, meet population growth in Central Otago and meet greater demand for electricity due to decarbonisation.
- 16 Aurora agreed a Customised Price Quality Path (CPP) with the Commerce Commission in 2021 to enable higher prices to be charged to customers than under the default price quality path (DPP), allowing funding of Aurora's capital programme to improve the network. However, even with that funding, it is expected that significant capital expenditure requirements will consume operating cash flows and require more debt.

Dividends from Aurora

- 17 Aurora has not generated any dividends since 2017.
- 18 Aurora may be able to deliver dividends in the future, but there is high uncertainty around the amount of the dividends due to inherent uncertainties in Aurora's capital reinvestment requirements, regulatory settings and ordinary business risks.

- 19 Any dividends from Aurora over the next 10 years would likely be based on increased capital value and funded by debt, placing pressure on the DCC Group's debt position.

Request by Council

- 20 Council's Letter of Expectation to DCHL in the year ending 30 June 2024 included an expectation *"to provide the DCC with strategic options for consideration (including consideration as to the future composition and direction of the portfolio) that allows the DCC to consider the implications for the DCC as shareholder with a particular focus on dividends/return on investment from DCHL."*

DCHL Recommendation to Sell Aurora, Repay Aurora's Debt, and Invest in Diversified Fund

- 21 DCHL recommends a 100% divestment of Aurora, with the proceeds being used to repay Aurora's debt and to establish a diversified investment fund (nominally called the Fund).
- 22 In DCHL's view:
- a) Council needs different assets if it is to receive higher and more consistent, sustainable cash returns from its investments.
 - b) Aurora is delivering reasonable capital growth but, as an infrastructure business with growing demand, significant capital expenditure requirements are likely to require more debt. Divestment of Aurora would reduce DCC's Group debt by approximately \$576 million, avoid further DCC Group debt and reduce risk to Council's future credit ratings, debt covenants and borrowing costs.
 - c) Should the proposal go ahead, interest in purchasing Aurora is expected to be high and a premium sale price could be expected.
 - d) investing the proceeds in a diversified investment fund, with risk diversified across many different assets, rather than just one, will enable long-run higher cash returns that are more sustainable.
- 23 The capital in the Fund would be protected and inflation adjusted, so that the fund is not eroded over time. Council would receive the income from the Fund. The Council would need to plan how to apply revenue received in future long term and annual plans. This could include such things as paying down debt or offsetting rates.
- 24 Consumer rights would continue to be protected by the Commerce Commission and Electricity Authority under any new ownership.

Council Resolution

- 25 On 12 March 2024, Council resolved:

(Moved (Mayor Jules Radich/Cr Cherry Lucas):

That the Council:

a) Decides:

i) To consult with the public on the potential sale of Aurora Energy Limited;

- ii) *To use the special consultative procedure for the consultation; and*
- iii) *Its preferred option for consultation is to divest Aurora Energy Limited and to use the proceeds of any sale to repay Aurora's debt, and use the remainder to generate income through a diversified investment Fund.*

Division

The Council voted by division

For: Crs Bill Acklin, Sophie Barker, David Benson-Pope, Christine Garey, Kevin Gilbert, Carmen Houlahan, Cherry Lucas, Mandy Mayhem, Lee Vandervis, Steve Walker, Brent Weatherall, Andrew Whiley and Mayor Jules Radich (13).

Against: Cr Marie Laufiso (1).

Abstained: Nil

The division was declared CARRIED by 13 votes to 1

Motion carried (CNL/024/030)

DISCUSSION

Decision to Consult on Potential Sale of Aurora

- 26 The Council has decided to consult on a potential sale of Aurora, using the SCP.
- 27 Council has not yet decided whether it would approve a sale of Aurora because it first wants to hear and consider feedback from the public. The Council has also not yet decided on certain details around the Fund (such as whether it is better to be held by DCC or DCHL). These decisions will be made once the exact size of the Fund is known, and tax advice has been provided. DCC staff anticipate that the specific details around the Fund will form part of the consultation on Council's investment plan, which will be considered as part of the nine year plan 2025-34.

Special Consultative Procedure (SCP)

- 28 Given the importance of this decision, Council has decided to use the SCP. This procedure is set out under section 83 of the Local Government Act 2002 (attached as Attachment A).
- 29 Key aspects of the SCP include:
- a) preparing and adopting a statement of proposal and making it publicly available.
 - b) if Council considers it necessary, preparing a summary of the information contained in the statement of proposal.
 - c) making information on the consultation process and timeframes publicly available.
 - d) consulting for a period of at least one month.

- e) ensuring that Council describes how the local authority will provide persons interested in the proposal with an opportunity to present their views to Council.
- f) making the summary of information or statement of proposal as widely available as is reasonably practicable.
- g) providing a reasonable opportunity for people to present their views to Council, including:
 - i) through spoken language or New Zealand sign language; and
 - ii) in person or by audio or audio-visual link.
- h) ensuring that people are informed about how and when they may take up the opportunity to present their views.

Consultation Document

- 30 DCC staff have prepared a draft consultation document (Attachment B - separately circulated).
- 31 The consultation document seeks to:
- a) Present Council's preferred option; the proposal to sell Aurora and to use the proceeds of any sale to repay Aurora's debt and use the remainder to generate income through a diversified investment fund.
 - b) Present an alternative option which is the status quo.
 - c) provide a fair representation of the key issues, the reasons for the proposal and the implications of the proposal; and
 - d) identify and explain the main issues and choices relating to the proposal.
- 32 If adopted by Council, the consultation document will be Council's statement of proposal under section 83(1)(a)(i) of the Local Government Act 2002.
- 33 Under section 83(1)(a)(ii), Council could elect to prepare a separate summary of the information contained in the statement of proposal. DCC staff consider that a separate summary is unnecessary to enable public understanding of the proposal. This is for a variety of reasons, including:
- a) the consultation document has a mix of levels of information, so that there is an overview as well more detailed information.
 - b) the consultation document has been written in such a way as to facilitate the public's understanding of the proposal (e.g. through the use of tables and diagrams).
 - c) Additional material will be available on the Council website.
- 34 The consultation document records that:
- a) the submission period will be between 28 March 2024 and 12 noon on 2 May 2024.
 - b) Hearings will be held in May 2024.

- c) a decision on whether to approve a sale of Aurora will be made after Council has heard and considered the public's feedback.

Communication and Engagement Plan

- 35 DCC staff have prepared a draft communication and engagement plan, which is attached as Attachment C.
- 36 The communication and engagement plan:
 - a) is designed to make the consultation document (i.e. the statement of proposal) as widely available as is reasonably practicable as a basis for consultation.
 - b) recognises that members of the public likely to be interested in this proposal include Dunedin residents and ratepayers, and Aurora customers in Dunedin, Queenstown Lakes and Central Otago districts.
- 37 The consultation plan therefore includes the following key elements:
 - a) Consultation document:
 - i) 7,000 copies printed as an A4 sized document, using the format illustrated in Attachment D.
 - ii) Available from libraries and council service centres in Dunedin, Queenstown Lakes, and Central Otago districts – subject to agreement with those councils.
 - iii) Distributed to cafes in the greater Dunedin area.
 - iv) Distributed to Councillors and Community Boards.
 - v) Available at drop-in sessions.
 - vi) Distributed to key city partners and stakeholder groups.
 - b) Postcards with QR code:
 - i) 63,000 copies printed.
 - ii) Mailed to Dunedin domestic households
 - iii) Available from libraries and council service centres in Dunedin, Queenstown Lakes, and Central Otago districts.
 - iv) Distributed to cafes in the greater Dunedin area.
 - v) Available at Community board meetings and other drop-in sessions.
 - c) Communication and promotion:
 - i) Media releases.
 - ii) Social media posts.

- iii) Direct communication via e-newsletters to Council databases.
- iv) DCC webpages with consultation information and frequently asked questions.
- v) QR code on printed material.
- d) Advertising (print media and online):
 - i) ODT newspaper advertisements.
 - ii) The Star newspaper advertorial.
 - iii) Southland Times newspaper advertisements.
 - iv) Central Otago News advertisements.
 - v) Social media advertisements.
 - vi) ODT banner and placement advertisements (online).
- e) Face-to-face engagement opportunities:
 - i) Drop-in sessions:
 - ii) before Community Board meetings.
 - iii) DCC's Plaza Meeting Room at scheduled times.
 - iv) Farmers Market drop-ins.
- f) Engagement with mana whenua and mātāwaka.
- g) Submission process
 - i) Online form on the DCC website.
 - ii) Hard copy form in the consultation document available at libraries and council service centres in Dunedin, Central Otago, and Queenstown Lakes.
- h) Hearings in May for submitters to present to Council.

OPTIONS

38 Given that the SCP is a statutory process, the two key options are:

- a) to adopt the statement of proposal (consultation document) and approve the communication and engagement plan.
- b) to adopt the statement of proposal (consultation document) and approve the communication and engagement plan, with amendments.

Option One – Recommended Option – Adopt the Statement of Proposal (consultation document) and approve the Communication and Engagement Plan

39 Under this option, Council would:

- a) adopt the statement of proposal (consultation document) referred to in this report.
- b) decide that a further summary document to summarise the statement of proposal is not required under section 83(1)(a)(ii) of the Local Government Act 2002.
- c) approve the communication and engagement plan referred to in this report.
- d) delegate to Council’s Chief Executive Officer the authority:
 - i) to make any amendments to the statement of proposal and/or communication and engagement plan as are requested by Council.
 - ii) to make minor editorial changes to the statement of proposal.
 - iii) to amend the communication and engagement plan if the Council’s Chief Executive Officer considers that further or different consultation would assist in the consultation process.

Advantages

- b) By proceeding to consultation, this will give the public an opportunity to consider the proposal, to make submissions and to be heard.
- c) The statement of proposal (consultation document) and communication and engagement plan comply with the statutory requirements for a SCP.

Disadvantages

- d) None identified.

Option Two – Adopt the Statement of Proposal (consultation document) and approve the Communication and Engagement Plan, with amendments

40 This is the same as Option One, but with any amendments specifically recorded in Council’s resolutions.

NEXT STEPS

41 Once the statement of proposal (consultation document) and communication and engagement plan is adopted, then:

- a) DCC staff will:
 - i) arrange for the consultation document to be printed and distributed as per the communication and engagement plan; and
 - ii) arrange all other steps set out in the communication and engagement plan.

- b) The intention is to run the Aurora consultation process concurrently with the Annual Plan 2024/25 process. However, although concurrent, they will be two separate processes.
- c) Following the close of submissions hearings will be held.
- d) A report will then be prepared summarising submissions and the feedback received from the community for Council to consider when it deliberates in public on whether it wants to approve a sale of Aurora, or not.
- e) If Council decides to approve a sale of Aurora, then at that time, Council would set a minimum price in non-public. The sale could not proceed unless the minimum price is achieved.

Signatories

Author:	Karilyn Canton - Chief In-House Legal Counsel Carolyn Allan - Chief Financial Officer
Authoriser:	Sandy Graham - Chief Executive Officer

Attachments

	Title	Page
A	Section 83, Local Government Act 2002	
B	Consultation Document 2024/25 (<i>Under Separate Cover 1</i>)	
C	Aurora Energy Proposal Communications and Engagement Plan	

SUMMARY OF CONSIDERATIONS

Fit with purpose of Local Government

This decision promotes the social, economic, environmental and cultural well-being of communities in the present and for the future. This decision also enables democratic local decision making and action by, and on behalf of communities as the proposal is subject to consultation through the special consultative procedure.

Fit with strategic framework

	Contributes	Detracts	Not applicable
Social Wellbeing Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Economic Development Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Environment Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Arts and Culture Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
3 Waters Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Spatial Plan	✓	<input type="checkbox"/>	<input type="checkbox"/>
Integrated Transport Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Parks and Recreation Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Other strategic projects/policies/plans	✓	<input type="checkbox"/>	<input type="checkbox"/>

A sale of Aurora would generate sufficient funds to allow for the repayment of Aurora's debt and a substantial diversified investment portfolio. The principal in the diversified investment fund would be protected (like with the Waipori Fund), with the income applied to things such as repayment of debt or reducing rates for example.

Māori Impact Statement

The communication and engagement plan identifies that there will be engagement with mana whenua and mātāwaka regarding the proposal.

Sustainability

Given the regulated nature of lines companies, sustainability issues are likely to be the same or similar whether Aurora is retained or sold.

LTP/Annual Plan / Financial Strategy /Infrastructure Strategy

The next Long Term Plan (the 9 Year Plan 2025-34) will be updated to reflect any decisions made by Council in regard to Aurora.

The Aurora consultation will be run alongside but separate from the Annual Plan 2024/25 process.

SUMMARY OF CONSIDERATIONS

Financial considerations

Both Aurora and Council are capital intensive.

If Council approves a sale of Aurora, then this would have a significant impact on DCC's finances and the DCC Group's finances. It would allow for the repayment of Aurora's debt (forecast to be \$576 million as at mid next year) and for the creation of a diversified investment fund worth hundreds of millions of dollars. The capital in the fund would be protected and inflation adjusted to ensure that it is an intergenerational asset, and its value is not eroded over time. The income from the fund would need to be planned for, for example to reduce debt or offset rates.

If Council does not approve a sale of Aurora, then the value in Aurora would increase over time. However, Council would need to continue to borrow to invest in Aurora's electricity network and a regular income to Council is uncertain. Income from an Aurora dividend would likely be a result of balance sheet borrowing based on the increased capital value of Aurora (i.e. it would likely be debt funded).

The cost of the consultation will be met within existing Council budgets.

Significance

Decisions regarding a potential sale of Aurora are considered high in terms of Council's Significance and Engagement Policy. Given the high significance, a special consultative procedure is being used for consultation on the proposal to sell Aurora, and to use the proceeds to repay Aurora's debt and create a diversified investment fund worth hundreds of millions of dollars.

Engagement – external

Both DCHL and DCC engaged a range of external advisors as part of the process of considering the proposal to consult on the sale of Aurora.

Engagement - internal

There has been internal engagement with the Executive Leadership Team, Finance Team, Legal Services Team, Civic Team and the Business and Community Engagement Team.

Risks: Legal / Health and Safety etc.

None identified. Council is carrying out a special consultative procedure in accordance with the Local Government Act 2002.

Conflict of Interest

There are no known conflicts of interest. The directors of DCHL have confirmed that they do not act for and will not act for any parties in connection with any future transaction, if there is one, involving the DCC Group of companies.

Community Boards

Community Boards will be given copies of the statement of proposal (consultation document) and postcards with a QR code on them. There will be face-to-face drop-in sessions before Community Board meetings.