

14. HERITAGE COVENANT OFFICERS SUBCOMMITTEE

General Manager responsible:	General Manager Strategy and Planning DDI 941-8177
Officer responsible:	Programme Manager Liveable City
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PURPOSE OF REPORT

1. The purpose of this report is to review the Heritage Covenant Officers Subcommittee, its current membership and delegated financial responsibilities and to recommend an alternative subcommittee structure to administer certain Heritage grants and covenants.

EXECUTIVE SUMMARY

2. Heritage Incentive Grants, currently administered by the Heritage Covenant Officers Subcommittee, provide financial assistance to heritage property owners to promote the retention of listed heritage buildings and objects through a recognition that heritage retention incurs additional costs and constraints to the owner, while providing a public benefit to the community.
3. The current Heritage Covenant Officers Subcommittee is constituted as a subcommittee of the Council with the membership and delegated authority detailed in paragraphs 25 and 26 of this report.
4. At the extraordinary meeting of the Council held on 20 December 2007 the Council requested that a review of the current delegated authority of the Heritage Covenant Officers Subcommittee be undertaken and that the results of that review be reported back to the Council.
5. Council officers have undertaken the requested review and recommend that:
 - (a) The existing Heritage Covenant Officer Subcommittee be discharged; and
 - (b) A new Heritage Grants and Covenants Subcommittee (renamed to better reflect the activities of the Subcommittee) be constituted as a subcommittee of the Regulatory and Planning Committee; and
 - (c) The membership of the new Heritage Grants and Covenants Subcommittee comprise three Councillors; and
 - (d) The new Heritage Grants and Covenants Subcommittee be granted the delegated authority specified in the staff recommendations section of this report. (These delegations are identical to the delegations currently granted to the Heritage Covenant Officers Subcommittee, with the exception that the limit of the Subcommittee's jurisdiction in respect of approving cash grants is proposed to be increased from the current \$50,000 to \$100,000 to recognise the proposed Councillor membership of the new Subcommittee.)

FINANCIAL IMPLICATIONS

6. There are no financial implications.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

7. Yes, grant funding is provided in 2006-16 LTCCP budgets.

LEGAL CONSIDERATIONS

8. A Council may appoint committees, subcommittees, other subordinate decision making bodies and joint committees (clause 30, 7th Schedule LGA 2002). The Council also has the power to appoint or discharge any member of a committee or a subcommittee (clause 31(1)).

9. A "committee", as defined in the LGA 2002, includes:
- (a) a committee comprising all the members of that local authority; and
 - (b) a standing committee or special committee appointed by that local authority; and
 - (c) a joint committee appointed under clause 30 of Schedule 7; and
 - (d) any subcommittee of a committee described in paragraph (a) or paragraph (b) or paragraph (c).
10. The quorum for any meeting of a committee is prescribed by clause 23 of the 7th Schedule of the LGA 2002. This states that a committee quorum:
- "(i) is not fewer than 2 members of the committee (as determined by the local authority or committee that appoints the committee); and
 - (ii) in the case of a committee other than a subcommittee, must include at least 1 member of the local authority."
11. This provision may not apply to subcommittees appointed directly by Council (because of the definition of "committee") but in any case the Council may wish to have a quorum greater than two members for some subcommittees. The Council should therefore ensure that quorums for the various subcommittees are clear.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

12. The Heritage Incentive Grants Scheme and associated policy requirement to covenant properties receiving Incentive Grant funding of \$5,000 or more is aligned to the Community Outcome 'An Attractive and Well-designed City'. This provides for, among other things, ensuring "our lifestyles and heritage are enhanced by our urban environment".
13. One of the objectives under the Strategic Direction 'Strong Communities' provides for "protecting and promoting the heritage character and history of the city" (Goal 7, Objective 4).
14. 'City Development Activities and Services' aims to help improve Christchurch's urban environment, among other things. One activity under City Development provides for heritage protection. Heritage incentive grants and conservation covenants are non-regulatory mechanisms aimed towards achieving this end.

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

15. Yes. The measure is heritage awareness. The most recent survey (2006) showed 68% of the population were satisfied with Council's Heritage activity.

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

16. There are a number of strategies which recognise the importance of heritage retention and protection to the fabric of the city and our sense of identity:

Greater Christchurch Urban Development Strategy (UDS)

Heritage development projects provide opportunities for increased commercial and residential activity in the city while at the same time enhancing the heritage townscape. The UDS considers heritage as an integral part of Christchurch and an aspect of growth management provided for is through the protection, maintenance and enhancement of heritage.

Christchurch City Plan

Heritage redevelopment projects are consistent with the Heritage provisions of the City Plan: Volume 2, Section 4, City Identity, Objective 4.3 Heritage Protection provides for objectives and policies in relation to Heritage protection. It recognises that Christchurch is a cultural and tourist centre, a role mainly dependent on its architectural, historic and scenic attractions. Much of its distinctive character is derived from buildings, natural features, other places and objects which have over time, become an accepted part of the cityscape and valued features of the city's identity. The protection of heritage places and values can be for cultural, architectural, scientific, ecological and other special interest, areas of character, intrinsic or amenity value, visual appeal or of special significance to the Tangata Whenua, for spiritual, cultural or historical reasons. This protection may extend to include land around that place or feature to ensure its protection and reasonable enjoyment. A heritage item may include land, sites, areas, buildings, monuments, objects, archaeological sites, sacred sites, landscape or ecological features in public or private ownership.

Central City Revitalisation Strategy

Inner city heritage improvement projects are consistent with the vision for the central city to cultivate a distinct identity that is unique to the city's environment and culture. This strategy places particular emphasis on the heritage of our central city; the central city contains over half of the city's entire heritage assets. The projects will also contribute towards improving the visual amenity and uniqueness of the central city, which will enhance revitalisation objectives.

New Zealand Urban Design Protocol

Heritage projects improve the quality and design of the urban environment by protecting the heritage of the city, which is stated in the Protocol as being an attribute of successful towns and cities. The Limited Covenants will contribute towards the implementation of the New Zealand Urban Design Protocol of March 2005 of which the Council is a signatory.

CONSULTATION FULFILMENT

17. Not required.

STAFF RECOMMENDATIONS

It is recommended that the Council resolve that:

- (a) The existing Heritage Covenant Officer Subcommittee be discharged with effect from the date of this resolution.
- (b) A new Heritage Grants and Covenants Subcommittee be constituted with effect from the date of this resolution as a subcommittee of the Regulatory and Planning Committee.
- (c) Membership of the Heritage Grants and Covenants Subcommittee shall comprise three Councillors, to be appointed by the Council from time to time.
- (d) The quorum for meetings of the Heritage Grants and Covenants Subcommittee shall be any two Councillor Subcommittee members.
- (e) The Heritage Grants and Covenants Subcommittee be granted the following delegated authority:
 - (i) The power to enter into conservation covenants under section 77 of the Reserves Act 1977 or other appropriate legal instruments for the protection of heritage buildings, places or objects listed in the City Plan or the Banks Peninsula District Plan on such terms and conditions as the subcommittee thinks fit from time to time.
 - (ii) The power to enter into conservation covenants under section 77 of the Reserves Act 1977 or other appropriate legal instruments for the protection of buildings, places and objects which have community and heritage values consistent with the policy for covenants on non-heritage properties and on such terms and conditions as the subcommittee thinks fit from time to time.

- (iii) The power to approve or decline any application made pursuant to a conservation covenant or other legal instrument entered into for heritage purposes (excluding an application for consent for demolition).
- (iv) The power to approve or decline a conservation plan prepared pursuant to a conservation covenant or other legal instrument entered into for heritage purposes.
- (v) The power to exercise any discretion of the Council given by any conservation covenant or other legal instrument entered into for heritage purposes to enforce the terms of any such conservation covenant or other legal instrument or to require any act or thing on the part of the landowner or person giving such conservation covenant or other legal instrument following any breach of its terms and conditions.
- (vi) The power to institute enforcement proceedings where the terms and conditions of any conservation covenant or instrument entered into for heritage purposes have been breached by the landowner or the person giving such conservation covenant or instrument.
- (vii) The power to issue a dispute notice and to refer any dispute or difference arising with a party to a conservation covenant or other legal instrument entered into by the Council for heritage purposes to mediation or arbitration in terms of such conservation covenant or other legal instrument and the power to negotiate a resolution to such dispute on behalf of the Council.
- (viii) The power to approve individual heritage grants to owners of heritage buildings, places or objects listed in the City Plan or the Banks Peninsula District Plan of up to \$100,000, on such terms and conditions as provided by the Council's heritage grant policies, provided that:
 - applications for such grants in excess of \$100,000 be referred to the Council for approval, or otherwise; and
 - the Subcommittee be requested to report back to the Council twice a year, listing heritage grants which have been approved by the Subcommittee pursuant to its delegated powers within the preceding six months.

BACKGROUND (THE ISSUES)

18. The existing Heritage Covenant Officers Subcommittee was originally constituted by resolution of the Council at its meeting on 26 April 2001. In general terms, these delegations have permitted the Heritage Covenant Officers Subcommittee to make grants within certain prescribed limits, to enter into conservation covenants, to approve or decline consents and covenant conservation plans and to exercise a discretion granted to the Council in relation to the enforcement of the terms of conservation covenants (including references to mediation or arbitration). The full text of the current delegations granted to the Heritage Covenant Officers Subcommittee is contained in paragraph 26 of this report.
19. At the Council meeting of 13 December 2007 the Heritage Covenant Officers Subcommittee was formally reconstituted following the recent Council election on the same basis as it existed before the election.
20. At the extraordinary meeting of the Council on 20 December 2007 the delegations previously granted to the Heritage Covenant Officers Subcommittee prior to the election were re-granted in the same form as existed before.
21. The resolution of the Council passed on 20 December 2007 also requested that a review of the current delegated authority grant limit of \$50,000 exercised by the Heritage Covenant Officers Subcommittee be undertaken by Council officers and reported back to the Council.
22. As the existing Heritage Covenant Officers Subcommittee is constituted as a subcommittee of the Council it is consequently subject to the Council's Standing Orders, the Local Government Official Information and Meetings Act 2002 and the Local Government Act 2002. Accordingly, meetings of the Heritage Covenant Officers Subcommittee are publicly notified and attendance is open to the public. It is therefore considered that the current decision making process operated through the medium of the Heritage Covenant Officers Subcommittee is open and transparent. Currently meetings are scheduled on a monthly basis.
23. As discussed above, the Heritage Covenant Officers Subcommittee is currently constituted as a subcommittee of the Council. However, in the circumstances of the Council having recently established the Regulatory and Planning Committee it may be more appropriate to re-constitute the Heritage Covenant Officers Subcommittee as a subcommittee of the Regulatory and Planning Committee rather than as a subcommittee of the Council itself.
24. Concurrently with this review, Council officers have also undertaken a review of the Council's Heritage Incentives Grants Policy. The proposed Grants Policy, is also dealt with in this Council agenda.
25. The current Heritage Officers Covenant Subcommittee is constituted as follows:
 - General Manager Strategy and Planning
 - Programme Manager Liveable City
 - Corporate Support Manager
 - Their nominees
(Quorum: any two members)
26. The existing delegations granted to the Heritage Covenant Officer Subcommittee are detailed as follows:
 - "1. *The power to enter into conservation covenants under section 77 of the Reserves Act 1977 or other appropriate legal instruments for the protection of heritage buildings, places or objects listed in the City Plan or the Banks Peninsula District Plan on such terms and conditions as the subcommittee thinks fit from time to time.*

2. *The power to enter into conservation covenants under section 77 of the Reserves Act 1977 or other appropriate legal instruments for the protection of buildings, places and objects which have community and heritage values consistent with the policy for covenants on non-heritage properties and on such terms and conditions as the subcommittee thinks fit from time to time.*
3. *The power to approve or decline any application made pursuant to a conservation covenant or other legal instrument entered into for heritage purposes (excluding an application for consent for demolition).*
4. *The power to approve or decline a conservation plan prepared pursuant to a conservation covenant or other legal instrument entered into for heritage purposes.*
5. *The power to exercise any discretion of the Council given by any conservation covenant or other legal instrument entered into for heritage purposes to enforce the terms of any such conservation covenant or other legal instrument or to require any act or thing on the part of the landowner or person giving such conservation covenant or other legal instrument following any breach of its terms and conditions.*
6. *The power to institute enforcement proceedings where the terms and conditions of any conservation covenant or instrument entered into for heritage purposes have been breached by the landowner or the person giving such conservation covenant or instrument.*
7. *The power to issue a dispute notice and to refer any dispute or difference arising with a party to a conservation covenant or other legal instrument entered into by the Council for heritage purposes to mediation or arbitration in terms of such conservation covenant or other legal instrument and the power to negotiate a resolution to such dispute on behalf of the Council.*
8. *The power to approve individual heritage grants to owners of heritage buildings, places or objects listed in the City Plan or the Banks Peninsula District Plan of up to \$50,000, on such terms and conditions as provided by the Council's heritage grant policies, provided that:*
 - (a) *applications for such grants in excess of \$50,000 be referred to the Council for approval, or otherwise; and*
 - (b) *staff be requested to report back twice a year, listing heritage grants which have been approved by the Subcommittee pursuant to its delegated power within the preceding six months."*

THE OPTIONS

27. There are a number of options for structuring the membership of the new Subcommittee:
 - (a) Council officers only; or
 - (b) Both Councillors and Council officers; or
 - (c) Councillors only.

Table 1 identifies a range of benefits and constraints for each option:

Table 1: Subcommittee Membership Options Analysis

Membership Options	Benefits	Constraints
Council Officers	Reduced lead time for Subcommittee reports. Can ensure integration with other appropriate heritage initiatives.	Perceived conflict of interest in report monitoring and decision making. Councillors not involved in most decision-making
Council Officers and Councillors	Councillors involved in grant approvals, covenants and consents with advice from Council staff in relation to heritage policies and practice	The unavailability of Councillors at some times may slow the transaction of the Subcommittee's business
Councillors	Councillors involved in all grant and conservation covenant decision making	The unavailability of Councillors at some times may slow the transaction of the Subcommittee's business. Councillors involvement with detail of covenant consents and large numbers of small grants could cause frustration (over 80% of grants are \$50,000 or less)

28. The functions of the Heritage Covenant Officers Subcommittee include both heritage grants and covenants and consideration of all their ancillary aspects such as covenant consents and conservation plans.
29. The reconstitution of the subcommittee to comprise three Councillors would be appropriate. This would be consistent with councillors being members of other grant funding subcommittees such as the Creative Community, Metropolitan Funding and Strengthening Communities Subcommittees. The membership of these subcommittees is confined to Councillors only.
30. It is suggested that the existing delegations granted to the existing Heritage Covenant Officer Subcommittee are in an appropriate form to be re-granted to the proposed new Heritage Grants and Covenants Subcommittee. However, if the Subcommittee were to comprise three Councillors then consideration could be given to increasing the delegated financial responsibility of the Subcommittee from \$50,000 to \$100,000 in recognition of the direct Council overview of the grant approval process.
31. It is recommended that, to better reflect its activities, the name of the subcommittee be the 'Heritage Grants and Covenants Subcommittee'.

THE OBJECTIVES

32. The objectives are to maintain heritage buildings as links from the past for present and future generations through non-regulatory means, to assist and enhance the sense of place, sense of identity, the character of Christchurch City and to encourage income-generating tourists to these places of interest.