

37. 2018/19 Capital Endowment Fund Application

Reference: 19/300581

Presenter(s): John Filsell, Head of Community Support, Governance & Partnerships

Confidentiality

Section under the Act:	The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.
Sub-clause and Reason:	s7(2)(g) - The withholding of the information is necessary to maintain legal professional privilege.
Plain English Reason:	Council will require privileged legal advice to consider this application.
Report can be released:	12 April 2019 As soon as practicable following Council's decision

1. Purpose of Report

- 1.1 The purpose of this report is for the Council to consider an application for funding from the 2018/19 Capital Endowment Fund for the Legal Services Unit of the Council to provide funds to Aotearoa Water Action (AWA).

Organisation	Project Name	Amount Requested	Amount Recommended
Legal Services Unit Christchurch City Council	Contribution to legal costs of Aotearoa Water Action	\$50,000	\$50,000
Total		\$50,000	\$50,000

2. Staff Recommendations

That:

1. If the Council resolves to provide \$50,000 toward the legal costs of the Aotearoa Water Action (AWA) in respect of judicial review proceedings in the High Court against the Environment Canterbury (ECan) resource consent decisions over Cloud Ocean Water Ltd and Rapaki Natural Resources Ltd resource consents, then Council approve that being from the 2018/19 Capital Endowment Fund and managed by the Legal Services Unit, on the conditions that:
 - a. The funds are spent solely on the legal fees incurred by AWA for the substantive hearing and dispersed solely in payment of invoices as approved by the Legal Services Unit.
 - b. Final reporting to be submitted 12 months following final instalment or at the conclusion of the project, whichever is sooner.

3. Key Points

Issue or Opportunity

- 3.1 On 12 April 2018 the Council resolved to establish criteria for distributing the proceeds of the Capital Endowment Fund (CEF) (CNCL/2018/00057). On 10 May 2018 Council resolved to

utilise all income from the CEF for three years, 2018/19 to 2020/21 (i.e. not use part of the income to inflation-protect the fund).

- 3.2 On 13 December 2018 Council established eligibility and assessment criteria for the CEF and an application process. Assessment criteria are as follows:
- 3.2.1 Evidence that the proposal is for a specific project or activity projects. Or evidence of economic or environmental benefits.
- 3.2.2 Evidence that the project demonstrates a benefit for the City of Christchurch, or its citizens, or for a community of people living in Christchurch.
- 3.2.3 Evidence that the benefits will be experienced now and in the future.
- 3.3 An opportunity has arisen to apply to the CEF to make a grant to financially contribute to the legal costs of AWA in respect of judicial review proceedings in the High Court against the Environment Canterbury (ECan) resource consent decisions over Cloud Ocean Water Ltd and Rapaki Natural Resources Ltd resource consents.

Strategic Alignment

- 3.4 The recommendations align with the Long Term Plan Activity: Strategic Planning and Policy namely the Level of Service: 17.0.1.7 Advice to Council on high priority policy and planning issues that affect the City.
- 3.5 The proposed grant covers a fixed contribution toward the legal costs of the Aotearoa Water Action (AWA) in the High Court against the Environment Canterbury (ECan) resource consent decisions over Cloud Ocean Water Ltd and Rapaki Natural Resources Ltd resource consents.

Decision Making Authority

- 3.6 Authority for making grant decisions for the CEF sits with the Council.
- 3.7 Allocations must be consistent with any policies, standards or criteria adopted by the Council.

Assessment of Significance and Engagement

- 3.8 The decisions in this report are of low significance in relation to the Christchurch City Council's Significance and Engagement Policy.
- 3.9 The level of significance was determined by the number of people affected and/or with an interest. The decision required in this report is whether Council should make a grant from a funding scheme via an eligible application. It is distinct from Council's decision on whether Council should contribute to legal proceedings. This decision is informed by a report prepared by the Legal Services Unit on this issue.
- 3.10 Due to the assessment of low significance, no further community engagement and consultation is required.

Balance of the Capital Endowment Fund Available for Allocation

- 3.11 At the time of writing, the balance of the 2018/19 CEF is as below.

Available for allocation	Balance if staff recommendation adopted
\$345,288	\$295,288

- 3.12 Based on the current Council approved CEF criteria, applications of this type are eligible for funding through the CEF. The attached decision matrix provides information on the application. This includes organisational details, project details, financial information and a staff assessment.

- 3.13 There is currently a balance of \$345,288 remaining in the 2018/19 CEF. Should the application be approved by the Council \$295,288 would remain in the 2018/19 budget. This will be carried forward to the 2019/20 financial year, assuming no further allocations this financial year.
- 3.14 This will be the final scheduled application for the 2018/19 CEF. The next scheduled round of applications will be considered by Council in June 2019. Approximately \$1,433,000 will be available for allocation, mainly in the Civic and community category of the fund, at this time for the 2019/2020 financial year.


Alternative Funding

- 3.15 Council's Finance and Commercial Group have confirmed there is no operational budget set aside for the purpose of this application.
- 3.16 There are insufficient funds remaining in the 2018/2019 Discretionary Response Fund to cover this application.
- 3.17 Staff advise this application is ineligible for the Community Resilience and Partnership Fund as it does not meet the eligibility criteria. The Community Resilience Partnership Fund was established in 2017 in partnership with the Ministry of Health. The contract identifies the purpose of the fund as supporting projects that strengthen communities by increasing community participation, connectedness and resilience. The intention is that the fund will focus on innovative projects that will make a measurable difference within communities.

Legal Considerations

- 3.18 Staff advise Council to consider the information contained in the accompanying report "Involvement in Aotearoa Water Action Judicial Review" prior to considering this application to the CEF.
- 3.19 Staff recommend that the Council consider the merits and the gain or outcome that will be achieved for the community from the AWA judicial review proceedings.
- 3.20 The technical and strategic planning advice that is referred to in the legal advice suggests that there is no significant risk arising for the Council's interests or the community's interests if the AWA judicial review claim does not succeed.
- 3.21 This report has been reviewed by Council's Legal Services Unit. The Legal Services Unit have also confirmed that applications of this type are eligible for funding through the CEF.

Attachments

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Confirmation of Statutory Compliance

Compliance with Statutory Decision-making Requirements (ss 76 - 81 Local Government Act 2002).

(a) This report contains:

- (i) sufficient information about all reasonably practicable options identified and assessed in terms of their advantages and disadvantages; and
- (ii) adequate consideration of the views and preferences of affected and interested persons bearing in mind any proposed or previous community engagement.

(b) The information reflects the level of significance of the matters covered by the report, as determined in accordance with the Council's significance and engagement policy.

Signatories

Author	John Filsell - Head of Community Support, Governance and Partnerships
Approved By	John Filsell - Head of Community Support, Governance and Partnerships Mary Richardson - General Manager Citizen and Community

CEF DECISION MATRIX V1

Lead Unit	Project Details	Project Funding	Staff Recommendation
Legal Services Unit	The legal proceedings are in the High Court at Christchurch. AWA has engaged a senior counsel, Pru Stevens QC. AWA will be funding the balance of her legal fees.	Total Project cost Unknown	If the Council resolves to provide \$50,000 toward the legal costs of the Aotearoa Water Action (AWA) in respect of judicial review proceedings in the High Court against the Environment Canterbury (ECan) resource consent decisions over Cloud Ocean Water Ltd and Rapaki Natural Resources Ltd resource consents, then <ul style="list-style-type: none">Staff recommend Council approve a grant of \$50,000 from the 2018/19 Capital Endowment Fund, managed by the Legal Services Unit, to fund this, on the conditions that:<ul style="list-style-type: none">The funds are spent solely on the legal fees for approved legal services for the substantive hearing and dispersed solely in payment of invoices as approved by the Legal Services Unit.Final reporting to be submitted 12 months following final instalment or at the conclusion of the project, whichever is sooner.
Project Brief	A Council contribution of up to \$50,000 would be spent in payment of her invoices.	Amount requested from CEF \$50,000	
The project covers a fixed contribution toward the legal costs of the Aotearoa Water Action (AWA) judicial review proceedings in the High Court against the Environment Canterbury (ECan) decisions over Cloud Ocean Water Ltd and Rapaki Natural Resources Ltd resource consents.	Outcomes If the legal challenge to the ECan decision making process for these transfers of resource consents is successful, new water bottling activities will not be able to rely on transfers of existing resource consents for the use of water. They would have a harder consenting pathway of seeking a new resource consent.	Contribution sought towards A contribution to Legal fees Other sources of funding AWA fund the balance of the legal costs. Ongoing operational expenses There are no identified future operational costs to Council because this application proposes that Council makes a fixed contribution to AWA to contribute to their legal costs.	

Organisation Details:	Project Alignment (Please read this in conjunction with the Council report)	Staff Comments
Name: Aotearoa Water Action Location: Christchurch, c/- Peter Richardson, Linwood Law. Legal Status: Not for profit community group Organisation Description “Aotearoa Water Action is committed to empowering people and communities to take effective action to protect water. Our focus is on legal empowerment: helping people to understand, use and shape statutory plans and resource management law” (from: Facebook page)	Alignment with Council Strategies Does this support a level of service in the LTP, include name of level of service: This supports Activity: Strategic Planning and Policy namely the Level of Service: 17.0.1.7 Advice to Council on high priority policy and planning issues that affect the City. Category of Capital Endowment Fund <ul style="list-style-type: none">Innovation, Economic and Environmental Category Alignment with Capital Endowment Fund <u>Evidence of environmental benefits:</u> ... This will allow Council to contribute to resolving a legal dispute concerning an important community issue that may have ongoing implications. If the legal challenge to the ECan decision making process for these transfers of resource consents is successful, new water bottling activities will not be able to rely on transfers of existing resource consents for the use of water. <u>Evidence that the benefits will be for the people of Christchurch:</u> It is not known whether the AWA fund raising is able to raise the funds needed to cover legal fees to continue with its claim. It is understood that this funding will enable it to do so. The activity concerned is within Christchurch City Boundaries. <u>Evidence benefits experienced now and into the future:</u> ...The legal services to be funded are on a matter of considerable, widespread and immediate community interest and, if the claim is successful, may change the approach to the issue now and into the future until ECan changes its Land and Water Regional Plan. Advantages/ benefits? This will allow Council to contribute to resolving a legal dispute concerning an important community issue that may have ongoing implications. Disadvantages Council may have higher priorities for the fund and some may feel that the provision of legal services to another parties' High Court claim is not sufficiently tangible to constitute a priority use of the fund. Risks Risks concerning supporting the legal costs of the Aotearoa Water Action and the results of this are covered in the Council report prepared by the Legal Services Unit on this issue. A risk that there may be additional ongoing costs is mitigated because this application, and the recommendation proposed that Council makes a fixed contribution to AWA to contribute to their legal costs.	Specialists Consulted Finance – Finance team have been consulted and confirm sufficient funds available in the CEF and that there is no other funding source available. Legal – Legal Services unit have been consulted and have reviewed this matrix and the accompanying report. Community Support Governance and Partnerships Unit have been consulted and have advised on and processed this CEF application Specialist Comments (if applicable) Legally privileged advice is provided in a public excluded agenda item for this Council meeting. Officer Comments The decision considered in this matrix is whether Council should make a grant from a funding scheme via an eligible application. It is distinct from Council's decision on whether Council should contribute to in legal proceedings. Please read the Council report prepared by the Legal Services Unit on this issue.

Report from Finance and Performance Committee of the Whole – 4 April 2019

32. Facilities Maintenance Contract Options

Reference: 19/381971

Presenter(s): Bruce Rendall – Head of Facilities, Property and Planning

Confidentiality

Section under the Act:	The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.
Sub-clause and Reason:	s7(2)(g) - The withholding of the information is necessary to maintain legal professional privilege. s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).
Plain English Reason:	The withholding of the information is necessary to conduct contract negotiations and maintain legal professional privilege.
Report can be released:	When the Chief Executive determines there are no longer any reasons to withhold the information under the Act.

1. Finance and Performance Committee of the Whole Recommendation to Council

Original Staff Recommendation Accepted Without Change

That the Council:

1. Note a preference to proceed to market for the long term delivery of facilities maintenance services.
2. Note that there are some risk with proceeding to market at this time.
3. Approve the direct negotiation with City Care Limited of a new 2 year plus 1 head contract for Facilities Maintenance Services.
4. Note that the results of the negotiation will be reported back to the Finance and Performance Committee of the Whole.
5. Direct staff to proceed to publicly tender the long term delivery of facilities maintenance services by 1 August 2021.
6. Agrees the report can be released when the Chief Executive determines there are no longer any reasons to withhold the information under the Act.

Public Excluded Item 32

Attachments

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Public Excluded Item 32

Facilities Maintenance Contract Options

Reference: 19/241320

Presenter(s): Bruce Rendall - Head of Facilities , Property and Planning

Confidentiality

Section under the Act:	The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.
Sub-clause and Reason:	s7(2)(g) - The withholding of the information is necessary to maintain legal professional privilege. s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).
Plain English Reason:	The withholding of the information is necessary to conduct contract negotiations and maintain legal professional privilege.
Report can be released:	When the Chief Executive determines there are no longer any reasons to withhold the information under the Act.

1. Purpose of Report

- 1.1 The purpose of this report is provide background information and options for the next iteration of the Facilities Maintenance Contract.

2. Executive Summary

- 2.1 The main contract for the delivery of Council's facilities maintenance is due to expire in June 2019.
- 2.2 Council's preference is to proceed to market for a long term contract for the delivery of these services.
- 2.3 At present Council lacks sufficient data about its assets to proceed to tender for a fair market testing process or to achieve optimal outcomes.
- 2.4 Additionally Council has recently completed a review of its technical specifications. These specifications set out what needs to be done and the standards that Council expects. As these new specifications have not yet been tested there is risk in proceeding to a long term arrangement at this time.
- 2.5 Rather than risk an unfair market testing process, officers are proposing a short term (2 year plus 1) negotiated contract, which allows time to collect sufficient asset information and to test the new specifications. Checks and balances would be put in place to ensure that Council can demonstrate value for money.
- 2.6 Council would proceed to market during this period for a long term (up to 10 year) contract.
- 2.7 This approach complies with Council's legal advice.

3. Staff Recommendations

That the Finance and Performance Committee of the Whole:

1. Note a preference to proceed to market for the long term delivery of facilities maintenance services.
2. Note that there are some risk with proceeding to market at this time.
3. Approve the direct negotiation with City Care Limited of a new 2 year plus 1 head contract for Facilities Maintenance Services.
4. Note that the results of the negotiation will be reported back to the Finance and Performance Committee of the Whole.
5. Direct staff to proceed to publically tender the long term delivery of facilities maintenance services by 1 August 2021.

4. Context/Background

Issue or Opportunity

- 4.1 Council's facilities maintenance services are delivered by through a suite of outsourced contracts, and in house planning and contract management.
- 4.2 The main delivery contract is a head contract for reactive and scheduled services, with opportunities for planned works, and is currently held by City Care Limited (CCL). The contract covers carpentry, plumbing, electrical, mechanical, glazing, painting, grounds maintenance, toilet cleaning, HVAC and other services.
- 4.3 Council entered into this contract by direct negotiation in 2009 for an initial term of five years with five 12-month Service Period extensions at the Council's sole discretion (maximum term of 10 years).
- 4.4 The contract currently is worth approx. \$10 million per annum. The actual spend varies from year to year because it is made up of a mixture of lump sum, rates and quoted expenditure. Lump sum expenditure refers to a single agreed price for known scope and volume of works (e.g. Council pays \$x per annum for a scheduled biweekly toilet cleaning). Schedule of rates expenditure occurs when there is an agreed rate per item, but the volume may vary (e.g. Council pays \$y for any ordered extra toilet cleans. The number of extra cleans is variable and Council only pays for the number it orders). Quoted expenditure refers to the situation where there is no agreed price and the client requests a quote for a service (e.g. Council seeks a price from the contractor to alter walls within a building).
- 4.5 The final Service Period will expire 30 June 2019. There are no further Service Period extensions available to the Council.
- 4.6 A decision is required on the preferred future service delivery form.
- 4.7 This decision needs to be made in the context of broader service delivery changes across Council's other maintenance contracts (particularly for parks maintenance), new asset driven reviews of Council's building portfolio, and significant systems improvement projects for customer service and asset management.

Strategic Alignment

- 4.8 Facilities maintenance supports the delivery of the Council's Community Outcomes both directly and through supporting services delivered with the facilities. Examples are shown in Table 1.

Table 1 Facilities Maintenance Alignment with Community Outcomes

<p>Strong Communities</p> <p>Directly contributes to:</p> <ul style="list-style-type: none"> • Safe and healthy communities (ensuring “Community facilities and public places are safe, healthy, and welcoming) • Celebration of our identity through arts, culture, heritage and sport (ensuring the city’s heritage and taonga are conserved for future generations) <p>Supports:</p> <ul style="list-style-type: none"> • Strong sense of community (maintenance of facilities used to deliver services) • Active participation in civic life (maintenance of facilities used by the community; involvement in community facility maintenance) 	<p>Liveable City</p> <p>Directly contributes to:</p> <ul style="list-style-type: none"> • 21st century garden city we are proud to live in (maintenance of facilities that residents are proud of) <p>Supports:</p> <ul style="list-style-type: none"> • Vibrant and thriving central city, suburban and rural centres (maintenance of facilities used to deliver services) • A well connected and accessible city (maintenance of facilities used for transport services) • Sufficient supply of, and access to, a range of housing (maintenance of Council’s social housing)
<p>Healthy Environment</p> <p>Directly contributes to:</p> <ul style="list-style-type: none"> • Sustainable use of resources (Delivery of energy and water efficiency improvements through maintenance activities) 	<p>Prosperous Economy</p> <p>Directly contributes to:</p> <ul style="list-style-type: none"> • Modern and robust city infrastructure and facilities network (facility maintenance contributes to resilient infrastructure and minimise disruption to service)

4.9 Facilities maintenance is also influenced by the plans and objectives for each of the services that use buildings. These include:

- Recreation and Sport facilities;
- Christchurch Art Gallery and associated culture facilities;
- Libraries;
- Te Hononga / Christchurch Civic Building and other corporate facilities;
- Social Housing (long term maintenance);
- Transport related buildings such as bus exchanges and multi-level car parks (excluding bus shelters)
- Community halls, volunteer libraries, and other community facilities; and
- Parks and heritage buildings.

- 4.10 There are several categories of buildings not maintained under Council's facilities maintenance contract. These are:
- Three Waters facilities including pump stations and treatment plants;
 - V-base owned facilities including Horncastle Arena, Hagley Oval and the Christchurch Town Hall; and
 - Bus shelters.
- 4.11 This report supports the Council's Long Term Plan (2018 - 2028):
- 4.11.1 Activity: Facilities, Property & Planning
- Level of Service: 13.4.28.1 Safe, compliant buildings - 1

Decision Making Authority

- 4.12 The work undertaken to prepare this report is similar to service delivery reviews under Section 17a of the Local Government Act 2002. The authority to consider these reviews sits with Finance and Performance - Committee of the Whole.
- 4.13 If the recommended option is adopted, the final decision to enter into a contract sits with the Council.

Assessment of Significance and Engagement

- 4.14 The decision in this report is of low to medium significance in relation to the Christchurch City Council's Significance and Engagement Policy.
- 4.15 The level of significance reflects that while a limited group of people are affected by the decision, some of these may be affected significantly. The specific affected group includes City Care workers, and other facilitates maintenance contractors who may wish to tender for this contract. There are also tolerable and manageable risks associated with the decision.
- 4.16 Apart from these two factors the decision is of low significance.
- 4.17 No consultation is considered necessary for this decision as the views and preferences of the community and effected party can reasonably be predicted. The services relate to Council facilities which means that they are inward facing services and as long as the public is receiving value for money, consultation is not required.

Background

- 4.18 Staff have been working on arrangements for new service delivery models for some time. Significant work has been undertaken both to identify and implement improvements.
- 4.19 Work streams related to contract renewal include:
- 4.19.1 Improving asset information through the Facilities Better Business Management project;
- 4.19.2 Reviewing and improving technical specifications;
- 4.19.3 Developing performance frameworks; and
- 4.19.4 Improving understanding of current commercial arrangements (and renegotiating these were necessary).
- 4.20 As has previously been reported to the Finance and Performance Committee, facilities asset information is incomplete, inaccurate and not to an appropriate level for management. Condition data is minimal. Improvements are underway, with the first stage, defining what information is required, changing the asset information system to be able to store the data, and development of data collection tools complete. Cleansing of existing data and collection

of onsite information to validate existing and “fill in the gaps” is underway. Using current resources, it is expected that it will take between 18 months and two years to develop an acceptable asset inventory. While this can be accelerated with additional resources, any additional resources are better directed at “looking after” the facilities.

- 4.21 Technical specifications are the requirements for specific tasks undertaken under the contract. Well written specifications provide certainty about what is required and the standard expected. The right level of detail in a technical specification means that activities can be compared and benchmarked, assisting in determining value for money. Pitched at the appropriate level, technical specifications allow clients to understand what they get for their money, while also providing opportunities for contractors to innovate and differentiate.
- 4.21.1 Past practice has been to have high level, input / frequency based technical specifications. We generally have not identified detailed specific requirements, relying on our contractor to do this as they have the technical knowledge of what is required. In some cases, the contractor also does not have detailed specifications, relying on custom and practice to determine what work is done. This has reduced the ability for Council to determine if it is getting value for money.
- 4.21.2 Additionally Council has adopted a practice of specifying different standards at different facilities. Overtime this lead to the development of 200 unique scheduled maintenance plans. There are more efficient means to specify tasks and this approach also reduces Council’s ability to benchmark.
- 4.21.3 Over the last twelve months Council has worked with its contractor, as well as conducting a market scan of other arrangements, to document more detailed specifications and this work is nearing completion. We have yet to test the new specifications and see how they work in practice.
- 4.22 The existing contract lacked usable and effective performance measures until 2016. Since then new performance measures have been introduced to address the gap between perception and measurable performance. To date the full benefits of this improved performance management framework has not been realised because of the other issues within the contract documentation. Contract auditing has been started but is still in its infancy.
- 4.23 Council has arranged an independent value for money assessment for the contract.
- 4.23.1 Current reactive maintenance rates are generally within the expected market price range, with a few exceptions (both below and above the acceptable market range).
- 4.23.2 It has not been possible to determine if scheduled maintenance activities offer value for money due to the lack of task definition in the technical specifications. Essentially, the lack of detail in the current technical specification means that it is not possible to compare expenditure with external benchmarks.
- 4.23.3 Fixed overheads are higher than would be expected, reflecting a significant amount of City Care’s corporate resource committed to this contract.
- 4.23.4 Overall, while the contract works and we can show value for money in some areas, there are significant improvements required.
- 4.24 The contract improvement work has been undertaken in parallel with corporate initiatives that impact on service delivery such as the My Council customer request system, and

legislative compliance programmes for asbestos and hazardous substances management. These projects all have an impact on the scope and requirements of the Facilities Maintenance Contract.

- 4.25 An emerging piece of work that also impacts on tendering decisions is an emerging corporate focus on service delivery models. Facilities Management are currently in discussion with Parks about:

4.25.1 The inclusion of facilities maintenance services in a different service delivery model for Banks Peninsula. All likely options see the removal of tasks, sites and approximately \$300,000 per annum value from the scope of the Facilities Maintenance contract from July 2019; and

4.25.2 The transfer of grounds maintenance tasks such as mowing, garden bed maintenance and tree care, worth approx. \$700,000 per annum, from the Facilities Maintenance Contract to Parks contracts in July 2020.

- 4.26 A future piece of work will consider whether other functions, such as the Brighton pier cleaning and litter bin emptying, can be delivered in a different way.
- 4.27 Finally, Council's portfolio is changing as earthquake recovery projects complete and institutional arrangements are reviewed. This creates uncertainty about which facilities will be included in the scope of the overall contract and when. The impact of these changes is that the scope and scale of the Facilities Maintenance Contract is uncertain, particularly over the next two to three years.
- 4.28 Council needs to determine its future service delivery strategy, in an environment where it does not have sufficient asset information, has untested technical specifications, and has an uncertain scope of services. Any changes will need to ensure continuity of service delivery, maintain quality and deliver value for money. This paper will address preferred means of doing this both in the short and long term.
- 4.29 For the sake of completeness, recent improvement actions relating to the existing contract include:
- 4.29.1 Renegotiated performance framework, including new KPIs and financial savings of \$100k pa;
- 4.29.2 Implemented measures to control "unapproved variations," previously running at \$60k pa;
- 4.29.3 Benchmarking to test the competitiveness and value for money of contract rates;
- 4.29.4 A redefined price list with better alignment of risk leading to cost avoidance (particularly where there were uncertainty about the application of overheads on some rates);
- 4.29.5 A joint improvement programme building on an initial joint workshop with several follow up projects.

Long Term Vision

- 4.30 In the long term a service delivery model it is considered likely that a service delivery model will display the following characteristics:
- 4.30.1 A publically tendered, long term head contract with some asset management responsibilities, covering all trades and allowing for innovation. Service delivery will be flexible, allowing for responses to emerging needs. The

contractor will produce quality outcomes in a timely manner. Success will be measured in terms of cost, quality and community outcomes.

4.30.2 The contract will balance preventative (planned and scheduled) with reactive works to cost effectively achieve Council's facilities and service needs. Contract documentation will be based on comprehensive, accurate and up to date asset information and clearly specify Council's technical requirements. Planned works will be contestable. The contract will be clear and easy to use, with relevant measurable performance indicators. Efficient contract management measures will be in place.

4.31 The breakdown of this vision is:

4.31.1 **Publically tendered:** Open and effective competition maximises the prospect of the Council obtaining the best procurement outcome. Having a public tendering process does not preclude an in-house team making a bid, should the Council decide to in-source any services. For facilities, any in-house bid is likely to be a hybrid model due to the diversity of different trades required. A hybrid model would see an in-house team with some trades (e.g. handyman, electrical, plumbing and painting) and some specialist subcontractors (e.g. lift maintenance, HVAC).

4.31.2 **Long term:** A long term contract is likely to lead to the contractor making better investment decisions for equipment and training. If the contractor can see advantages, this can also allow for innovations such as early delivery of improvements (e.g. energy efficiency investment), with payment amortised over the life of the contract;

4.31.3 **Head contracts:** the head contractor is responsible for the day to day operational coordination and management of the service sub-contractors, rather than Council as client.

4.31.4 **Asset management responsibilities:** The contractor will be given responsibilities to manage some plant or building components so that it is "returned" to Council in the same or better condition at the end of the contract. This will be funded as a lump sum, and Council will not need to separately budget for renewals.

4.31.5 **Balance preventative and reactive works:** Preventative maintenance is maintenance that is regularly performed on a facility or piece of equipment to lessen the likelihood of it failing. It is performed while the facility or equipment is still working so that it does not break down unexpectedly. Reactive maintenance is repairs done when a component or equipment has already failed. Its focus is on restoring the equipment to its normal operating condition. A maintenance strategy that overly relies on reactive maintenance might have lower costs in the short run, particularly if required maintenance is deferred (e.g. painting) but is likely to be more expensive in the long term due to shortened asset lives and service delivery disruptions (e.g. run to failure for air conditioning plant). A maintenance strategy that overly focus on preventative maintenance is also likely to be expensive, with repairs and works carried out whether or not they are needed (e.g. scheduled gutter cleaning without analysis of blockage sources).

4.32 At the current time the officer's assessment is that it is risky to proceed to market to achieve this long term vision. The risks are:

- 4.32.1 The incomplete asset information is likely to lead to price uncertainty, which will most likely result in premiums, and heightened possibility of dispute. For example, we might want to seek a lump sum price for gutter cleaning across several hundred buildings. At present we can't specify how many lineal metres of guttering we have and whether it is at one or two storeys. A tenderer would estimate the likely cost, but then a premium to cover any risk that they had underestimated the extent.
- 4.32.2 The lack of information also advantages the incumbent, who has a better understanding of the assets and requirements. This results in an unfair advantage for the incumbent.
- 4.32.3 Should market testing result in a new contractor, then a new working relationship will be required. If there was a comprehensive asset information and proven contract management regime, including documentation, this would be to a tolerable risk. In the absence of these factors there is a strong chance of non-performance and contract dispute.
- 4.32.4 The proposed technical specifications are untested. Any problems are likely to result in non-performance, impacting on facility users.
- 4.32.5 The scope of the contract will change over the life of the contract as new buildings are added. Many of the additional buildings are large and will have significant servicing and maintenance costs.
- 4.33 Based on all these factors, officers have formed the view that the best course of action is to implement a short term arrangement, which allows testing of revised contract documentation, continue the asset and condition data collection, and develop a long term package for public tender within three years.

5. Options Analysis

Options Considered

- 5.1 The following reasonably practicable options were considered and are assessed in this report:
- **Go to market** for a short term (up to 3 year) head contract and go to market for a long term (up to 10 year) contract during this period.
 - **Extend the existing contract** for one year and go to market for a long term (up to 10 year) contract during this period.
 - **Directly negotiate** a new 2 year plus 1 head contract and go to market for a long term (up to 10 year) contract during this period.
- 5.2 The following options were considered but ruled out:
- Set up an in house team - this option was ruled out as the capital and immediate costs are not included in the Long Term Plan and there are budgetary implementation issues. This may be a long term option.
 - Go to market for short term (3 – 5 years) trade panels - Council currently operate a head contract model (described above). Under a trade panel arrangement, Council undertakes the scoping, scheduling and prioritisation of the maintenance spend. It also oversees and manages individual jobs and the contract performance. With this form of contracting, Council bears all cost risk with increased uncertainty about future maintenance costs. This approach can be administratively burdensome and usually requires an increased number of internal contract administrators and supervisors. Given the disadvantages of this type of arrangement, officers assessed it as unsuitable for a short term arrangement.
 - Go to market for a long term (7 – 10 years) arrangement – The lack of portfolio and asset condition information, and the untested nature of the technical specifications, means that this is a high risk scenario. These risks are likely to manifest themselves through price premiums and disputes. Adequate up front information, which is being gathered but is not yet complete, will ensure that this risk is managed.

Options Descriptions

- 5.3 **Preferred Option: Directly negotiate** a new 2 year plus 1 head contract and go to market for a long term (up to 10 year) contract during this period.

5.3.1 **Option Description:** Rather than going to market for a long-term contract, Council would directly negotiate a contract with City Care. The key characteristics of this contract would be:

- A short-term (2 year plus 1), “back to basics” contract on the same form as the existing contract.
- The contract terms will be simplified to remove bespoke conditions that have added complexity and cost for little benefit.
- Council will carry the bulk of the risk. The current contract allows for risk sharing, but in practice, due to the lack of asset information and poorly defined specifications, Council bears this risk already.
- The scope will be reduced to reflect actual practice (i.e. use for reactive and scheduled maintenance activities and minor planned works only).
- There will be the opportunity to provide planned works either through direct task order or as part of an invited tender process.

- The contract scope will incorporate the principles and outcomes contained in the Council's Procurement Policy and Strategic Framework. Examples include:
 - Requirements for open, competitive procurement of subcontractors were possible;
 - Advantages of local procurement recognised and included in decision making;
 - Environmental enhancement practices such as minimum acceptable efficiency standards for replacements fittings; and
 - Exploration of the possibility of working with social enterprises for appropriate tasks (e.g. some cleaning tasks).
- The contract scope will include requirements for collecting asset and condition data collection for specialist plant and equipment (e.g. HVAC). Council will continue this work for other facility components in parallel.
- The new contract would require open book negotiation, with independent value for money benchmarking by a reputable quantity surveyor.

5.3.2 Option Advantages

- Ensures service delivery continuity.
- Allows for time for Council to continue and complete capturing information about its assets.
- Allows for testing of technical specifications over a short term.
- Provides opportunities to improve transparency of pricing and seek better value for money.
- Provides a pathway towards a fair market engagement process.

5.3.3 Option Disadvantages

- Lack of market testing can potentially lead to perceptions that Council is not achieving value for money.
- Lack of market testing could potentially be perceived as favouritism towards Citycare.

5.4 Extend the existing contract

5.4.1 **Option Description:** Extend the existing contract for one year and go to market for a long term (up to 10 year) contract during this period.

- This option would involve negotiating a one year extension to the existing contract and going to market during this period.

5.4.2 Option Advantages

- Ensures service delivery continuity.
- Allows for time for Council to continue and complete capturing information about its assets.
- Provides opportunities to improve transparency of pricing and seek better value for money.

5.4.3 Option Disadvantages

- Lack of market testing can potentially lead to perceptions that Council is not achieving value for money.
- Lack of market testing could potentially be perceived as favouritism towards Citycare.
- There is no chance to test the technical specifications over a short term.
- Legal advice is that extending the contract is not appropriate.

5.5 Go to market

5.5.1 **Option Description:** Go to market for a short term (3 year) head contract and prepare to go to market for a long term (up to 10 year) contract within the contract period.

5.5.2 Option Advantages

- Allows for open competition.

5.5.3 Option Disadvantages

- Council has insufficient information to allow for a fair market testing. The incumbent has knowledge that is not available to competitors and will have an unfair advantage.
- This option could result in risk pricing and price premiums.
- This would not be a true price discovery exercise given the limitations on information.

Analysis Criteria

5.6 The four criteria used to assess the options are:

5.6.1 Continuity of service: breakages need to be fixed and plant serviced to insure that services can be delivered and building remain safe and compliant.

5.6.2 Value for money: The preferred option needs to be able to demonstrate value for money for ratepayers and citizens of Christchurch.

5.6.3 Quality of service: The quality of repairs and maintenance is important to ensure that users still want to use Council facilities.

5.6.4 Ability to achieve Council's strategic objectives.

Options Considerations

5.7 Council has a need to have ongoing facilities maintenance arrangements. Officers have identified an ongoing vision for the delivery of these services but the preconditions to the implementation of this vision have not yet been met to a sufficient level. Additionally work is underway corporately to investigate different ways of delivering services. This work is continuing, but creates uncertainty for the development of the facilities maintenance contract.

5.8 Given this context, an interim arrangement is required.

5.9 Three feasible interim options have been considered. Of these the option of negotiating a short term new contract is preferred because it allows for continuity of service, assurance on value for money issues, meets quality standards and helps Council achieve its strategic objectives.

5.9.1 A negotiated contract will not result in any disruption to service delivery.

- 5.9.2 The proposed process for negotiating a new short term contract contains mechanisms to provide assurance around value for money including independent bench marking and open book negotiation. While it is recognised that market testing is potentially a better mechanism to provide assurance on value for money, given the current state of asset information and documentation this approach is considered the best tolerable alternative.
- 5.9.3 Council currently has no significant concerns about the quality and performance of the incumbent provider. This is reflected in the quarterly satisfaction surveys undertaken as part of the contract management measures. While there are no significant concerns, there are always quality improvements required, with an emerging focus on one visit fixes.
- 5.9.1 The incumbent is able to assist in meeting the Council's strategic objectives. They have implemented a citizen engagement scheme called Community Guardians and working with staff to implement this within the scope of the contract. The new contract will include requirements related to sustainability, training and local procurement.
- 5.10 The preferred option is only proposed because of the specific circumstances Council faces. Proactive steps have been taken to address these (e.g. FBBM project), however, the scale of the project (i.e. the collection of detailed asset information for 2000 plus structures) mean that we have not been able to achieve an acceptable position in time to sensibly and fairly go to market.
- 5.11 The option of a public tender for a short term contract has been considered, and would be the next best alternative to the preferred option.
- 5.11.1 There is a risk of service disruption should a new provider win this contract. A new provider will take time to familiarise themselves with sites and components, and set up and integrate systems. Disruption is normal on a new contract, however, with a new tender planned within three years, the expense and impact is not justified.
- 5.11.2 This option could potentially result in costs savings, due to the impact of competitive tension. The lack of asset information, however, means that there is fairness risk. The incumbent has an understanding of Council's portfolio asset that is not able to be shared with other tenderers at this time. This gives them an unfair advantage when pricing. Other tenderers are likely to build in a price premium to help manage the uncertainty created by the lack of asset information, putting them at a disadvantage.
- 5.11.3 The impact of a new provider on quality of service is not known. With an incumbent, the quality of service is known. Despite reference checks and examination of track record, the performance of a new contractor is often not known for some time. Such uncertainty is not justified for a short term contract.
- 5.11.4 As proposals and requirements for meeting Council's strategic objectives are built into the tender and contract documents, any new supplier is likely to be able to demonstrate that they could meet these requirements.
- 5.11.5 A three to six month extension to the existing contract would be required to provide sufficient time to go to market.
- 5.12 The option of negotiating an extension to the contract has been considered but is not recommended as it does not allow for resolution of issues associated with the current contract documentation.

6. Community Views and Preferences

- 6.1 There are three subsets of the community that have been considered. These are general public, facility users and the contractor market generally.
- 6.2 The general public is likely to be most concerned about value for money. This view is relevant to the decision before Council, with the recommended option containing mechanisms to provide assurance.
- 6.3 Subsets of the general public will also have views about City Care, ranging from “it should be brought back in house as a works department” to “it should be sold and Council should not be in the business of contracting.” These views are not relevant to the decision at hand.
- 6.4 Facility users will be concerned about value for money, quality and customer service. Each of these matter is addressed in the recommended option.
- 6.5 The contractor market is the group most affected by this decision. The size of this group is small, with a limited number of companies able to deliver a contract of this size (There is a wider group of subcontractors who can provide part of the service). Given the Auckland City Council’s experience it is possible that a long term contract would attract new entrants to the market (e.g. Australian companies).
- 6.6 The contractor market is likely to be concerned about the preferred option and interpret it as favouritism towards City Care. This perception can be partially addressed by transparency about Council’s reasons and intentions.

7. Legal Implications

- 7.1 The report has a legal context, issue or implication relevant to this decision.
- 7.2 This report has been reviewed and approved by the Legal Services Unit.
- 7.3 The legal consideration is that the decision to enter into negotiations has legal and best practice ramifications.
- 7.4 Officers have sought legal advice on the options, with a focus on testing the legality and compliance with policy of the preferred option. A copy of this advice is included as Attachment A.
- 7.5 Officer’s interpretation of this advice is that a two stage solution with a number of checks and balances complies with relevant legislative and policy considerations. The two stage solution involves a short term negotiated contract, with a publically tendered long term contract. The preferred option meets this requirements.
- 7.6 The advice also recommends that a series of checks and balances be put in place. These are:
 - 7.6.1 A new contract;
 - 7.6.2 A short term contract;
 - 7.6.3 Open book negotiations and price benchmarking;
 - 7.6.4 Monitoring and enforcement; and
 - 7.6.5 Open, transparent and democratically accountable.
- 7.7 A new contract is proposed, containing the requirements mentioned in the advice. Other changes will be made to the contract documentation with a focus on simplifying processes. For instance, the annual price resetting process is complex, time consuming and inefficient. A simplified process is proposed which will reduce conflict and the time required to make inflation adjustments. The new contract will require the contractor to collect information on

behalf of Council, particularly for specialist items of plant where Council does not have day to day expertise. Council will also collect information using this period.

- 7.8 The preferred option is for a short term of three years. It is estimated that it will take two years to collect adequate information to guide the development of a long term contract. Tendering, negotiation and decision making would take a further six months. If a new contractor was to win the work then they would require four to six months to set up and transition. Contractor task in transition phase include recruitment, equipment purchase, subcontractor services procurement, and system development (e.g. B2B system for invoicing and asset information sharing). Adopting a 2 year plus 1 term allows Council to go to market earlier if sufficient information is collected.
- 7.9 The preferred option involves open book negotiations and price benchmarking. Council has already used an independent quantity surveyor to benchmark contract rates. Benchmarking has advantages both for Council and the contractor, allowing both to show the prices are within industry benchmarks when measured on a similar basis. With development of improved technical specifications this coverage can be extended to include those tasks that cannot be benchmarked at present.
- 7.10 Monitoring and enforcement mechanism will be built in to the new contract through a KPI framework. The intent would be to extend the KPI framework to include timeliness measures and allow for penalties for non-performance.
- 7.11 Staff will assess the feasibility of an independent quality assurance process being developed and implemented. This is not funded at present.
- 7.12 To ensure that decision-making is open and transparent, this report is being presented in open Council. Consultation is not seen as necessary for the short term decision.

8. Risks

- 8.1 There are risks for all options. These have been addressed elsewhere in the report.
- 8.2 The main risk that Council faces with the substantive decision is that Council is found to make an ultra vires decision, which renders a negotiated contract null.
- 8.3 This risk is rated low due to the controls in place. These controls are described in more detail in the Legal section.

9. Next Steps

- 9.1 If the recommended option is approved, then officers would commence negotiations with City Care immediately.
- 9.2 It is anticipated that negotiations would take two months. Once negotiations were complete, officers would report back to Council, through the Finance and Performance – Committee of the Whole.

10. Options Matrix

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Issue Specific Criteria				
Criteria		Option 1 - Directly negotiate	Option 2 - Extend the existing contract	Option 3 - Go to market
Financial Implications	Cost to Implement	Low (<\$50,000) – legal and independent quantity surveyor costs.	Low (<\$50,000) legal and independent quantity surveyor costs.	Medium (\$50,000 to \$150,000) – legal and independent quantity surveyor costs; if a new contractor wins the contract there is potential for ongoing legal costs post award given the incomplete asset information and untested technical specifications. Potential IT costs for changes to B2B systems (quantum not assessed).
	Maintenance/Ongoing	Potentially lowest as the incumbent has good knowledge of the portfolio and asset condition. Use of independent benchmarking and an open book approach provides some assurance that Council will get value for money. Expectation that the fixed overhead can be reduced (savings required to fund specialist asset information collection). Changes to the contract conditions create the potential for better Council productivity due to reduced need for manual checks.	Highest of 3 options due to continuation of fixed overhead.	While competitive tension is likely to drive costs savings, these are likely to be offset by the offset of price premiums due to incomplete asset information.
	Funding Source	Rates, user charges, rents.	Rates, user charges, rents.	Rates, user charges, rents.
	Impact on Rates	No change.	No change.	No change.

Continuity of Service	No impact.	No impact.	Potential for disruption if a new contractor wins the contract. A new contractor will need to spend time understanding the location and access arrangements of components within a site, build relationships with occupiers, implement systems (e.g. request management processes; works completion processes; invoicing; information transfer processes).
Value for Money	Checks and balances in place to ensure that proposed costs are in line with the market. These include an independent bench marking process and open book negotiation.	Checks and balances in place to ensure that proposed costs are in line with the market, however, without changes to the terms and conditions Council will still be exposed to a time consuming rates setting process and a high fixed overhead. Checks include an independent bench marking process.	Competitive tension should result in some cost savings, however, these are likely to be offset by price premiums due to incomplete asset information.

<p>Quality of Service</p>	<p>No material change – the performance framework shows that the incumbent generally delivers quality work. Ongoing focus will be on improving timeliness of delivery and an increase in first visit fix.</p> <p>To demonstrate transparency Council’s legal advisors have recommended independent quality assessment on an ongoing basis. This proposal is supported by officers, but is currently an unbudgeted cost. Funding options will be explored, including the possibility of using savings from the fixed overhead.</p>	<p>No material change – the performance framework shows that the incumbent generally delivers quality work. Ongoing focus will be on timely delivery and an increase in first visit fix.</p>	<p>Unknown – the tender will be evaluated on criteria that include quality, however, track record is an imperfect predictor of a future performance.</p>
<p>Ability to achieve Council’s strategic objectives</p>	<p>The incumbent has already implemented a citizen engagement scheme called Community Guardians.</p> <p>The new contract will include requirements related to sustainability, training and local procurement.</p>	<p>The incumbent has already implemented a citizen engagement scheme called Community Guardians.</p> <p>While Council would ask for new initiatives and the incumbent is likely to implement them, the Council (as client) cannot compel them.</p>	<p>The new contract will include requirements related to sustainability, training and local procurement.</p>

Statutory Criteria

Criteria	Option 1 – Directly negotiate	Option 2 – Extend the existing contract	Option 3 – Go to market
Impact on Mana Whenua	<p>There is no obvious or particular impact on Māori, Māori culture and traditions that is different to the impact on the needs of the wider community.</p> <p>The contract does work on facilities jointly owned by Ngai Tahu and Council (through its Civic Building Limited subsidiary), however, this interest is considered through a commercial lens.</p>		
Alignment to Council Plans & Policies	Conditionally aligned – as long as the negotiated period is for a short period (2 to 3 years) and Council proceeds to tender during this period.	Not aligned.	Aligned.

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Attachments

No.	Title	Page
A	PX Attachment A - Legal Advise Related to Contract Renewal	

Confirmation of Statutory Compliance

Compliance with Statutory Decision-making Requirements (ss 76 - 81 Local Government Act 2002).

(a) This report contains:

- (i) sufficient information about all reasonably practicable options identified and assessed in terms of their advantages and disadvantages; and
- (ii) adequate consideration of the views and preferences of affected and interested persons bearing in mind any proposed or previous community engagement.

(b) The information reflects the level of significance of the matters covered by the report, as determined in accordance with the Council's significance and engagement policy.

Signatories

Author	Bruce Rendall - Head of Facilities, Property & Planning
Approved By	Adela Kardos - Head of Legal Services Anne Columbus - General Manager Corporate Services

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Memorandum

Date 23 January 2019
Matter no. 1904353
To Christchurch City Council
From Anton Tixl and Steve O'Dea
Subject Memorandum - Facilities maintenance procurement advice

CONFIDENTIAL – DO NOT DISCLOSE

Basis of memorandum

- 1 You have asked us to advise on whether Council can enter into direct negotiations for an extension of the facilities maintenance contract with City Care Limited (**City Care**), with particular regard to Council's legal obligations and best practice guidance. In this memorandum, we set out the relevant considerations, Council's obligations, and recommended practical steps available to Council based on the information and documents that you have provided.

Executive summary

- 2 Council wants to enter into direct negotiations with City Care because it lacks sufficient data about the assets and the relevant services to properly and fairly invite the market to tender for those services. In light of the relevant procurement rules and guidance, insufficiency of data does not justify extending the existing contract or awarding a new contract for more than two or three years, but would justify a two stage solution whereby: (a) a new contract is negotiated and entered into with City Care to gather the requisite data and provide continuity of services in the short term (**New Contract**); and (b) Council puts the services out to tender once it can do so in a way that is fair and will result in the best price and quality outcomes for Council.
- 3 To comply with its procurement obligations, Council will need to demonstrate that this approach:
 - is ultimately the most efficient and effective use of Council's resources;
 - is in accordance with sound business practices; and
 - is actually the fairest outcome for parties who may want to tender to provide the facilities maintenance services.
- 4 To achieve these objectives, we recommend that:
 - (a) **New Contract**: rather than extending the existing City Care contract or signing it afresh with a new term, a new contract should be prepared with appropriate terms governing data gathering and the associated intellectual property rights;
 - (b) **Short term contract**: the term length of the new contract should be limited to the extent reasonably necessary to enable the necessary data to be gathered and for the intended tender process to take place, this should not exceed two or three years;
 - (c) **Open book negotiations and price benchmarking**: to protect value for money and efficiently use resources, Council should strongly consider negotiating on an open book basis and having price benchmarking performed by an independent third party;

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- (d) **Monitoring and enforcement:** Council should ensure that the New Contract contains terms that enable Council to properly monitor City Care's performance and manage any poor performance, and put in place procedures to ensure that those terms are properly enforced; and
- (e) **Open, transparent, and democratically accountable:** Council will likely face higher than usual scrutiny from public auditors, the media, and special interest groups for this decision. Council should clearly document its rationale and process, so that it is in a strong position to respond to such scrutiny.

Background

- 5 City Care, a Council Controlled Organisation (CCO), has provided facilities maintenance services to Council for over a decade.
- 6 In 2008, when the previous facilities maintenance contract was close to expiry, Council sought advice from its internal Legal Services Unit (advice dated 11 February 2008, and 6 June 2008) (LSU Advice) and externally from Simpson Grierson (advice dated 9 September 2008) (SG Advice) that established that Council generally could enter into direct negotiations for such contracts, and enter into such contracts, with City Care without first tendering on the open market.
- 7 On 22 December 2009, following direct negotiations, Council and City Care entered into a contract for facilities maintenance services with an initial service period from 1 November 2009 to 30 June 2014, and with a longstop date of 30 June 2019 (Contract).
- 8 The Contract has been varied and extended since its commencement, but continues to the present day and is due to expire on 30 June 2019.
- 9 Council pays approximately \$10 million for facilities maintenance services per year.

Council's objectives

- 10 Ultimately, Council's objective is to have its facilities maintained to a high standard, and to get value for money from the services required to maintain those facilities.
- 11 Council would like to enter into direct negotiations with City Care to extend the facilities maintenance relationship with City Care. Council's reasons for seeking direct negotiations rather than an open market tender are:
 - (a) Council does not have enough asset data to enable it to provide sufficient information to potential tenderers about the quantity and quality of the assets to be serviced and the nature and scope of the services to be delivered. Such a tender would not be fair to non-incumbent tenderers, who would likely include high risk margins due to uncertainty;
 - (b) Council believes that it does not have sufficient time between now and 30 June 2019 to:
 - (i) prepare a new form of contract and request for tenders;
 - (ii) give tenderers sufficient time to prepare their tenders;
 - (iii) give tenders due consideration; and
 - (iv) award a new contract with sufficient time for a new contractor to mobilise; and

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- (c) pending the full tender, Council wants to maintain continuity and minimise disruption in the provision of facilities maintenance services in order to minimise inconvenience to relevant stakeholders.
- 12 Council intends to incorporate a requirement into the New Contract for City Care to gather and compile asset data, and intellectual property terms that grant Council the ownership of that data, so that Council will be able to tender the facilities maintenance services to the open market before the expiry of the New Contract.
- 13 It is worth noting that Council's objectives for the New Contract are different to the objective that underpinned the LSU Advice and SG Advice in 2008. That advice recorded that Council wanted to support City Care given that: (a) City Care is a CCO; and (b) Council benefits as an indirect shareholder in City Care. We understand that those objectives are not part of Council's current objective.

Relevant legal requirements and procurement guidance

Local Government Act 2002 (Act) obligations

- 14 The following obligations on Council under the Act are particularly pertinent to this situation:
- (a) "conduct its business in an open, transparent, and democratically accountable manner" (s14(1)(a)(i));
- (b) "give effect to its identified priorities and desired outcomes in an efficient and effective manner" (s14(1)(a)(ii));
- (c) "a local authority should undertake any commercial transactions in accordance with sound business practices" (s14(1)(f)); and
- (d) "a local authority should ensure prudent stewardship and the efficient and effective use of its resources" (s14(1)(g)).

Controller and Auditor-General's Procurement Guidance for Public Entities (June 2008) (PGPE)

- 15 Council should particularly bear in mind the following principles in the PGPE (part 2, paragraph 2.3):
- (a) **Value for money:** "Public entities should use resources effectively, economically, and without waste, with due regard for the total costs and benefits of an arrangement, and its contribution to the outcomes the entity is trying to achieve".
- (b) **Fairness:** "Public entities have a general public law obligation to act fairly and reasonably. Public entities must be, and must be seen to be, impartial in their decision-making".
- 16 By negotiating directly with City Care, Council would be operating outside of the expected procurement practice for a contract of this nature and scale, namely that "for higher risk and higher value procurement, a public entity will normally use a competitive process" (part 4, paragraph 4.10).

Government Rules of Sourcing (March 2015) (GRS)

- 17 Council is expected to have regard to the GRS as good practice. The GRS includes the following relevant principles at page 6:

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- (a) **Be fair to all suppliers:** "Create competition and encourage capable suppliers to respond [and] treat all suppliers equally"; and
- (b) **Get the best deal for everyone:** "Get best value for money [and] have clear performance measures – monitor and manage to make sure you get great results".

Council plans and policies

- 18 Council's own 2018 Procurement Policy contains the following additional and relevant strategic procurement principles:
 - (a) **Open and effective competition:** "Open and effective competition maximises the prospect of the Council obtaining the best procurement outcome. The Council will ensure that suppliers wishing to do business with Council are given a reasonable opportunity to do so"; and
 - (b) **Ethical behaviour and fair dealing:** "Applying sound ethical principles and equitable and fair opportunities for procurement promotes the likelihood of better procurement outcomes. Having high standards of professionalism in procurement processes, systems and procedures enables the Council to provide a consistent approach to procurement requirements, reducing transaction costs and risks for suppliers and building Council/supplier relationships and trust. This lowers the cost of doing business for all parties".

What are the risks of procurement that does not comply with the above requirements and guidance?

Procedural risk

- 19 Improper procurement can invite adverse findings from the Auditor General and/or leave Council exposed to judicial review. Given that the proposed procurement approach is not in accordance with the expected practice (as set out above), Council should:
 - (a) ensure that the decision to negotiate and contract with City Care directly is justified;
 - (b) put in place appropriate safeguards; and
 - (c) appropriately record its reasons and decision making process.

Procurement risk

- 20 Direct negotiation will deprive alternative suppliers of the opportunity to tender and removes competition from the procurement process, which will weaken Council's negotiating position, leaving Council potentially open to higher prices, less beneficial terms, and less effective contract management tools. Accordingly, Council will need to take steps to ensure that it obtains a price and terms that accord with what would otherwise be available in the market.

Analysis of the primary alternative – what if Council tendered on the open market?

- 21 On the face of it, direct negotiation does not sit comfortably with all of the above principles. However, in deciding how to approach this procurement, Council needs to compare direct negotiation against the alternatives.
- 22 The main alternative would be to put the facilities maintenance services contract out to tender. However, Council's lack of asset data could prevent it from providing "all of the information that

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suppliers need to prepare and submit meaningful responses" and "the quantity (if known) or estimated quantity of the goods, services or works" (as required by Rule 35 of the GSR, although Council is only expected to treat the GRS as guidance). This could have the following consequences:

- (a) **Risk pricing:** Faced with a lack of certainty around asset quantity and condition, and thus the quantity of resources that would be required from the successful tenderer, tenderers are likely to factor that uncertainty into their pricing. This will result in higher prices from most tenderers, except for City Care who will have a better understanding of the asset quantities and condition as the incumbent provider.
 - (b) **Price uncertainty:** In addition to higher base prices, tenderers are likely to want contractual terms that allow them to adjust the price in the event of a material difference between the anticipated asset situation and the actual asset situation (and any other variations). This would reduce price certainty for Council.
 - (c) **Performance uncertainty:** If the starting condition of an asset is unknown, it is hard to identify deterioration in that asset and to hold the maintenance service provider to account for that deterioration.
 - (d) **Unfair advantage:** As the incumbent, City Care will know how much it expends on resources, the status of most of the assets covered by the contract, and will thus have an unfair advantage over any other tenderers which considering its tender pricing.
- 23 Further, insufficient time for tenderers to respond is a breach of Rule 26 of the GRS that, according to the GRS, could result in limiting the:
- (a) "number of suppliers that can respond and the quality of their responses";
 - (b) "level of competition and your agency's ability to get the best value for money"; and/or
 - (c) "choice of solutions offered and your agency's ability to purchase the right one".
- 24 In light of the above, there is a high risk that an open market tender would result in City Care being awarded a multi-year contract for the facilities maintenance services, without other tenderers having had 'a fair go'. Moreover, Council would not have carried out a true price discovery exercise in the market, given the limitations. Accordingly, putting the contract out to tender now would not necessarily meet Council's obligations under the Act, or the PGPE, or the GRS relating to sound business practices, value for money, fairness, or open and effective competition.

Justification

- 25 While this situation is not ideal, if Council lacks the information and time necessary to appropriately put those services out to tender then Council can justifiably adopt the position that direct negotiation is better aligned with its legal requirements and the procurement principles outlined above. Putting the services out in a 'rushed' tender with insufficient information will likely be unfair to tenderers, ineffective in obtaining the best price and quality for Council, and will likely entrench City Care's advantage as the incumbent in a manner inconsistent with the principle of fairness.
- 26 In contrast, a contract with City Care that results in Council eventually being able to fully inform the market when inviting them to tender, should ultimately result in better value for money for Council and a fairer result in that tender. However, this line of justification comes with limitations and responsibilities, and we set these out below.

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Limitations and requirements

- 27 Given that the main reason for direct negotiations is that Council does not have sufficient data and time to enable it to fairly put the facilities maintenance services out to tender, it follows that:
- (a) the term of the New Contract should be limited to the extent reasonably necessary to enable the data to be gathered and for the tender process to take place, this should not exceed two or three years; and
 - (b) if City Care is to collate the relevant data and supply it to Council, the New Contract should contain clear and enforceable requirements to that effect.
- 28 Accordingly, Council should identify the data and time that it will require to put the services out to tender, and should factor those elements into its direct negotiations with City Care and the New Contract.

Practical steps to comply with sound business practice requirements

- 29 **New Contract:** The existing contract should not be extended, renewed or signed afresh, as a new contract with updated specifications and pricing will be necessary to ensure that data gathering and ownership terms are incorporated into the New Contract. Given that the Contract is over a decade old, a new contract also allows for learnings to be incorporated and for new concepts/approaches to be tested before the services are tendered to the wider market.
- 30 **Price benchmarking:** To improve value for money, and as a prudent steward of its resources, Council should benchmark the rates and margins against equivalent rates and margins available in the market. In the interests of accountability and demonstrating sound business practices, Council should strongly consider having that benchmarking performed by an independent third party. If City Care is unwilling to meet market rates, Council should consider reducing the term of the New Contract.
- 31 **Open book negotiations:** We strongly recommend that the parties enter into negotiations on an open book basis. Given that the existing Contract allows for an annual review of prices on an open book basis (X20.4), the strong relationship between Council and City Care, and that City Care is not being exposed to a tender process, City Care should not find this approach unreasonable. This will also assist with the price benchmarking process.
- 32 **Monitoring and enforcement:** Sound business practices require Council to ensure that it actually obtains the benefit of its contracts. Accordingly, the New Contract should contain terms that enable Council to properly monitor City Care's performance and to manage poor performance. This will be of particular importance in respect of the data collation. Council should also consider independent quality auditing of City Care's performance under the New Contract to demonstrate independence and rigor.

Transparency

- 33 As Council is not intending to go to the market, it will likely face higher than usual scrutiny from public auditors, the media, and special interest groups. Noting the media's recent criticism of Council spending \$1.245m for a touch wall at the central library without a tender process, awarding a significantly larger contract to a CCO without a tender process will likely invite similarly adverse comments. Given Council's obligation to act in an open, transparent, and democratically accountable manner, Council should clearly document the rationale and process underlying this decision so that it is in a strong position to respond openly to such scrutiny. The involvement of independent price benchmarkers and quality auditors may also provide some reassurance to such stakeholders.

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page 6

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Report from Innovation and Sustainable Development Committee – 27 March 2019

33. Innovation and Sustainability Fund

Reference: 19/364138

Presenter(s): Tony Moore, Principal Advisory Sustainability

Confidentiality

Section under the Act:	The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.
Sub-clause and Reason:	s7(2)(c)(ii) - The withholding of the information is necessary to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to damage the public interest.
Plain English Reason:	Points to be discussed are commercially sensitive.
Report can be released:	Once there is no longer any commercial sensitivity relating to any of the applications.

1. Innovation and Sustainable Development Committee Decisions Under Delegation

Committee Decisions under Delegation

Staff recommendation unchanged

Part C

That the Innovation and Sustainable Development Committee:

1. Approve the allocation of funds from the Innovation and Sustainability Fund for the following applications and the specified amounts:
 - a. Cultivate Christchurch: Richmond Urban Farm - a transitional project in the Ōtākaro Avon River Corridor regeneration area by Cultivate Christchurch, \$30,000.
2. Approve the following application:
 - a. Household Devices Batteries Collection Trial by Christchurch City Council, \$72,490.

Councillors Davidson and Livingstone declared an interest in resolution 2a and took no part in the discussion or voting.

Public Excluded Item 33

44. Christchurch Adventure Park Update April 2019

Reference: 19/390889

Presenter(s): Len van Hout, Manager External Reporting and Governance

Confidentiality

Section under the Act:	The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.
Sub-clause and Reason:	<p>s7(2)(b)(ii) - The withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.</p> <p>s7(2)(c)(ii) - The withholding of the information is necessary to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to damage the public interest.</p> <p>s7(2)(h) - The withholding of the information is necessary to enable the local authority to carry out, without prejudice or disadvantage, commercial activities.</p> <p>s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</p>
Plain English Reason:	To protect the commercial operations of a related organisation.
Report can be released:	When there are no longer grounds under the LGOIMA to withhold the information and with the approval of the Chief Executives of the Council and Development Christchurch Ltd

1. Purpose of Report

- 1.1 The purpose of this report is to advise Council on the report back from Development Christchurch Ltd (DCL) on the options available for recapitalising Port Hills Leisure Ltd (PHLL) (owner of the Christchurch Adventure Park (CAP)) in view of the withdrawal of a significant investor.

2. Executive Summary

- 2.1 Following the withdrawal of a key investor from the CAP recapitalisation, new options for moving forward to recapitalise PHLL are being explored. These include:
- Seek additional investment of around [REDACTED] to replace the lost funding; or
 - That the Council and possibly other investors negotiate with the bank, [REDACTED] within the next few weeks to acquire the CAP assets; or

- That the China Construction Bank (CCB) calls in the receivers, at which time the CAP will close and all claims on the company will be settled as far as is possible.
- 2.2 Council staff note that DCL has expressed lack of confidence in the revised forecasts put forward by PHLL, since it has been unable to do a comprehensive due diligence of the operations and financial stability, and that CAP has traded below the Investment Memorandum forecasts provided in December 2018.
- 2.3 The Council is obligated to meet its \$5 million liability under the guarantee under any circumstances. Staff consider the uncertainty around the future business risks is such that the best commercial option for Council is to allow the CAP to be put into receivership, and the receiver to divest the assets. This will ultimately lead to the Council being called on to meet any shortfall in the recovery of China Construction Bank's debt.
- 2.4 Alternatively, if the Council wishes to further support the Christchurch Adventure Park, it could accept Development Christchurch Ltd's recommendation 1 which provides for Development Christchurch Ltd to engage with investors and the voluntary administrator to acquire the Christchurch Adventure Park business at no cost over and above the \$5 million guarantee liability.

3. Staff Recommendations

That the Council:

1. Notes that as the result of a key investor withdrawing from the Christchurch Adventure Park capital raising, and therefore options for moving forward are required;
2. Agrees to either:
 - a) Decline to invest further in the Christchurch Adventure Park and as a consequence meet the liability from its guarantee with the China Construction Bank of \$5 million as and when it is called (staff preferred option on commercial basis); or
 - b) Agree that Development Christchurch Ltd be given a mandate to work with other investors to negotiate an 'in-principle' purchase of the Christchurch Adventure Park business in a way that ensures the Council's shortfall guarantee to the China Construction Bank is not called and Council's capital contribution is limited to \$5 million;
3. Requests Development Christchurch Ltd to provide regular reporting on the status of any negotiations and seek ratification from Council of its final 'in principle' decisions;
4. Requests Development Christchurch Ltd to report back immediately it becomes aware that negotiations are unlikely to succeed and to provide advice on the pathway forward;
5. Notes that if the China Construction Bank calls in the receivers, the Christchurch Adventure Park will close pending the outcome of the receivership, and shareholders and investors will be unable to transact ownership arrangements until the receivership process is complete;
6. Agrees to release this report publicly when there are no longer grounds to withhold the information under the Local Government Official Information and Meetings Act 1987 and with the approval of the Chief Executives of the Council and Development Christchurch Ltd.

4. Key Points

Background

- 4.1 At its meeting on 28 February 2019 the Council agreed to support DCL's full participation in the equity raising of PHLL (the operator of the CAP) up to \$5 million (CNCL/2019/00035 refers).
- 4.2 DCL verbally advised the Finance and Performance Committee of the Whole at its meeting on 4 April that the capital raising for the CAP could not proceed due to the withdrawal of a key investor. We understand the investor was expected to contribute new capital of around [REDACTED]
- 4.3 DCL's formal report on the current state of play on the recapitalisation of CAP is at **Attachment 1**.
- 4.4 In the absence of new capital, or a reduction in CAP's debt repayment obligations, PHLL is likely to appoint an administrator to determine whether a compromise can be arranged with the CCB to enable the business to trade out of its financial difficulties.
- 4.5 If CAP's banker, China Construction Bank (CCB) is unwilling to compromise in its requirement for full repayment of its \$7.2 million loan by CAP, it is likely to appoint a receiver.
- 4.6 At any time prior to the appointment of a receiver, engagement on various ownership propositions can be conducted with CCB or the voluntary administrator. Once a receiver is called in, the process must run its course, with the receiver's primary obligation to act in the interests of the bank. Over the duration of receivership, should it occur, CAP would be closed (but would remain open if in the hands of a voluntary administrator).
- 4.7 The guarantee between CCB and the Council requires the bank to exhaust all viable options for recovering its debt prior to calling on the guarantee. Therefore, in receivership, settlement of the Council's liability may take some considerable time.

Options

- 4.8 The Council's options are as follows:
 - decline to participate any further in the recapitalisation of CAP and allow it to be liquidated; or
 - take the place of the withdrawn investor and contribute a further [REDACTED] of capital, or possibly act as guarantor of that amount if the CCB is willing to retain its debt facility at this level; or
 - engage with CCB immediately, or a voluntary administrator once appointed to negotiate a 'pre-packaged receivership' which would allow the Council to either step into the CCB's role as debtholder, or to acquire the assets at a mutually agreed value; or
 - allow receivership to take place and acquire the assets (with or without an investment partner) at the end of that process utilising its right of last refusal to match the best price offered by a third party. This option would mean the CAP would close pending completion of the receivership process which could be relatively lengthy.

Issues for consideration

- 4.9 It is not clear what position the CCB is taking, given its agreement with PHLL for full repayment of its \$7.2 million loan by 31 March 2019 has been missed. Council staff have arranged a meeting with CCB and their lawyers and receivership specialists on Friday 12 April 2019.

- 4.10 Irrespective of what decisions are made about the future of the CAP, the Council is legally required to pay \$5 million to the CCB under the guarantee with the bank.
- 4.11 DCL's advice in its attached report is that it does not have confidence in CAP's financial forecasts since it has been unable to do a comprehensive due diligence of the operations and financial stability, and that CAP has traded below the Investment Memorandum forecasts for the recapitalisation in December. In its report to Council on 28 February, DCL noted that:
- the PHLL board hired a restructuring consultant ([REDACTED]) to critically review all of the CAP operations and the structure of the balance sheet from which a number of recommendations for operational change were made;
 - the new operating strategy was sound with the assumptions and targets realistic (though not without risk);
 - the financial forecasts presented a more robust view of real performance (compared with previous forecasts), but DCL considered it vital for the [REDACTED] operational changes to be made to reduce financial risk.
 - We understand PHLL have met their interest obligations under the loan for December 2018 and March 2019 which has negatively affected their cash flows.
- 4.12 We are unsure of the reasons for the withdrawal of a key investor, [REDACTED]
[REDACTED]
- 4.13 [REDACTED]
[REDACTED]
- 4.14 There is lack of clarity as to whether:
- changes in the management structure at the CAP are to be made and when, and whether they will be successful in improving outcomes;
 - an increase in the Council's ownership of the CAP (which will undoubtedly lead to the CAP becoming a CCO) will deter other shareholders from participating in the capital raising;
 - there is any other willing investor given the passage of time that has not seen one materialise; and
 - the benefits to Christchurch from keeping the CAP open are sufficient to justify any additional capital investment and/or ongoing exposure to business risk.



Staff advice

Preferred option – Decline to invest

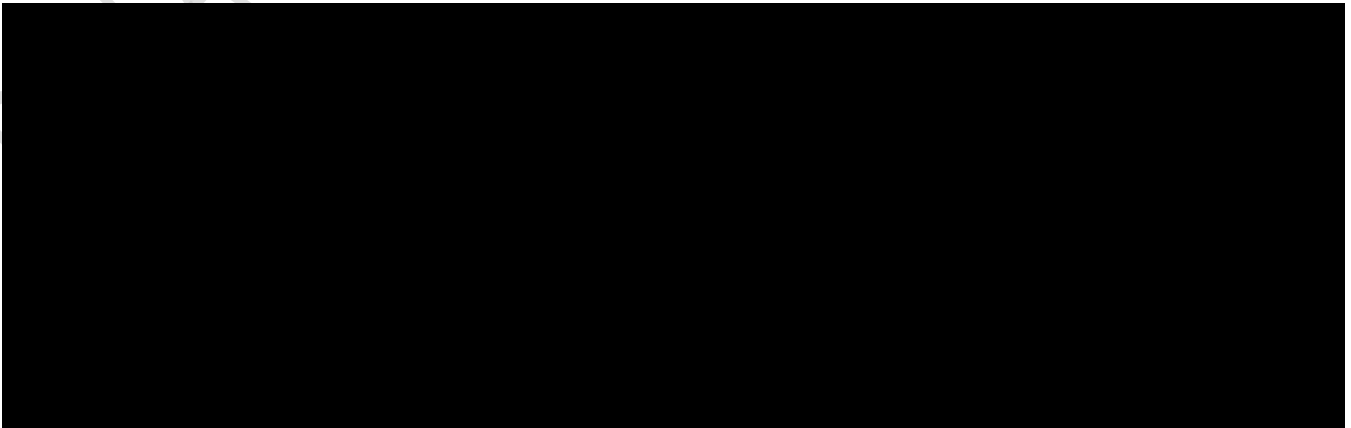
- 4.15 On a commercial basis staff believe this to be the preferred option.

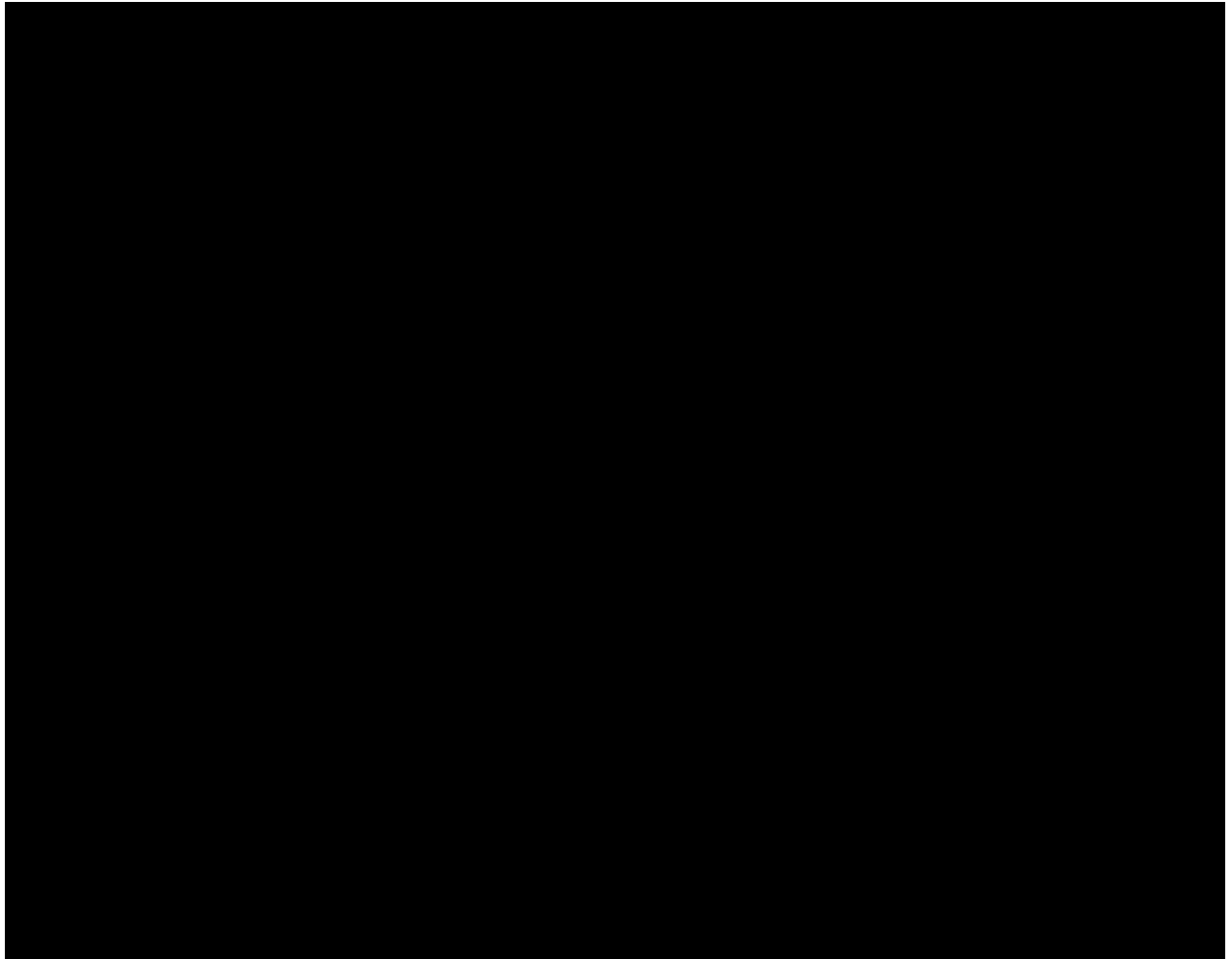
4.16 [REDACTED]
[REDACTED]

4.17 [REDACTED]
[REDACTED]

- 4.18 This would mean PHLL would proceed to receivership assuming no other investor is forthcoming, and the Council will be called on to settle its \$5 million liability under the guarantee. However, the guarantee is to meet the shortfall in the recovery of the CCB's loans, and the receiver will need to do all that it can reasonably do, including divesting the assets to repay the loans before calling on the Council's guarantee.
- 4.19 Our preliminary view is that the community benefits from the CAP are not large since there are other opportunities for biking in and around Christchurch, Canterbury and nearby at the West Coast, although the experiences are slightly different. 

- 4.20 The key issue the Council might wish to consider is how CAP's failure might be perceived by investors and other parties with interests in Christchurch (e.g. concert promoters, sporting fixtures, retailers, businesses, international airlines) at a time when central city outcomes are vulnerable.
- 4.21 Equally Council will need to consider how a decision to support to a private venture company will be received.
- 4.22 The likely rates impact if the shortfall guarantee is called for the full \$5 million would be 1.04% as the transaction will be met by operating expenses by way of a debt write off (assuming no assets are acquired).

Alternative option – Invest \$5 million only

- 4.23 If the Council wishes to keep the CAP open, we recommend that it accepts DCL's recommendation 1 where DCL works with other investors to purchase the assets of CAP from the administrators/receivers or the CCB at a cost to the Council of no more than \$5 million and with no ongoing undertakings for further investment. It is likely that this option would lead to the CAP being closed for a period if a sale cannot be completed before receivers are appointed.
- 4.24 In this case, we recommend that DCL is given the mandate to negotiate such an outcome 'in principle' and to report back to the Council for ratification.
- 4.25 The likely rates impact of acquiring assets of \$5 million (rather than meeting the liability caused by the guarantee) would be 0.6%, as the transaction will be met by borrowing to invest in a subsidiary.
- 



Attachments

No.	Title	Page
A	DCL paper CAP Capital Raise - April 2019	8

Confirmation of Statutory Compliance

Compliance with Statutory Decision-making Requirements (ss 76 - 81 Local Government Act 2002).

(a) This report contains:

- (i) sufficient information about all reasonably practicable options identified and assessed in terms of their advantages and disadvantages; and
- (ii) adequate consideration of the views and preferences of affected and interested persons bearing in mind any proposed or previous community engagement.

(b) The information reflects the level of significance of the matters covered by the report, as determined in accordance with the Council's significance and engagement policy.

Signatories

Author	Linda Gibb - Performance Monitoring Advisor
Approved By	Len Van Hout - Manager External Reporting & Governance Diane Brandish - Head of Financial Management Carol Bellette - General Manager Finance and Commercial (CFO)

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To: Christchurch City Council, c/o Dr Karleen Edwards, Chief Executive Officer

From: Rob Hall, Chief Executive Officer, Development Christchurch Limited

Date: 8th April 2019

Subject: Christchurch Adventure Park – PUBLIC EXCLUDED (PX)

RECOMMENDATION

DCL recommends that Council:

1. In the event Port Hills Leisure Limited (PHLL) enters administration, Council approve that DCL work with other investors to purchase the Christchurch Adventure Park (CAP) from the receivers in a manner that ensures that the Council's short fall guarantee is not called and limits the equity contribution to \$5m.
2. If DCL is not successful in enticing other investors, and no other purchaser for CAP is forthcoming, whereby the Council's \$5m shortfall guaranteed is protected, then the Council resolve to purchase the assets from China Construction Bank (CCB), with a view to operating the CAP as a Council asset.

INTRODUCTION

At the time of writing of this paper, CAP is currently operating; however, it is facing the likelihood of an insolvency event due to the inability for it to service its debt, while funding day to day operations. Current forecasts indicate CAP will likely be insolvent by mid-May 2019. This is due to PHLL being unsuccessful in raising the required capital to extinguish the debt and provide working capital, despite Council's commitment to invest \$5m on 28th February 2019. (See attachment 1 for previous decision paper).

DCL and Christchurch NZ supports the CAP remaining open as an attraction providing amenity both for city residents and to support the visitor economy.

CURRENT SITUATION

PHLL proposed an offer to CCB in which it sought to take the ~\$7.5m capital that was committed during the Investment Memorandum (IM) process and use \$5m to pay down the debt leaving \$2.2m loan in place on interest only terms for 18 months. At which point, PHLL will either pay or raise funds again to remove the debt. This request was subject to the removal of Council guarantee. This new structure would result in the formation of a Council Controlled Trading Organisation (CCTO) with DCL owning ~56%. PHLL provided an adjusted financial forecast for this new structure. It is DCL's assessment that the revenue targets are optimistic and there is risk of cash flow failure.



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CCB has notified PHLL of the requirement for any remaining loan to be fully secured against the Council shortfall guarantee, which DCL has advised would not be acceptable to Council as this would expose council to further financial implications.

Without another significant investor found in the coming days, DCL are expecting PHLL to enter into administration [REDACTED] which is insufficient to continue operations. At this point Council, along with all other shareholders, would lose the ability to control the administration process with the likely outcome being some form of closure to the park, while the step-in processes with Council are worked through and CCB seek to get debt recovered.

SCENARIOS AVAILABLE TO COUNCIL

DCL have looked at the range of scenarios, which are summarised below. It must be noted that DCL, as a minor shareholder, has not been able to undertake due diligence of the business at this time. But, DCL does recognise the imperative need for changes to be made to the operating model of this business for it to succeed into the future.

Scenario 1 – PHLL's Current Proposal

Council invests \$5m towards a capital raise of \$7.5m, giving a resulting equity stake of ~56%. This would result in the formation of a Council Controlled Trading Organisation (CCTO). This option requires the Council shortfall guarantee to remain in place for the duration of the ~\$2.2m loan.

Scenario 1 Positives:

- CAP continues to trade, with no interruption or cessation. If there is equity value in CAP, the absence of distractions or financial constraints gives management the greatest chance of realising it.
- As a continuing participant, Council retains influence over messaging.
- Original investors in CAP (including Council) retain an equity stake, albeit some after significant dilution.

Scenario 1 Negatives:

- Under this scenario, Council is investing (further) in a currently underperforming private sector enterprise and could be perceived as 'bailing-out' private sector interests. However, this must be viewed noting that Council will be required to pay up to \$5m under the current credit guarantee. While this is certainly an issue, the alternative being the park's failure, would do little for confidence in the Christchurch recovery and would potentially remove a valuable amenity from locals and visitors.



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- [REDACTED]
- Other foundation shareholders will retain and interest albeit significantly diluted.
- [REDACTED]
- [REDACTED]
- DCL/CCC own more of a business with debt still in place and an operating model that DCL presently do not have confidence in.
- The current financial forecast is overly optimistic given current trading and creates significant cash flow risk if not achieved.
- Will require future capital injection to remove the residual loan in 18 months' time. This assumes that the Council Shortfall Guarantee remains against the residual loan balance.

Scenario 2 – Failure of PHLL

Selection of Scenario 2 starts a process which would be relatively complicated. It has a number of potential outcomes:

- In the absence of the CCB debt (\$7.2m gross, \$7.1m net of cash) being repaid, CCB would begin a debt recovery process and would appoint either an Administrator or Receiver to manage the recovery of cash through the sale of assets. Note that CCB has security over all of PHLL's assets, including the cash on the books at calendar year end).
- PHLL will place CAP into administration, which will lead CCB to immediately appoint its administrator and force CAP into Voluntary Administration to preserve operating rights.
- CCB will enact clause 8 of the Deed of Priority and Subordination, which gives Council 10 working days to decide if it wishes to buy the debt from CCB and become the first ranking mortgage holder. DCL would not recommend this option be taken.
- If clause 8 is declined by Council then clause 9 will be enacted, which gives Council the right of first offer for the assets and the right of last refusal for any third party offer deemed acceptable by the administrators.
- The Administrator or Receiver will immediately put at risk of call on the \$5m Council Shortfall Guarantee during the clause 9 proceedings.
- The Administrator or Receiver will decide what information to make available publicly about its asset sale process.
- Should the debt recovery process become public, sales of long duration passes are likely to decline sharply if CAP remains open (as customers will avoid the prospect of becoming unsecured creditors in the event of a liquidation).
- Depending on how the asset sale process is executed, there may be a risk that McVicar Holdings (the landowner) could terminate its lease with CAP; albeit, this is unlikely.



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Under the terms of its credit guarantee, Council has the option to purchase the assets of the company on the same terms as any third party bidder for the assets. If it were to exercise this option then Council would become the sole owner of the park.

The financial consequences of Scenario 2 for CAP's shareholders and Council as credit guarantor, depend on the outcome of the asset sale process.

Potential Scenario 2 Outcomes:

In Scenario 2, the process and any associated communication will be controlled by CCB and its Administrator/Receiver. Possible outcomes could be:

- 2a. DCL look to create an investor group, who have the capital and desire to see CAP succeed. This outcome may see the formation of a CCTO, if DCL/Council ownership initially exceeds 50%. It would likely require the \$5m previously committed to the IM process and DCL would seek a minimum of \$4m in additional funding from private investors and the land owner. DCL would then engage directly with CCB to secure the purchase of the assets through the administration process as a third party bidder. In such a scenario, original PHLL investors would lose 100% of their investment and the [REDACTED] DCL will endeavour to ensure that any impacts to CAP operations are limited where possible.
- 2b. Should scenario 2a not be achieved, Council could secure full ownership and reinstatement of the park for an investment of ~\$9m (being \$5m already committed plus and additional ~\$4m). This outcome requires Council to engage in the step-in rights process and make a bid for the assets of CAP to extinguish the loan and provide working capital for the ongoing operation. In such a scenario, initial investors would lose 100% of their investment, [REDACTED] and Council would be required to operate CAP. As the exit strategy, Council could over time look to invite private partners to join in the ownership and/or operations of CAP.
- 2c. Council could decide to not support CAP any further. This will mean the closure of CAP through the remainder of the administration process. The \$5m shortfall guarantee would be called to the extent that CCB cannot make the difference of their loan value from private investors who purchase through any administration/liquidation process.



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ATTACHMENT 1

To: Christchurch City Council, c/o Dr Karleen Edwards, Chief Executive Officer

From: Rob Hall, Chief Executive Officer, Development Christchurch Limited

Date: 22nd February 2019

Subject: Christchurch Adventure Park – PUBLIC EXCLUDED (PX)

RECOMMENDATION

DCL recommends that Council:

3. Participates fully in the Port Hill Leisure Limited (PHLL) capital raise and underwrite and approves up to \$5m of shares be acquired.
4. Notes that under current Limited Partnership arrangements, DCL will be required to be the shareholder for this equity increase.
5. Agrees to acquire shares in Christchurch City Holdings Limited equivalent to the cost of the shares acquired under this capital raise.
6. Requests Christchurch City Holdings Limited to acquire shares in Development Christchurch Limited equivalent to the cost of the shares acquired under this capital raise.

INTRODUCTION

The Christchurch Adventure Park (CAP) is facing an insolvency event due to the inability for it to service its debt while funding day to day operations. Current forecasts indicate CAP will be insolvent by early winter 2019.

China Construction Bank (CCB) have notified PHLL of the requirement for the loan to be repaid in full by 31st March 2019 or it will instigate recovery actions as they are in breach of their banking covenants. This would result in CAP entering administration either voluntarily through PHLL, or forced through CCB. Council has a \$5m credit shortfall guarantee in place with CCB, which will be called by the administrators if this step was to occur.

At this point, Council along with all other shareholders would lose the ability to control the administration process with the likely outcome being some form of closure to the park, while the debt is being recovered.

DCL has engaged with Council and ChristchurchNZ, who have indicated the importance of CAP remaining open to be an attraction providing popular amenity both for city residents and to support the visitor economy.



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EXECUTIVE SUMMARY

In December 2018, PHLL issued an Information Memorandum (IM) outlining a conditionally-underwritten \$10.08m equity increase. Management forecasts show that a debt free CAP, managed according to the revised strategy, generates positive operating cash flows from this year onwards.

PHLL was offering [REDACTED] This equates to a [REDACTED] discount on the initial 2016 capital raise. PHLL has requested that Council additionally purchases any Partnership Units that remain unsold up to a maximum additional amount of [REDACTED] giving a maximum cash investment by CCC of \$5m. [REDACTED]

DCL presented a paper dated 31st January 2019 to Council on 14th February 2019 (appendix A). Council requested DCL provide additional information on its recommendation that Council invest up to \$5m as equity into CAP.

Council requested that DCL continue to explore refinancing CAP through either equity or debt or a combination of debt and equity. Noting a need to focus on supporting a sustainable ongoing business with the least possible exposure for Council.

In addition, Christchurch City Holdings Limited (CCHL) and Council staff were requested to provide advice upon DCL's recommendation.

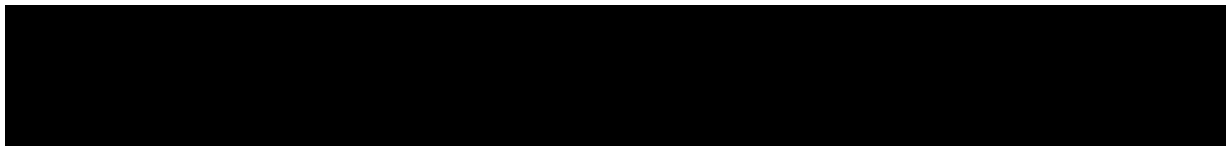
In response to the IM and Council's request, DCL has sought to identify the minimum amount of public sector intervention required to protect the current public investment and financial exposure, while ensuring the asset becomes successful and remains operational in Christchurch. Noting that Council has provided a credit guarantee to CAP up to \$5m which will be called upon in the event that CAP is unable to pay its debt.

DCL has subsequently renegotiated the terms of the IM with PHLL to ensure the Council is provided with the most efficient use of public funds and the best possible deal for Council/DCL balanced against the requirements of other key parties involved. Key terms that have renegotiated in the IM are:

- Reduction in offer price to [REDACTED]
- Reduction in offer of underwrite price [REDACTED]
- [REDACTED]
- These terms are subject to final approval by Christchurch City Council.



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ASSESSMENT

DCL has reviewed the business model associated with the proposed capital call alongside the changes to the strategic direction proposed by the PHLL Board. DCL is confident in the strategy, but notes that further operational changes are required to fully realise the potential of this business.

DCL completed a financial due diligence on the assumptions contained within pertaining to the following:

- Revenue mix and growth
- Gross margin assumption
- Cost inflation assumptions
- Salary and wage cost assumptions

DCL assessed the financial model provided by PHLL and completed sensitivity analysis which show the operation can maintain positive free cash flow over a 5 year period with [REDACTED] in bike revenue while [REDACTED] which would normally be managed down in line with revenue shortfall. This indicates a more robust view of real performance and is contained within the model assumptions.

Early trading in 2019 shows that CAP is generating revenue in line with the revised forecast and shows encouraging growth versus prior year period in both revenue (+30%) and park utilisation (+66%).

CAP's current financial forecast does not indicate that any further recapitalisation will be required beyond this capital raise, however DCL cannot guarantee this will be the case. Any future recapitalisation, if required, would not see Council in a guaranteeing position and would not have any future obligation to provide support.

CAP utilisation over Christmas (December and January combined) shows a doubling of zip line usage and a 60% increase in the number of bikes in the park. This momentum is fantastic and shows growing popularity. Current financial forecasts (on which the valuation is based) are heavily influenced by the fact that current pricing power is still weak and operating costs too high. If this could be better managed, and specifically if pricing power can be gradually restored, then with that level of patronage growth, and a very 'fixed' cost base, there is every chance of quite rapid value growth. So although the investment is being made at [REDACTED] today, good management could actually secure very good value growth and make this an attractive investment.

DCL have confidence in the new strategy being employed by PHLL in relation to CAP operations. DCL believe this strategy is sound for CAP and the assumptions and targets, while not without risk, are realistic



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and in line with expectations. DCL also have confidence in the governance team in place with PHLL currently and their ability to drive the changes required within management and operations to achieve the targets.

CCHL and Council staff were jointly briefed by DCL at a workshop session on 19th February 2019 to allow them to provide assurance to Council over the details of the work conducted by DCL in assessing this matter. This briefing went through the available CAP financial information and the DCL financial analysis, and considered the implications and conclusions that flow from the analysis. This work supports DCL's recommendation.

OPTIONS AVAILABLE TO COUNCIL

In making the recommendation, DCL considered the options requested in Council's Resolution.

The debt replacement and debt/equity combination options requested for consideration by Council have been explored previously by PHLL. These were deemed not suitable due to the fact they did not address the key issue facing CAP, being it cannot support the servicing of debt from its current operations. It was assessed that, even with the Council guarantee, any commercial bank would not lend to CAP based on the ability to service debt. It was concluded that options including debt were not viable. DCL also explored these options and agree with the assessment of PHLL.

The two principle options assessed as suitable were:

- Option 1:** Council accepts PHLL's proposal to subscribe and invest (Equity); and
- Option 2:** Council declines PHLL's proposal.

In evaluating which of options (1) or (2) is most attractive to Council, the following assumptions have been made about Council's objectives:

1. Council wish to see CAP remain open and to be an attractive and popular amenity for the city, both for city residents and also in support of the visitor economy.
2. Council wishes to ensure any financial support provided to CAP is done in a manner that assists management in re-establishing and stabilising the business.
3. Ratepayer financial interests must be protected.

DCL also analysed the information available and assessed options against the following five criteria:

- a. No permanent park closure.
- b. No temporary park closure.
- c. Avoiding credit events occurring for Council.
- d. Preserve value of initial investment/maximise return on any future investment.
- e. Minimise future cash investment.






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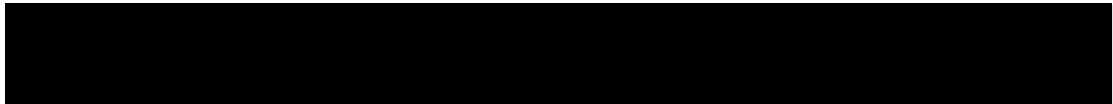
Option 1 – Accept PHLL’s Proposal: Subscribe and Underwrite

Under this option, Council’s investment would be between \$1.44m and \$5m, giving a resulting equity stake of between 14% and circa 45%. Where Council’s final investment sits on this scale will be determined by the extent to which other shareholders subscribe for their rights under the capital increase proposal.

Option 1 Positives:

- 
Given  commitment to invest, this gives the park a strong core group of four aligned and fully committed major shareholders.
- Post this investment, CAP is debt-free which gives it the strongest financial base from which to perform. It has sufficient cash to trade through the coming winter and the financial resources to invest in some additional low-cost attractions that will improve its offer, particularly for children and families.
- Council’s existing credit guarantee is removed.
- CAP continues to trade as normal, with no interruption or cessation. If there is equity value in CAP, the absence of distractions or financial constraints gives management the greatest chance of realising it.
- Relative to other options available, this option has the greatest certainty around outcome and a relatively narrow range of Council financial investment (\$1.4m-\$5m).
- As a continuing participant, Council retains influence over messaging.
- Original investors in CAP (including Council) retain their equity stakes such that they can participate in any value-uplift that emerges as CAP improves.
- Finally, we believe that  between the first and second round of funding acts as a powerful incentive for current owners to participate, potentially reducing the scale of the underwrite required.

Option 1 Negatives:

- Under this option, Council is investing (further) in a currently underperforming private sector enterprise and could be perceived as ‘bailing-out’ private sector interests. However, this must be viewed noting that Council will be required to pay \$5m under the current credit guarantee. While this is certainly an issue, the alternative being CAP failure, would do little for confidence in the Christchurch recovery and would potentially remove a valuable amenity from locals and visitors. In further mitigation, we note that this is not Council acting alone, but rather in concert with a small group of committed and credible parties who now are strongly vested in the park’s success.
- 



PUBLIC EXCLUDED

Option 2 – Reject PHLL’s Proposal

Selection of Option 2 starts a process which could be relatively complicated and in which Council is largely a bystander. It has a number of potential outcomes:

- [REDACTED]
- In the absence of the CCB debt (\$7.2m gross, [REDACTED] being repaid by 31st March 2019, CCB would begin a debt recovery process and would appoint either an Administrator or Receiver to manage the recovery of cash through the sale of assets. Note that CCB has security over all of PHLL’s assets, including the [REDACTED] of cash on the books at calendar year-end).
- The Administrator or Receiver will decide whether, and on what basis, CAP will either continue trading, or not.
- The Administrator or Receiver will immediately call the \$5m Council guarantee.
- The Administrator or Receiver will decide what information to make available publicly about its asset sale process
- Should the debt recovery process become public, sales of long duration passes are likely to decline sharply (as customers will avoid the prospect of becoming unsecured creditors in the event of a liquidation).
- Depending on how the asset sale process is executed, there may be a risk that McVicar Holdings (the landowner) could terminate its lease with CAP.

Under the terms of its credit guarantee, Council has the option to purchase the assets of the company on the same terms as any third-party bidder for the assets. If it were to exercise this option then Council would become the sole owner of the park.

The financial consequences of Option 2 for CAP’s shareholders and Council as credit guarantor, depend on the outcome of the asset sale process.

Potential Option 2 Outcomes:

In Option 2, the process and any associated communication will be controlled by CCB and its Administrator/Receiver.

If no-one bids for the assets of the company (a potential outcome given CAP’s trading history and the fact that Council has a right to match any final offers received), then Council could secure full ownership of the park for an additional investment of ~\$8.7m. This outcome requires no bid to be received through the asset sale process such that CCB makes a full claim against Council for the \$5m, that Council acts with integrity [REDACTED]

[REDACTED] In such a scenario, initial investors would lose 100% of their first round investment.



PUBLIC EXCLUDED

PHLL's most recent forecast for CAP indicate a value for the company, on a debt-free basis, [REDACTED]. Should a third party bid for CAP's assets at this level, then Council would either:

- Allow the bidder to complete its transaction which leads to a cash cost to Council of \$1.7m-\$2.7m (claimed by CCB under the credit guarantee agreement) and no residual equity stake; or alternatively:
- Match the offer which would cost Council \$10.4m to assume full control of the park [REDACTED]

As a further illustration, should someone bid \$10m net of Administrator/Receiver costs for the park (a number well in excess of current park value) then this would lead to Council receiving \$300k for its initial \$2m investment (\$10m less \$6.7m CCB debt less [REDACTED] allocated to Council pro-rata with its 14.3% shareholding). Although this would be a relatively poor financial outcome in RoI terms for Council and its original investing partners, anyone prepared to invest such an amount in CAP would surely have ambitious plans for its operations.

OUTSTANDING RISKS

DCL has received all relevant information that was requested from PHLL on 31st December 2018 to undertake an effective high level financial due diligence.

[REDACTED]

As a result of financial pressure and weather impacts, bike trails may not have been maintained to a consistent operating standard. DCL has not undertaken any detailed inspection of trail conditions and is unable to comment on level of trail quality.

NEXT STEPS

- Following the passing of a Council Resolution with respect to the PHLL capital request, DCL will inform PHLL of the response to the IM and assist Council staff in preparation for the actions required to support the Resolution.
- DCL to review the current shareholder agreements and propose changes in line with the new shareholding totals.
- DCL recommends that Council get written confirmation from CCB that its credit guarantee will now be terminated once the loan is repaid in full.



3. Decline the allocation of funds from the Innovation and Sustainability Fund for the following applications and the specified amounts:
 - a. The CupCycling™ Programme by IdealCup, \$11,175.
4. Recommend to the Council that the following amendment is made to the Innovation and Sustainability Fund's Terms of Reference:
 - a. Applications up to and including \$10,000 can be made by an individual, however applications from legal entities are preferred.
 - b. Applicants seeking more than \$10,001 must be a legal entity registered in New Zealand.
5. Delegate to the Head of Urban Design, Regeneration and Heritage the decision to publicly release this report following this meeting and/or when no commercial sensitivity exists.

2. Innovation and Sustainable Development Committee Recommendation to Council




Original Staff Recommendations Accepted Without Change

That the Council:

4. Amend the Innovation and Sustainability Fund's Terms of Reference as follows:
 - a. Applications up to and including \$10,000 can be made by an individual, however applications from legal entities are preferred.
 - b. Applicants seeking more than \$10,001 must be a legal entity registered in New Zealand.
5. Delegate to the Head of Urban Design, Regeneration and Heritage the decision to publicly release this report and decision following this meeting and/or when no commercial sensitivity exists.

Attachments

No.	Report Title	Page
1	Innovation and Sustainability Fund	45

No.	Title	Page
A 	Attachment A - Fund Applications February 2019.	52
B 	Attachment B - Project evaluation against criteria	58
C 	Attachment C - Fund Budget March 2019	60

Innovation and Sustainability Fund

Reference: 19/199218

Presenter(s): Tony Moore, Principal Advisor Sustainability

Confidentiality

Section under the Act:	The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.
Sub-clause and Reason:	s7(2)(c)(ii) - The withholding of the information is necessary to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to damage the public interest.
Plain English Reason:	Points to be discussed are commercially sensitive.
Report can be released:	Once there is no longer any commercial sensitivity relating to any of the applications.

1. Purpose of Report

- 1.1 The purpose of this report is for the Innovation and Sustainable Development Committee to determine grant allocations from the Innovation and Sustainability Fund.

2. Executive Summary

- 2.1 The Innovation and Sustainability Fund supports innovative community projects that support the Council's Strategic Directions and meet the Fund's criteria. The Fund has \$242,177 remaining for the 2018/19 financial year. This report, covering applications received in February 2019, recommends the Committee funds two proposals and declines one proposal as described in the recommendations. This report also seeks a modification to the Fund Terms of Reference to allow individuals to apply for less than \$10,000.

3. Staff Recommendations

That the Innovation and Sustainable Development Committee:

1. Approve the allocation of funds from the Innovation and Sustainability Fund for the following applications and the specified amounts:
 - a. Cultivate Christchurch: Richmond Urban Farm - a transitional project in the Ōtākaro Avon River Corridor regeneration area by Cultivate Christchurch, \$30,000.
2. Make a funding determination on the following application:
 - a. Household Devices Batteries Collection Trial by Christchurch City Council, \$72,490.
3. Decline the allocation of funds from the Innovation and Sustainability Fund for the following applications and the specified amounts:
 - a. The CupCycling™ Programme by IdealCup, \$11,175.

4. Recommend to the Council that the following amendment is made to the Innovation and Sustainability Fund's Terms of Reference:
 - a. Applications up to and including \$10,000 can be made by an individual, however applications from legal entities are preferred.
 - b. Applicants seeking more than \$10,001 must be a legal entity registered in New Zealand.
5. Delegate to the Head of Urban Design, Regeneration and Heritage the decision to publicly release this report following this meeting and/or when no commercial sensitivity exists.

4. Context/Background

Issue or Opportunity

- 4.1 This report covers Fund applications received between 28 January 2019 and 5 March 2019.
- 4.2 The available balance of the Fund at the time of this report is provided in **Table 1**.
- 4.1 The application recommended for funding is set out in **Table 2**.
- 4.2 The application seeking a Committee determination is set out in **Table 3**.
- 4.3 The application recommended for decline is set out in **Table 4**.
- 4.4 Applications funded by staff delegation are set out in **Table 5**.
- 4.5 Applications excluding supporting documents are provided in Attachment A.
- 4.6 The summary of the staff panel's evaluation is provided in Attachment B.
- 4.7 A budget summary and funding decisions made for all applications received in 2018/19 is provided in Attachment C.

Table 1: Innovation and Sustainability Fund balance

FUND available at the start of the 2018/19 financial year	\$546,007
TOTAL APPROVED Funding – year to date	\$303,830
AVAILABLE BALANCE at the time of this report	\$242,177

Table 2. Applications from \$10,001 - \$100,000 recommended for funding.

Recommended for funding			
Applicant		Request	Recommended
Cultivate Christchurch: Richmond Urban Farm - a transitional project in the Ōtākaro Avon River Corridor regeneration area by Cultivate Christchurch	Funding sought to establish an urban farm in the Otakaro Avon River Regeneration Area.	\$47,505	\$30,000
TOTAL		\$47,500	\$30,000

Table 3. Summary of applications from \$10,001 - \$100,000 seeking a Committee determination.

Funding determination sought			
Applicant		Request	Recommended
Household Devices Batteries Collection Trial by Christchurch City Council	Pilot a household battery collection recycling service for Christchurch and gather data to help create a value case for a permanent recycling solution.	\$72,490	-
TOTAL		\$72,490	-

Table 4. Applications from \$10,001 - \$100,000 recommended for decline.

Recommended for decline			
Applicant		Request	Recommended
The CupCycling™ Programme by IdealCup	Funding sought to subsidise the first 30 Christchurch cafes to take up a "cup swap" programme offering plastic reusable coffee cups for patrons who buy into the scheme.	\$11,175	\$0
TOTAL		\$11,175	\$0

Table 5. Applications approved by staff delegation up to and including \$10,000

Staff delegation			
Applicant		Request	Funded
Community Pantry and Fridge at the Riccarton West Community Garden by Oak Development Trust	Funding to support the completion of a community pantry and fridge in Riccarton West.	\$5,000	\$5,000
TOTAL		\$5,000	\$5,000

Strategic Alignment

- 4.8 Each application has been assessed against the Council's Strategic Priorities in forming these funding recommendations. A summary of this assessment is provided in Attachment B.
- 4.9 This report supports the [Council's Long Term Plan \(2018 - 2028\)](#):
- 4.9.1 Activity: Community Development and Facilities
- Level of Service: 2.3.1.1 Effectively administer the grants schemes for Council - 95% of reports demonstrate benefits that align to Council outcomes and priorities.

Decision Making Authority

- 4.10 Per CNCL/2017/00001, the Council resolved to establish the Innovation and Sustainability Fund (the Fund) on 28 September 2017. Applications to the Fund are considered by an interdisciplinary assessment panel (the Panel). Applications are considered against the Fund's Terms of Reference and funding decisions must follow agreed delegated authority.
- 4.11 Delegated authority to approve the allocation of funding is:
- Up to and including \$10,000: Head of Urban Design, Urban Regeneration and Heritage
 - \$10,001 - \$100,000: Innovation and Sustainable Development Committee
 - Greater than \$100,001: full Council

Previous Decisions

- 4.12 A description of the Fund, its evaluation and eligibility criteria, and a summary of funded applications is published on the Council website (<https://ccc.govt.nz/innovatefund/>).

Assessment of Significance and Engagement

- 4.13 The decisions in this report are of low significance in relation to the Christchurch City Council's Significance and Engagement Policy. The level of significance was determined by considering the size of the grants and the nature of the applications recommended for funding, and the delegated authorities established by the Council.

Funding recommendations and analysis

- 4.14 Applications to the Fund are considered by an interdisciplinary assessment panel (the Panel). Applications are considered against the Fund's Terms of Reference. The Panel's evaluation and recommendations are provided below.
- 4.15 **Modification of the Funds Terms of Reference**
- 4.15.1 The Fund's Terms of Reference currently only allows legal entities to apply. This could restrict applications from the community. For larger applications it is appropriate to have the accountability and structure of a legal entity, however for smaller applications this could be a barrier. Three applications have been received by individuals and staff have helped them find a host legal entity which also makes the arrangements more complicated and takes more time to process the applications. Consequently, this report suggests the Committee recommend to the Council the following modifications to the Terms of Reference (changes in *italics*).
- 4.15.2 Applicants *seeking more than \$10,001* must be a legal entity registered in New Zealand... Individuals seeking funding *over \$10,001* will need to partner with a legal entity...
- 4.15.3 *Applications up to and including \$10,000 can be made by an individual, however applications from legal entities are preferred.*

4.16 **Cultivate Christchurch: Richmond Urban Farm - a transitional project in the Ōtākaro Avon River Corridor regeneration area (\$30,000 recommended)**

- 4.16.1 Funding is recommended because Cultivate Christchurch has a proven model of growing and supplying healthy organic food to local businesses and low income families while training and supporting vulnerable youth. The proposal aligns with the vision of the Otakaro Avon River Regeneration Plan for Mahinga Kai and productive uses to support local communities. The proposal includes planting native vegetation along the river, which is also aligned to the Plan.

- 4.16.2 Council funding will be dependent on LINZ approval for use of the land (a 5 year lease has been requested). Funding is needed to help establish this new site. Cultivate Christchurch lease arrangements on their existing sites end in the coming 12-18 months and they are proactively seeking alternative sites. Synergies exist with the Richmond Community Garden, the proposed tiny house village and with the new central city Riverside food market. For more information about cultivate visit: www.cultivate.org.nz
- 4.17 **Household Devices Batteries Collection Trial by Christchurch City Council (\$72,490 Committee determination)**
- 4.17.1 The Committee has been asked to make a determination about this proposal because it tests the boundaries of the Fund's Terms of Reference, in that it is proposed by Council staff. The evaluation panel are supportive of the project and its outcomes i.e. to test a new service to collect and recycle household batteries in partnership with participating supermarkets and hardware stores.
- 4.17.2 The Fund eligibility states that *...generally, applications lead by central, regional or local government organisations will not be considered. Partnerships involving government organisations are acceptable.* In this case the partnership is with the participating supermarkets, hardware stores, the battery recycler and the supporting Council's in the region, however this project would be Council-led.
- 4.17.3 A similar precedent was set by Committee support of the Greater Christchurch Partnership Commuting Programme in 2018 where a travel demand project was provided to staff at the Christchurch Hospital. This battery recycling project is partly funded by the Canterbury Waste Joint Committee a collaboration of councils in the region (in a way similar to the Greater Christchurch Partnership). Christchurch is essentially acting on behalf of the councils to test this new recycling service for the region.
- 4.17.4 This project will help fill an important gap in our recycling services. Apart from vehicle batteries, all other batteries must be landfilled in Christchurch. Batteries are a problematic waste. They can generate fires in the waste stream (6 are recorded each year in Christchurch risking life and equipment) and they also contain toxic chemicals and precious metals. The aim of this trial is to gather evidence to help establish a longer-term producer responsibility programme for recycling household batteries.
- 4.17.5 Central Government is not planning to address household batteries in the near future. Following a successful pilot in Christchurch a bid to the Ministry for the Environment's Waste Minimisation Fund is planned to scale up activities and engage more industry players in this solution. Initial conversations indicate that supermarkets and hardware stores would be willing to voluntarily continue with the service at their cost, once it was successfully established. This would be a New Zealand first.
- 4.17.6 This application seeks funds to complement funding secured from the Canterbury Regional Waste Minimisation Fund (\$30,000), to allow the trial to expand to more stores in the city (three transfer stations and four retail outlets are proposed at approximately \$14,500 per site) to better test a future product stewardship scheme. The costs of undertaking this trial sit outside the current Solid Waste Management Budget. Due to recent changes in international recycling markets the Solid Waste Budget is fully allocated, meaning this trial would not proceed at the proposed scale without additional support.

4.17.7 Staff support this application because: this is a new service; it has a partnership approach; the aim is to work with industry to deliver an ongoing service for the community; and testing at the scale proposed will enable a funding application to the Ministry for the Environment waste minimisation fund to test large scale delivery.

4.18 The CupCycling™ Programme (\$11,175 decline)

4.18.1 The Panel fully supports the aims of this application (to reduce single use disposable coffee cups) however, the Panel recommends this application is declined because the proposal has limitations and an alternative is being developed by industry. Council investment in this proposal may be unwise if it soon becomes obsolete. Hospitality New Zealand, along with local businesses, are exploring an alternative model with the potential to provide a transformational change for takeaway coffee.

4.18.2 Limitations of this proposal include: relatively low uptake by customers in cities where the scheme is operating (even when the service has been operating for some time); time, space and cost of washing and storing cups falls to the participating cafés; disposable lids need to be landfilled, plastic does not provide a high quality experience for customers. For more information about Ideal Cup visit: www.idealcup.co.nz

5. Community Views and Preferences

5.1 At the end of the project or funding period each applicant must prepare an accountability report that describes how the community or environment has benefited from the project and if any unspent funds are to be returned to the Council.

6. Legal Implications

A standard Grant Funding Agreement approved by the Legal Service Unit will be used for each approved project.

7. Risks

7.1 Risks specific to each project are managed through the Grant Funding Agreement. The main risks relate to project delivery time or scope changes and reputational risks to Council.

8. Next Steps

8.1 The Head of Urban Design, Regeneration and Heritage will make information publically available following this meeting and/or when no commercial sensitivity exists. Each applicant will be notified within 24 hours about the decisions made by the Committee.

Attachments

No.	Title	Page
A	Attachment A - Fund Applications February 2019	
B	Attachment B - Project evaluation against criteria	
C	Attachment C - Fund Budget March 2019	

Confirmation of Statutory Compliance

Compliance with Statutory Decision-making Requirements (ss 76 - 81 Local Government Act 2002).
(a) This report contains:

- (i) sufficient information about all reasonably practicable options identified and assessed in terms of their advantages and disadvantages; and
 - (ii) adequate consideration of the views and preferences of affected and interested persons bearing in mind any proposed or previous community engagement.
- (b) The information reflects the level of significance of the matters covered by the report, as determined in accordance with the Council's significance and engagement policy.

Signatories

Authors	Brindi Joy - Transitional Projects Advisor Tony Moore - Principal Advisor Sustainability
Approved By	Carolyn Ingles - Head of Urban Regeneration, Design and Heritage Brendan Anstiss - General Manager Strategy and Transformation

Appendix 1

INNOVATION AND SUSTAINABILITY FUND DECISION MATRIX

Area of focus	Applicant	Project	Project Details	Applications to Other Funds	Budgets	Staff Recommendation
Social	Organisation Name: Cultivate Christchurch Organisation's legal status: Charitable Limited Company	Name of project: Cultivate Christchurch: Richmond Urban Farm – a transitional project in the Ōtakaro Avon River Corridor Regeneration area	Proposed location/s: 32 Smith Street, Woolston, Christchurch 8062 Proposed start date: 25.03.2019 Milestone & date: <ul style="list-style-type: none">Site activation – September 2019 Proposed end date: 31.03.2020	CCC funding history: Other funding sources approached or secured: None. We are developing a relationship with the UC School of Engineering who have approved a PhD scholarship for a student who is proposing to conduct research on bioremediation strategies for contaminated soils in urban areas (see project brief attached). Callaghan Innovation and the Ministry of Primary Industries have expressed interest in our research concept and supported Cultivate to begin developing applications for funding. As these funds require around 40% co-funding, Council funding will be a major step towards realising the potential of bioremediation applications. Declined:	Total income: 0 Total project cost: \$190,000 CCC funding request: \$47,500 Percentage: 25% Will the project be undertaken if no funding is given from CCC? No Supporting documents? Yes	Budget recommendation:

Project overview:

Cultivate Christchurch has proven transitional urban farming is a viable land use activity in the central city, especially as a setting for inspiring and engaging young people to live lives they value. It is well documented how disparate the recovery is in the east compared to the CBD. The timing is right to break down those barriers, move into a new phase of regeneration and find a place for Cultivate to deepen the roots of its impact in this city. This project funding will support us to condition the soils and build the physical infrastructure required to achieve innovative impacts.

Please describe how your project is novel, inventive, or newly applies good ideas from elsewhere, or supports innovation in Christchurch.

The innovation this project brings to Christchurch is to ground the global phenomenon of rising local food resilience within the most food insecure and socially deprived areas of our city. 90% of the world's farms are small holdings operated by individuals or families, and rely primarily on family labour. They produce 80% of the world's food. Urban farming produces approximately 20% of the world's food. Providing employment, training and positive environmental experiences will help to begin a process of restoring dignity, hope and belief in the communities that have suffered the most through intergenerational poverty, poor educational and employment outcomes.

Cultivate is a centre of ideas and innovation that have evolved through transitional initiatives in Christchurch. The project itself is highly innovative in both outcome and process in which an important goal is to highlight new ways of living and connecting for people from all walks of life.

Soil quality is of high importance, as any contaminants can affect the production of food that is safe for human consumption. Cultivate will test the soil prior to planting crops and will remediate where necessary. Use of phytoextraction and mycoremediation techniques have potential to drive innovation in the remediation of contaminated soils.

Please describe how your idea or project promotes sustainability in Christchurch and how it relates to the purpose of this Fund.

Progressive small-scale intensive agro ecology systems are improving yields as well as building organic matter, biodiversity, and the nutrient quality of the foods being sold through hyper local, direct-to-consumer supply chains. Collectively, these are impacting on climate change through reduced emissions, carbon sequestration and greater resilience beyond petroleum-based fertilisers and finite mineral deposits. Holistically planned, designed and managed ecosystems are integrating livestock and cropping systems to restore degraded soils and improve their water holding capacity, reducing the need for irrigation. These are amongst the most critical innovations in agricultural land use needed to avoid catastrophic ecosystem failure within the next 10-15 years.

In order to achieve any of the above, there is a lot of work required to remediate marginal, under-utilised and degraded or contaminated land as a result of historical uses (e.g. industrial contamination, conventional horticulture, etc.). This is as critical as managing water quality, considering the need (reduced emissions) and benefits (food security) from localising food supply chains. So not only will Cultivate lead innovation in the fields of youth development and community engagement, we will also be driving change in land use management, infrastructure design and sustainability practices in the context of an evolving urban form and function.

Please describe the lasting positive benefits your project will deliver or how the benefits resulting from your project will be sustained over time.

This project is in direct alignment with the three main themes of the draft Regeneration Plan for the ŌARC. This means there is a strong likelihood that what we test, research and develop on this site will support longer term projects to achieve the objectives of the Regeneration Plan. It will also inspire and provide useful information for other groups to learn from and replicate in other parts of the ŌARC, greater Christchurch and nationwide.

We expect the linkage between the production in the ŌARC and the opportunity to market our produce in the heart of the city will embed a new level of cultural appreciation for our river corridor, the soils adjacent to its banks, and the community wellbeing and livelihoods it can support. Not only will this flow through into long term economic outcomes for urban agriculture, it will form the basis for further development of cottage industries, local and regional economic growth and development that will make the primary production of food along the river a significant part of sustaining the life of our city.

Please show that you have the required experience, skills, support and resources to successfully deliver your project.

The site we are applying to access is a total of 2.24 hectares which is what we currently manage across three other sites. One of these sites is currently inactive due to soil contamination, and the other two are transitional lease arrangements that are due to expire in the next 12-18 months. The timing of this project is thus important to ensure continuity of our business and growth of our impact into the most deprived areas of the city. Successful management to date and overwhelming community support are testimony to our capacity to deliver results. We have proven our ability to form strong partnerships to access the professional services required available to achieve our objectives.

Cultivate's support partners will assist in preparation of an environmental management plan. This plan will consider how to minimise potential impacts to surrounding neighbours, risk and hazard management, and health & safety. Cultivate already has extensive and site specific Health & Safety plans in place for the three sites that are currently under the organisation's management. One of the Directors is a Safety Systems and Environmental Management professional, who will also be supporting development of a next generation of plans for this proposed transitional use.

Please describe the tangible outcomes from your project and how you will measure and report achievements or progress.



The focus of this project will be on activation of the site and this will be demonstrable by visiting the space or through photographic representation.
The outcomes will be similar to those reported in the accountability report submitted in advance of this application (attached for reference).
Reduced area of land that is required to be maintained by authorities.
A corridor of native vegetation be established between the cultivation activities and the Avon River to provide ecological services (i.e. filtration of potential runoff), as well as a path/cycleway for public use.
A fertile block of land will be returned to LINZ at the completion of the project.
The following approvals, compliance measures and standards can be provided to Council and other key stakeholders upon receipt.

- License to Occupy (LINZ - see draft application attached)
- Soil samples in areas designated for food production are within the acceptable limits of the National Environmental Standard and the BioGro standards for Organic Certification;
- Planning approvals from the consenting authorities of Christchurch City Council and Canterbury Regional Council (planning assessment appended to LINZ application);
- Code of compliance certificates for water and power service connections (see site plan for location of proposed connections).

Appendix 1

INNOVATION AND SUSTAINABILITY FUND DECISION MATRIX

Area of focus	Applicant	Project	Project Details	Applications to Other Funds	Budgets	Staff Recommendation
Waste	Organisation Name: Christchurch City Council Organisation's legal status: Local Government	Name of project: Household Devices Batteries Collection Trial	Proposed location/s: 53 Hereford Street Christchurch Central Christchurch 8013 Proposed start date: 1.04.2019 Milestone & date: <ul style="list-style-type: none">April 2018 - Set up in stores and Transfer StationsJuly 2019 – Operational review meeting with collector and retailers: first feedback dataOctober 2019 – Midway review from operational and marketing point of view, customer surveyJanuary 2020 – Operational review meeting with collector and retailersMarch 2020 – All parties meeting to discuss post trial Proposed end date: 31.03.2020	CCC funding history: Other funding sources approached or secured: Secured \$20k from CWJC & \$10k from ECan Declined:	Total income: 0 Total project cost: \$101,486 CCC funding request: \$72,490 Percentage: 71.43% Will the project be undertaken if no funding is given from CCC? No Supporting documents? Yes	Budget recommendation:

Project overview:
The purpose of this project is to:

- Pilot a new household battery collection, recycling service for Christchurch Gather data to help create a value case for larger, permanent household battery recycling service Investigate which collector & recycler can successfully operate in Canterbury.
- Set up, test new battery collection points in participating stores around Christchurch.
- Reduce hazardous wastes entering the waste streams or harming the environment.
- Recover, recycle valuable materials from waste streams.
- Provide new, convenient recycling service for items that are currently landfilled.
- Reduce fire risk in waste services and Council facilities, reduce harm to public and staff handling waste.

Please describe how your project is novel, inventive, or newly applies good ideas from elsewhere, or supports innovation in Christchurch.

- This service would be new to Christchurch.
- This pilot would act as a catalyst to help establish a permanent recycling service in Christchurch for household batteries.
- Additional funding would allow the service to be offered in more stores in the city enabling a better test of retailer support and collection logistics.

Please describe how your idea or project promotes sustainability in Christchurch and how it relates to the purpose of this Fund.

- Contributes to waste minimisation
- Reduce fire hazard for waste collection & staff and facilities, (a fire incident is recorded nearly monthly at Material Recovery Facility)
- Reduce contamination of environment,
- Save precious metals from landfills
- Response to public concern expressed through weekly requests for battery recycling services

Please describe the lasting positive benefits your project will deliver or how the benefits resulting from your project will be sustained over time.

- 12 months trial with intention of putting a bid to the national Waste Minimisation Fund for the service for the city.
- To demonstrate there is a need for such a service in New Zealand to the government who so far is aiming toward only car batteries stewardship.

Please show that you have the required experience, skills, support and resources to successfully deliver your project.

- A proven model of collection will be trialled in Christchurch
- 7 locations have confirmed their willingness to take part: 4 supermarkets, 3 transfer stations
- Local service provider for collection and sorting sourced from 3 approached for quotes
- Partial funding has been secured from the Canterbury Waste Minimisation Committee and Ecan.

Please describe the tangible outcomes from your project and how you will measure and report achievements or progress.

- 1 bin per collection point
- Volumes of batteries collected
- Number of collections per location
- Customer –retailer satisfaction survey
- Number of fire incidents at the recycling facility
- Recycling statistics from a reputable overseas battery recycler
- Media coverage

Additional Comments:

The cost per site is estimated to \$15k for 12 months. To get a meaningful data to support our application to the Waste Minimisation Fund, we would like to get 2 supermarkets and 2 hardware stores. This would cover most of the lithium type batteries. At the moment we only have funding secured for 2 shops. The Recycling Centres on transfer stations despite being less convenient, are still the main place to drop materials. Therefore we must include them as collection points. This makes 5 collections points in total that we request \$75k for. However, if the requested amount is too high, we could drop one shop, to lower our expectations to \$60k.

14.01.2019

1. **Why can't CCC fund this from its solid waste budget?** The solid waste team budget is set up through the rates to cover the kerbside collection system and processing of the material. The operational money goes towards running the plant facilities and the promotion to ensure the compliance of the material. Our budget is therefore fully allocated. The batteries collection is an extra project in response to a health and safety issue identified through the operations. Any new project would need an increase of the rates which would mean going through the LTP process. Eventually this will mean the pilot won't happen for a long time. Therefore, top-up funds are needed now to support current regional waste minimisation funding.
2. **Why can't industry fund this service?**
Despite being at the source of the hazardous waste production, the industry is not affected by any of the issues caused to the disposal system as council is. Moreover, there is currently no incentive or enforcement under central government to take action for the industry.
Testing the nature, scale and public uptake of the service will make approaching the industry more certain. This experience and the participation of retailers will be critical to get the industry support, essential to maintain the service over the time, but we first need to test the service.
3. Can you **describe the number or scale of fires** attributed to batteries and the potential associated cost? We record an average of 6 health and safety incidents attributed to batteries into our collection truck each year. These incidents can occur either on public space or in our facilities harming members of the public as well as staff. Incidents varies from smoke, explosion, to chemical burns going through gears. This occurrences involve time off work for injured staff or member of the public with medical expenses, costly specialised cleaning and repairs on facility. In the worst case scenario the loss of human lives or of the facility, cost would reach millions of dollars, not mentioning the service disruption and its costly consequences.
4. The Fund Rules state that applications from government agencies (includes councils) are not generally supported - **why should the Councillors agree to fund this project that normally only supports community projects?**
Household batteries are a hazardous waste that presents risks to the Council, pubic and the environment. No product stewardship currently exist in New Zealand. The Ministry For the Environment is looking at setting up one but for car batteries only so far. This trial is a unique opportunity to expand the testing of a new collection service so future approaches to industry partners and central government can have more confidence in the proposed approach.
Funds won't be used by Council for council operations but will go to contractors delivering a new battery collection service to the residents of Christchurch. Without this fund, only two shops would be able to trial this service, which make it harder to get industry support later and produce relevant learnings for an ongoing service or wider product stewardship scheme for household batteries.
This project meets the criteria and purpose of the fund as it is innovative while testing a new idea, addressing an important issue for the community. This project can have an ongoing benefit by being the catalyst for new ideas, showing Christchurch City Council is a forward thinking council, once again ahead of the game.

Appendix 1

INNOVATION AND SUSTAINABILITY FUND DECISION MATRIX

Area of focus	Applicant	Project	Project Details	Applications to Other Funds	Budgets	Staff Recommendation
Waste	Organisation Name: Ideal Cup Organisation's legal status: Limited Liability Company	Name of project: The CupCycling™ Programme by IdealCup	Proposed location/s: 31 Wallace Street, Tasman 7143 Proposed start date: 03.06.2019 Milestone & date: <ul style="list-style-type: none">With current scheduled roll-outs in other regions, we would envisage a timeline for launching the CupCycling™ Programme in Christchurch to be around the beginning of June. We would commence our engagement activity prior to 1 June, with a view to a roll-out in June 2019. This timeline will allow us to actively engage with cafes and get their "buy in" ready for rollout, prepare the custom printed cups and customer printed in-store Point of Sale/Marketing collateral and get the programme ready for rollout. Proposed end date: 31.12.2021	CCC funding history: Other funding sources approached or secured: We have not applied for other funding at this point. We are likely going to make a funding submission for the Canterbury Waste fund (April 2019). Previous ISF funding & reporting received: Declined:	Total income: \$0 Total project cost: \$23,350 CCC funding request: \$11,175 Percentage: 47.85% Will the project be undertaken if no funding is given from CCC? Yes Supporting documents? Yes	Budget recommendation:

Project overview:
CupCycling™ is the first reusable 'cup swap system' to start in New Zealand, developed by IdealCup. Its sole purpose is to reduce single-use coffee cup waste to landfill. CupCycling™ works on a Boomerang Bag principle - cups are used and returned. The customer pays a 'BOND' as their membership to join the CupCycling™ Programme. This BOND gives them the cup, with their first drink and the ongoing use of the reusable CupCycling™ cups; from any participating CupCycling™ cafe. They return their used cup each day, get a clean CupCycling™ cup with their drink and thereafter, just pay for their drink.

Please describe how your project is novel, inventive, or newly applies good ideas from elsewhere, or supports innovation in Christchurch.
The CupCycling™ system uses the New Zealand made, lifetime reusable IdealCup™ in place of single use coffee cups. CupCycling™ is a tested and proven model which has successfully been implemented across 9 regions in New Zealand thus far and even in British Columbia in Canada. The results speak for themselves... Motueka 16,000 single use cups diverted from landfill in less than a year; Titirangi just over 2,000 in less than a month; Wellington City, over 10,000 in 5 months. We have a large number of regions around NZ wanting ready to join CupCycling™ in 2019. Dunedin is rollout out next week (Feb 2019). Our vision is a nationwide network of CupCycling™ regions/cafes, all working together, as "one New Zealand" to effectively reduce single use coffee cup waste to landfill. The CupCycling™ Programme is flexible and the cups can be used with their REUSABLE LIDS, as we anticipate having in Christchurch City, or be used with a single use lid (compostable or re-cycleable, depending on council's preference/infrastructure available to process). The BOND using the single-use lid model is \$10 to the customer and \$13, using the REUSABLE LID model. Either way, a low cost to entry model for customers to participate.

Please describe how your idea or project promotes sustainability in Christchurch and how it relates to the purpose of this Fund.
CupCycling™ is about "community". It's about every cafe in a city/region working "together" to engage with their customers, to proactively promote sustainable change. When cafes band together with a common goal of reducing single use waste to landfill; the results speak for themselves. We know from experience, owning/operating a cafe is hard work, margins are tight. Stakeholder 'buy-in' (such as council funding) allows us to subsidise the entry cost to the cafes. It's a great way for councils to show their support and provide retailers with access to positive change making programmes. We like cafes to have some skin in the game, so they're getting involved for the "right reasons" and not simply because it's a discounted rate for early adopters. The CupCycling™ model is simple and effective for cafes' and their customers. It's an easy to join and simple to use system, which doesn't require ongoing investment. Customers pay a one off "bond" to "join the nationwide CupCycling movement" and have the ongoing use of the reusable cups. Customers LOVE THIS SYSTEM. It's a powerful way for them to participate and support their community to be more sustainable, without having to necessarily own their own cup.

Please describe the lasting positive benefits your project will deliver or how the benefits resulting from your project will be sustained over time.
The benefits of CupCycling™ are tangible and measureable. The CupCycling™ model is designed to continue for a lifetime. There's no "end date". Once adopted, the cafes can continue the model forever. The reusable IdealCups are designed for a lifetime of reuse. All participating CupCycling™ cafes are required to "submit" weekly data for "cups diverted from landfill". This data is gathered electronically (using a text based system we have developed). This data is recorded by cafe and can be reported on by cafe, by date, by region etc. It's important we can provide this data to you, our stakeholders, offering tangible and measurable data reporting; so stakeholders can accurately measure the return on investment and evidence the success of the waste reduction to landfill.

Please show that you have the required experience, skills, support and resources to successfully deliver your project.
Our umbrella company, IdealCup, has proactively led the reusable cup industry in NZ for 10 years. We are an award winning company/product and we're passionate about sustainable change for New Zealand. We are recognised as leaders in our field and our NZ made product is the preferred choice for organisations throughout NZ as well as internationally. We have a small dedicated team led by Stephanie Fry (owner). Steph is ALWAYS the first point of engagement for CupCycling™, proactively on the ground, meeting with stakeholders and engaging with cafes and the community to ensure the ongoing success of the CupCycling™ programme in every region. We have a dedicated Business Support Assistant, who's primary role is to assist in managing CupCycling™, provide ongoing support and contact with all CupCycling™ regions/cafes; as well as managing the data collection database and reporting. We have strong advisory support and access to and work with industry experts. We are active members of WasteMINZ and SBN and have engagement with industry leaders at various industry related and connected organisations throughout NZ. We are constantly learning and evolving, ensuring we remain leaders in our market, providing support for our programmes, to ensure they are effective for all stakeholders.



Please describe the tangible outcomes from your project and how you will measure and report achievements or progress.
As mentioned above, we have developed a back end data collection database system for our CupCycling™ model. This allows us to proactively gather each individual cafes' "cups diverted from landfill" data, which we can then report from. We provide quarterly reporting to stakeholders, which can be delivered as regional data, date range data, by volume etc. Quarterly reporting commences the quarter following the launch of CupCycling™ in your region, allowing time for the system to "bed in" and for data submission/collection to commence.

Attachment B. Evaluation of proposals against the Innovation and Sustainability Fund criteria – March 2019

Project Name	Fund Criteria					
	Innovative	Sustainable	Legacy	Deliverable	Measureable	Other comments
Cultivate Christchurch: Richmond Urban Farm - a transitional project in the Ōtākaro Avon River Corridor regeneration area by Cultivate Christchurch Requested: \$47,500 Recommend: Fund \$30,000	<ul style="list-style-type: none"> Mahinga Kai / productive uses that support the local economy and education are aligned with the Avon Regeneration Plan. Cultivate are highly innovative in the way they deliver their services and produce and have received considerable community and business support. Proposes to test new forms of soil contaminant (copper, chrome, arsenic and lead) rehabilitation using soil biology. 	<ul style="list-style-type: none"> Cultivate is a local social enterprise growing vegetables on underutilized urban land and delivering by electric bike produce to central city cafes and composting collected food scraps, while training vulnerable youth in horticulture and feeding the hungry. Project will add activity in the Red Zone, improve natural surveillance and amenity with the planting of a native buffer. Proposal is aligned with the CCC Food Resilience Policy. 	<ul style="list-style-type: none"> A 5 year lease has been sought from LINZ for this urban farm. Much of the infrastructure used by Cultivate is moveable, should they need to vacate the land at the request of LINZ. The location chosen is close to low income households who can be involved in and benefit from the farm. 	<ul style="list-style-type: none"> Cultivate have a proven track record and received considerable support and funding from the community and businesses. Cultivate require a new site to continue their operations – they are currently on land that they must relinquish to the owners. Synergies possible with the existing Richmond Community Garden, the Central City Farmers Market and Tiny House Eco-village. 	<ul style="list-style-type: none"> Area of land converted for productive uses. Number or area of native plants established. Value of produce sold or donated to worthy causes. Number of people involved in the Cultivate education programme. Support received in kind or cash from others. Positive media exposure. 	<ul style="list-style-type: none"> Cultivate received \$50,000 from the Innovation and Sustainability Fund CCC in 2018.
Household Devices Batteries Collection Trial by Christchurch City Council Requested: \$72,490 Recommend: Committee determination.	<ul style="list-style-type: none"> Proposal will pilot a new household battery drop-off and recycling service at seven sites in the city (mix of eco-drops, hardware stores and supermarkets). A pilot is needed to gather core data to help establish an ongoing service through a future product stewardship scheme (business sponsored recycling). It will test the collection and processing system and build relationships to support ongoing implementation. 	<ul style="list-style-type: none"> Household battery recycling is an important gap in the waste services provided in Christchurch. Council regularly receives public requests for household battery recycling. Batteries contain precious metals that should be recovered and reused. Batteries release harmful chemicals when landfilled. Batteries can cause fires in the waste system damaging infrastructure, placing people at risk and disrupting services. 	<ul style="list-style-type: none"> Catalyst funding is sought to establish reasonable scale pilot to build evidence for businesses about a product stewardship programme for recycling household batteries in NZ. Government is looking at electronic waste as a priority, but its focus is vehicle batteries. Addressing household batteries will be many years away. If successful partnerships could deliver an ongoing service. Council investment would be an initial catalyst for future private investment. 	<ul style="list-style-type: none"> Seven battery drop-off points are proposed (3 transfer stations, 2 supermarkets, 2 hardware stores). \$30,000 has been secured from Canterbury Regional Waste Joint Committee and Environment Canterbury. A reputable battery recycler has been selected to ensure proper recycling and down-stream quality. Residents can currently drop-off vehicle batteries at Christchurch eco-drops. 	<ul style="list-style-type: none"> Number of collection points established. Amount and type of household batteries collected. Reduction in the number of rubbish fires attributed to batteries. Perceptions of participating retail outlets. Support from battery suppliers and retailers for continuation of service. 	<ul style="list-style-type: none"> Council determination is sought because within the Fund's Terms of Reference, Council-based applications are not generally supported. This recycling service is being provided to residents to help test a future service. This is not part of Council's normal operations. A precedent for this was set by the Greater Christchurch Commuting Programme (travel demand management for staff at the Christchurch Hospital).

<p>The CupCycling™ Programme by IdealCup</p> <p>Requested: \$11,175</p> <p>Recommend: Do not fund</p>	<ul style="list-style-type: none">Proposal to provide 30 cafes with starter packs (\$745 per pack) of plastic reusable coffee cups to help launch a new service in Christchurch.Plastic cups are purchased by customers for \$14 and returned rinsed or dirty to the café for washing.Plastic reusable cups are not new and are widely available in NZ.	<ul style="list-style-type: none">The use of reusable cups supports a local circular economy.Single use disposable or “compostable” lids remain problematic and must be landfilled.Cups are designed to fit NZ coffee makers and are made in NZ – a Tasman based business.The cups are not recyclable in Council provided services. Some confusion could arise when marketing states they can be recycled.The local cup manufacturer (Synapco) can recycle cups at the end of their life. Customers must return cups to cafes.	<ul style="list-style-type: none">Hospitality NZ was consulted about this proposed service and has some concerns which are shared by the evaluation panel such as:<ul style="list-style-type: none">Plastic can leach when hot.Plastic can scuff aesthetic concerns.Plastic is affected by ultraviolet (e.g. cups are left in vehicles).Plastic was not preferred in customer research. Quality, taste and style will be important to gain wide uptake.Low level of uptake achieved by this service to date.Need to clean cups (some cafes do not have washing facilities).Additional cost of washing and storing falls to cafes who are often limited in time and space. <p>Consequently, an alternative system is being explored using recyclable, durable, high quality stainless steel and a third party washing service possibly a social enterprise.</p>	<ul style="list-style-type: none">Ideal cup have been operating in Motueka for some time and are currently reducing the total number of disposable cups used by only approximately 6%. This indicates that the system may not be effective for gaining wide level support from cafes and customers.Ideal Cup have established in 11 locations which demonstrates a willingness of communities to address this issue.Disposable cups are an issue of public concern - now that straws and single use bags have been addressed by most outlets.	<ul style="list-style-type: none">Number of participating cafes.A system is established for gathering statistics about cup use.Number of reusable cups sold in Christchurch.	<ul style="list-style-type: none">With local café owners and Hospitality NZ, Christchurch should establish a vision of going disposable cup free and establish a new citywide service to transform the way cups are used. The service currently proposed may not achieve this scale transformation. A new service like a “Lime Scooters for cups” is being investigated by partners.Council may not want to invest in one solution, while another is being considered by industry. This may send mixed messages and could result plastic cups becoming obsolescent (resulting in more waste). However, we cannot be sure that an alternative will eventuate.
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Proposals within staff delegation						
Project Name	Fund Criteria					
	Innovative	Sustainable	Legacy	Deliverable	Measureable	Other comments
<p>Community Pantry and Fridge at the Riccarton West Community Garden by Oak Development Trust</p> <p>Request: \$5,000</p> <p>Funded in full</p>	<ul style="list-style-type: none">Novel approach only the second pantry and fridge in Christchurch.New way of sharing food from homes, community gardens and supermarkets.Aligned with CCC Food Resilience Policy.Lessons learnt could be shared with others to encourage more food sharing throughout the city.	<ul style="list-style-type: none">Useful tool supporting a sharing and caring community.Access to affordable healthy food is an issue for many low income households.Helps to reduce food waste from gardens and supermarkets (via city harvest).Council funding will connect the fridge to electricity and expand the functioning of the pantry.	<ul style="list-style-type: none">Once established, benefits will continue as long as the pantry and fridge is stocked.Healthy families can more fully contribute to society.Land is owned by Housing New Zealand so overtime it may be used for other purposes.The fridge / pantry is moveable should the land owner need to use the land.	<ul style="list-style-type: none">Pantry is established and has been running successfully, but requires electricity to the fridge and more shelving to function better.	<ul style="list-style-type: none">Amount of food shared.Number of visitors.Hours of operation (levels of service).Positive media stories.	<ul style="list-style-type: none">Community Board supports the community garden managed by the Oak Development Trust. The pantry and fridge is a new addition to the services provided to the community.

Panel Date	Project & Applicant	Project Description	Category	Date Received	Requested	Recommendation			Approved Funding	Ongoing Budget Totals				
						Panel	Committee	Council		Requested	Allocated	Remaining		
(DD/MM/YYYY)				(DD/MM/YYYY)	(\$)	(\$0-\$10k)	(\$10k-\$100k)	(\$100k +)	(\$)	(\$)	(\$)	(\$)	(%)	
											(\$)	(\$)	(\$)	100.0%
Round 1 22/08/2018	Realising future public transport - deploying ohmio self-driving vehicles by Ohmio Automotion Ltd	To establish self-driving vehicles in Christchurch	Transport	24/04/2018	\$74,222	\$74,222	\$50,000		\$50,000	\$228,315	\$54,500	\$491,507	90.0%	
	STREAMED – A community-based online water clarity monitoring tool by EOS Ecology	Funding sought for website and app interfaces to allow real-time logging and interpretation of water clarity data.	Water	4/04/2018	\$99,593	\$0	\$0	\$0						
	Rise Up For The Climate by R. 350.org Christchurch	Goal is a formal network of local groups, churches, businesses, local government bodies etc. taking actions to reduce GHG emissions, live more sustainably, and educating others in the importance of and the methods that can be implemented in reducing GHG emissions	Energy/Climate	26.07.2018	\$4,500	\$4,500		\$4,500						
	Tūmanako Wellness Centre by Marcelle Lunam	A green, holistic, sustainable sanctuary providing nurturing and compassionate care in a calm healing environment. Helping people with mental health issues	Resilience	30/04/2018	\$50,000		\$0	\$0						
Round 2	Conservation Week 2018 with Squawk Squad by Squawk Squad	Delivered Conservation Week educational packs to 80 Christchurch school classrooms to support environmental education and practical actions. Used virtual reality to boost student engagement and understanding of the life of threatened NZ birds and captured and shared video blogs of participating schools.	Biodiversity	9/08/2018	\$8,000	\$8,000			\$8,000	\$8,000	\$8,000	\$483,507	88.6%	
Round 3 24/9/18	MyCup™ Waste reduction Initiative by My Cup NZ Limited	To support ending period poverty through a buy one, gift one scheme and to provide education to school students about the subject.	Waste	6/06/2018	\$95,000	\$95,000	\$0		\$0	\$121,953	\$23,000	\$460,507	84.3%	
	Project Sea Change	An app to help the community monitor the location, amount and type of plastic litter in the environment.	Water	25/06/2018	\$12,000	\$12,000	\$12,000	\$12,000						
	In Correspondence - Mapping Christchurch (In Correspondence: Christchurch) by Emma Johnson	Layering local social and environmental stories over maps to be displayed at a series of public events that also connect the audience with ways to volunteer in the community.	Ecology	13/08/2018	\$4,953	\$5,000		\$5,000						
	Demystifying Electric Vehicles by Yoogo Share	Public opportunity to ride an electric vehicle and understand car sharing. To be held at the Lyttelton Farmers Market and Northlands Mall.	Transport	30/08/2018	\$10,000	\$6,000		\$6,000						
Round 4 8/10/18	Building Above Code and To Code by Massey University, Dr Greg Chawynski	To purchase 100 instruments (SKOMOBOS) and collect data on the temperature, moisture, airborne particle levels and carbon dioxide levels in the living rooms and one bedroom in 25 Christchurch Superhomes or 'above code' homes.	Building	27/09/2018	\$40,000	\$40,000	\$40,000		\$40,000	\$128,200	\$68,200	\$392,307	71.9%	
	WaiWatch- Effective Water Measurement by WaiWatch	Develop and trial a household water monitoring app in the Duvauchelle township to help manage water use. Future City Activator application.	Water	30/04/2018	\$28,200	\$28,200	\$28,200	\$28,200						
	BigFoot by The Vector Sector	A mobile app/web application to support youth (10-18) in guiding youth to use alternate modes of travel to address Christchurch's high carbon footprint. Future City Activator application.	Energy/Climate	30/04/2016	\$60,000	\$0	\$0	\$0						
Round 5 13/11/18	Pop Lab by Fab City Aotearoa Trust	Showcasing a new type of craft in the Arts Centre this project will run over the 2018/19 summer 'maker workshops' using digital technologies and 3D printing. The Pop Lab is a temporary shop-front displaying the range of products that can be made in their hands-on maker workshops. This project aims to move away from a consumer economy, to a producer economy where people can design, customise, make and so repair and recycle their own household items - a practical demonstration of the circular economy.	Social	2/11/2018	\$17,700	\$10,000			\$10,000	\$91,600	\$30,000	\$362,307	66.4%	
	Nature's Rainbow by Vicky Steele	Butterfly garden in the central city to attract a variety of native butterflies.	Environment	23/11/2018	\$73,900	\$15,000	\$20,000	\$20,000						
Round 6 17/12/18	STREAMED – A community-based online water clarity monitoring tool by EOS Ecology	An online site for community-based water quality monitoring, working from the established Cashmere Stream Care Group's (CSCG) monitoring programme	Water	14/11/2018	\$14,289	on hold			on hold	\$154,909	\$49,389	\$312,918	57.3%	
	Braveheart Christchurch - Simon Challies and Andrew Murray	To support continuation of a social media channel that profiles Christchurch residents that are inspiring others.	Social	19/11/2018	\$36,000	\$36,000	\$36,000	\$36,000						
	Talk Town Game by Talk Town Ltd	App for deaf and hard of hearing children to develop skills to advocate for themselves, understand their communication needs and interact with others.	Social	11/26/18	\$8,389	\$8,389		\$8,389						
	Electrothermal Weed Management Workshops by Avon-Otakaro Incorporated	To deliver workshops around electrothermal weed management, a technology that could support a reduction in use of chemical herbicides.	Biodiversity	12/10/2018	\$5,490	\$5,000		\$5,000						
Round 7 14/2/19	Memorial Edible Gardens of Mt Pleasant by Mt Pleasant Memorial Community Centre and Residents' Association Inc.	Community garden with vegetables and fruit trees in Mt Pleasant.	Resilience	11/12/2018	\$3,333.03	\$3,333			\$3,333	\$90,741	\$65,741	\$247,177	45.3%	
	LiteClub - Christchurch by Project Litefoot Trust	A programme designed to help community sports clubs reduce their environmental impact. Funding will support 10 Christchurch clubs.	Energy/Climate	9/01/2019	\$9,303	\$9,303		\$9,303						
	Electrothermal Weed Management Trial by Avon Otakaro Incorporated	Following on from the training workshops, funding will support operations of field trials targeting different weeds in different locations to test efficacy of the technology in different scenarios.	Biodiversity	21/01/2019	\$25,010	\$25,010	\$25,010	\$25,010						
	The Corner Store - year 2 - The Corner Store LLC	Funding sought for staff time to run the creative co-working space.	Economic	1/29/19	\$25,000	\$0	\$0	\$0						
	Conservation Week 2019 with Squawk Squad by Squawk Squad	Digital, innovative, environmental education outreach into NZ schools during Conservation Week. Funding will support 110 classrooms and approx 2,800 school children	Biodiversity	2/04/2019	\$20,000	\$20,000	\$20,000	\$20,000						
	Fit out and activation of GfR mobile workshop by Greening the Rubble	Funding sought for fit out and tools for the previously funded Mobile Workshop	Social	1/29/19	\$8,095	\$8,095		\$8,095						
Round 8 7/3/19	Cultivate Christchurch: Richmond Urban Farm - a transitional project in the Ōtākaro Avon River Corridor regeneration area by Cultivate Christchurch	Funding sought to establish an urban farm in the residential red zone.	Social	1/31/2019	\$47,500	\$30,000	-	-		\$144,260	\$5,000	\$242,177	44.4%	
	Household Devices Batteries Collection Trial by Christchurch City Council	Pilot household battery collection recycling service for Christchurch; gather data to help create a value case for permanent recycling service; investigate which collector and recycler can successfully operate in Canterbury.	Waste	12/11/2018	\$72,490	-	-	-						
	The CupCycling™ Programme by IdealCup	Funding sought to subsidise the first 30 Christchurch cafes to take up a "cup swap" programme offering reusable coffee cups for patrons who buy into the scheme	Waste	17/02/2018	\$11,175	\$0		\$0						
	Community Pantry and Fridge at the Riccarton West Community Garden by Oak Development Trust	Funding to support the completion of a community fridge.	Social	2/21/19	\$5,000	\$5,000		\$5,000						
					\$869,142	\$448,052	\$231,210	\$0	\$303,830	\$967,978	\$303,830	\$242,177	44.4%	

43. 15 March 2019 Incident Response

Reference: 19/373325

Presenter(s): Patricia Christie – Head of Business Partnership

Confidentiality

Section under the Act:	The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.
Sub-clause and Reason:	s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).
Plain English Reason:	Response is continuing and costs are still being collated.
Report can be released:	Once final costs have been determined and any recoveries agreed, a joint announcement may be made by Council and the Crown.

1. Purpose of Report

- 1.1 The purpose of the report is to update Councillors on the estimated costs incurred by Council in its response to the 15 March 2019 incident.

2. Executive Summary

- 2.1 Staff are continuing to pull together the overall costs of our response.
- 2.2 The response is focused on eight areas
 - Burials
 - Tributes (including tribute walls and condolence books)
 - Family and Community Welfare
 - Friday Congregational Prayers 22 March
 - Remembrance services and Friday prayers 29 March
 - Community Events and Vigils
 - Community Leadership Liaison and Support
 - Other Council support
- 2.3 The table below details current estimated costs in relation to these. It is noted that in relation to the 22 March Friday Congregational Prayers in South Hagley and the 29 March National Remembrance Service, that the Department of Internal Affairs (DIA) have indicated that they will reimburse all costs in relation to these.

2.4 Current estimated cost

Cost Category	Current Estimate \$
Total estimated external Costs	1,136,218
less estimated recoveries from DIA	-551,853
Estimated net external costs	584,365

2.4.1 Traffic management costs in relation to the community events and vigils, remembrance services and Friday prayers were significant and have been included in the total cost of those aspects.

2.5 The above costs are after discounts by suppliers and do not reflect donations of goods and services. A large number of organisations have been extremely generous and have significantly discounted the cost of goods and services or have provided them for no cost.

2.6 Ongoing costs

2.6.1 We are aware that the Duke of Cambridge could visit in late April, it is currently expected that DIA will meet the bulk of the costs relating to such a visit. However, until the itinerary is finalised the cost to Council cannot be firmed up. Based on past royal visits we would expect Council's costs to be less than \$10,000 plus staff time.

2.6.2 There are ongoing monitoring and security requirements at Linwood Cemetery. At present we continue to have security, fencing and CCTV cameras in place. The extent to which these will be required are still to be confirmed.

2.6.3 We will continue to provide additional support to our staff, we estimate that this will continue for 12 months.

2.6.4 Provision for future event recognition (e.g. remembrance services and memorials) will need to be included in the 2019/20 Annual Plan. This will be included within the staff submission.

3. Staff Recommendations

That the Council:

1. Receive the information in the report, noting that:
 - a. many of these costs are estimates and are still to be finalised
 - b. costs are on-going
 - c. any recoveries from the DIA and other agencies are still to be discussed and agreed
2. Note that this report must remain public excluded until all costs and recoveries have been agreed and finalised, at which stage a joint announcement may be made by Council and the Crown.

Attachments

There are no attachments to this report.

Confirmation of Statutory Compliance

Compliance with Statutory Decision-making Requirements (ss 76 - 81 Local Government Act 2002).

(a) This report contains:

- (i) sufficient information about all reasonably practicable options identified and assessed in terms of their advantages and disadvantages; and
- (ii) adequate consideration of the views and preferences of affected and interested persons bearing in mind any proposed or previous community engagement.

(b) The information reflects the level of significance of the matters covered by the report, as determined in accordance with the Council's significance and engagement policy.

Signatories

Authors	Patricia Christie - Head of Business Partnership Adrian Seagar - Senior Insurance Specialist
Approved By	Carol Bellette - General Manager Finance and Commercial (CFO) Mary Richardson - General Manager Citizen and Community