

CHRISTCHURCH CITY COUNCIL AGENDA

THURSDAY 12 MAY 2011

9.30AM

**BOARDROOM, BECKENHAM SERVICE CENTRE
66 COLOMBO STREET, CHRISTCHURCH**

CHRISTCHURCH CITY COUNCIL

Thursday 12 May 2011 at 9.30am
in the Boardroom, Beckenham Service Centre, 66 Colombo Street, Christchurch

Council: The Mayor, Bob Parker (Chairperson).
Councillors Helen Broughton, Sally Buck, Ngaire Button, Tim Carter, Jimmy Chen, Barry Corbett,
Jamie Gough, Yani Johanson, Aaron Keown, Glenn Livingstone, Claudia Reid, Sue Wells and
Chrissie Williams.

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12. 5. 2011

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12. 5. 2011

1. APOLOGIES
2. DEPUTATIONS BY APPOINTMENT
3. PRESENTATION OF PETITIONS

12. 5. 2011

**4. REPORT OF A MEETING OF THE FENDALTON/WAIMAIRI COMMUNITY BOARD:
MEETING OF 15 FEBRUARY 2011**

Attached.

12. 5. 2011

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MEETING OF 19 APRIL 2011**

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12. 5. 2011

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MEETING OF 18 APRIL 2011**

Attached.

16. ELECTED MEMBERS' REMUNERATION 2011/12

General Manager responsible:	General Manager Regulation & Democracy Services
Officer responsible:	Democracy Services Manager
Authors:	Lisa Goodman

PURPOSE OF REPORT

1. The purpose of this report is to enable the Council to formulate a proposal to be submitted to the Remuneration Authority for the payment of remuneration to elected members for the twelve month period beginning 1 July 2011.

EXECUTIVE SUMMARY

2. The Remuneration Authority has advised that the remuneration pool for the elected members of the Christchurch City Council and its eight community boards for the 2011/12 year has been fixed at \$1,510,828. This is an increase of \$38,705 in the size of the pool (approximately 2 per cent) compared to this current financial year, which is \$1,472,123.
3. The pool excludes the Mayor's gross salary of \$168,700 which has already been fixed by the Remuneration Authority. This has not been increased.
4. Based on the rules and principles set by the Remuneration Authority, the Council is now required to determine how it proposes to allocate the pool amongst the 53 elected members (Councillors and Community Board members) for the 2011/2012 financial year and, once decided by the Council, submit its proposal to the Remuneration Authority for approval. That approval must be given before the Council can implement its proposed remuneration structure.
5. Given that:
 - (a) the Remuneration Authority has recently confirmed its views on the remuneration ratio between Councillors and Community Board members, including a distinction between metropolitan and rural Community Boards, and
 - (b) the Council has only recently discussed this remuneration ratio on 10 April 2011 when submitting a proposal to the Authority for the remuneration for the balance of this current financial year,

it is proposed that the remuneration levels for the Deputy Mayor, Councillors, Community Board Chairs and remaining Community Board members be continued at the same ratios as those for the 2010/11 year, and that the increase of \$38,705 in the size of the pool be allocated on a pro-rata basis across all elected member roles.

6. All Community Boards have been consulted on the contents of this report.

FINANCIAL IMPLICATIONS

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

7. With the increase in the pool there will be an increase in overall remuneration for elected members of \$47,588; comprising the \$38,705 increase as well as an additional \$8,883 to meet the increase in community board remuneration from outside the pool. Provision for this increase will be made in the draft 2011/12 Annual Plan.

LEGAL CONSIDERATIONS

Have you considered the legal implications of the issue under consideration?

8. The principal statutory provisions which apply in this instance are the Seventh Schedule of the Local Government Act 2002, and the Remuneration Authority Act 1977. Once this Council's 2011/12 remuneration proposal (or any variation thereof) has been approved by the Remuneration Authority, it will be gazetted via the Local Government Elected Members' Determination 2012.

16 Cont'd

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

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

9. Page 156 of the LTCCP, level of service under Democracy and Governance refers.

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

10. Not applicable.

CONSULTATION FULFILMENT

11. The Council's proposal for remuneration must be received by the Remuneration Authority no later than May 2011 so that the Authority can issue its Determination prior to 1 July 2011. This has meant there has been sufficient time to consult with all Community Boards and seek their views which will be included in this report when it is submitted to the Council. The views of the Boards are set out in paragraphs 29 to 39 of this report.
12. In submitting its proposal to the Remuneration Authority, the Council is required to notify the Authority of:
- (a) details of any dissent at Council; and
 - (b) details of any dissent from its community boards.
13. Any person (including individual community boards) also has the ability to express any opposing views they might have on the Council's final proposal direct to the Remuneration Authority. Although there is no set closing date for the lodging of such submissions with the Authority, they should be lodged as soon as possible after the Council has reached a final decision on its preferred remuneration structure, as the Authority intends to deal with each application within a relatively short time-frame.

STAFF RECOMMENDATION

14. It is recommended that the Council:
- (a) Adopt the salary only model as its basis of remuneration for elected members of the Christchurch City Council for the remainder of the 2011/12 financial year.

Note: The remuneration framework requires all community board members to be paid an annual salary (i.e. there is no provision for the payment of meeting fees to community board members).
 - (b) Agree to submit the proposal set out in paragraph 27 of this report to the Remuneration Authority, which provides for 2010/11 remuneration levels and ratios to be applied for 2011/12, with the increase in the pool's size of \$38,705 and associated increase of \$8,883 from outside the pool to be allocated on the 2010/11 pro-rata basis across all elected member salaries (with the exception of the Mayor).
 - (c) Note that the Remuneration Authority must be advised of any dissent expressed by members of the Council or its Community Boards in relation to the Council's final proposal.

BACKGROUND (THE ISSUES)

Remuneration Framework

15. The Remuneration Authority is responsible for setting the salaries of elected local government representatives (clause 6 of Schedule 7 of the Local Government Act 2002 refers).

16 Cont'd

16. A brief summary of the remuneration framework and the rules and principles under which the Remuneration Authority works is attached as **Attachment One**.
17. The indicative pool for Christchurch City Council elected member remuneration in the remainder of 2011/2012 is \$1,510,828. This is for the total remuneration for the Deputy Mayor and Councillors, and 50 per cent of the total remuneration paid to elected Community Board members (excluding Councillors as they have been appointed by the Council to community boards). Fifty per cent of the total remuneration paid to elected community board members is paid outside the pool.
18. Only one salary is payable to elected members. Thus, a Councillor who serves as an appointed member of a Community Board is paid a Councillor's salary only, and receives no additional payment for serving on the Community Board.
19. Directors' fees paid to Councillors who serve as directors of Council-controlled organisations cannot be taken into account when considering Councillors' remuneration. The directors' fees paid to such Councillors reflect their service as directors of the companies concerned, rather than their role as Councillors.
20. The Mayor's salary is set independently by the Remuneration Authority, and is not included within the pool. Where a Mayor has partial or full private use of a car provided by the Council (as is the case in Christchurch), the Mayor's gross salary is reduced by an amount which reflects both the extent of private use and the value of the car supplied.
21. Although it is possible for the Council to recommend the payment of a mixture of salary and meeting fees to Councillors, community board members must be paid on a salary only basis, without meeting fees.
22. Christchurch City Council has had a salary only basis for remuneration of all its elected members since 2004.

Current Remuneration Levels

23. The salaries that currently apply to Christchurch City Council elected members for the 2010/11 year (excluding the Mayor) are:

Position	Total Positions	Individual Salary	Totals
Deputy Mayor	1	\$99,571	\$99,571
Councillors	12	\$86,249	\$1,034,988
<i>Total Councillors salaries</i>	13		\$1,134,559
City CB Chairs	6	\$24,270	\$145,620
BP CB Chairs	2	\$16,018	\$32,036
City CB members	24	\$16,989	\$407,736
BP CB members	8	\$11,216	\$89,728
<i>Total CB salaries</i>	40		\$675,120
<i>less 50% outside pool</i>			\$337,560
Total paid from pool			\$1,472,119

16 Cont'd

24. The proportions in percentage terms are:

<i>Deputy Mayor</i>	
<i>Councillors x 12</i>	<i>(86.62% of Deputy Mayor's salary)</i>
<i>City Community Board Chairs x 6</i>	<i>(28.14% of Councillors)</i>
<i>City Community Board members x 24</i>	<i>(70% of City Board Chair)</i>
<i>Peninsula Community Board Chairs x 2</i>	<i>(66% of City Board Chair)</i>
<i>Peninsula Community Board members x 8</i>	<i>(70.02% of Peninsula Board Chair)</i>

25. Factors underlying the rationale given previously by the Remuneration Authority in 2007 for approving the above ratio between Councillors and Community Boards, and Deputy Mayor and Councillors, are as follows:

- (a) The size, complexity and in particular the accountability of the Councillors' role, especially compared to that of the members of Community Boards
- (b) Maintaining a margin between the remuneration of the Deputy Mayor and that of a Councillor
- (c) City Community Board Chairs – maintaining relativity with other urban Community Board Chairs
- (d) Maintaining a 70 per cent relationship between the remuneration of Community Board members and that of the Board Chairs
- (e) The remuneration for Chairs of the Peninsula Community Boards is well above the norm for chairs of rural community boards, but as part of Christchurch City there is a wider role for both the chairs and members, and a corresponding extra time commitment, which may not be faced by members of other rural community boards.

26. In a letter to the Council dated 2 March 2011, responding to the Council's proposal for 2010/11 remuneration that was adopted at the Council meeting of 10 February 2011, the Remuneration Authority has confirmed its views on the differing levels of remuneration (see **Attachment Two**).

Proposed New Remuneration Levels

27. There are many possible options that can be provided on this topic (such as a mix of salary and meeting fees and other differences between elected members). Given the points outlined in paragraphs 25 and 26 above and that elected members have discussed these issues within the past three months, it is proposed that the 2010/11 relativities between elected members be continued for the next financial year, with the increase in the pool allocated on a pro-rata basis resulting in the following adjustments:

16 Cont'd

	Total Positions	Individual Salary	Totals
Deputy Mayor	1	\$102,190	\$102,190
Councillors	12	\$88,517	\$1,062,204
<i>Total Councillors salaries</i>	13		<i>\$1,164,394</i>
City CB Chairs	6	\$24,909	\$149,454
BP CB Chairs	2	\$16,440	\$32,880
City CB members	24	\$17,436	\$418,464
BP CB members	8	\$11,511	\$92,088
<i>Total CB salaries</i>	40		<i>\$692,886</i>
<i>less 50% outside pool</i>			<i>\$346,443</i>
Total paid from pool			\$1,510,837

VIEWS OF THE COMMUNITY BOARDS

28. All Community Boards considered this report at their April/May 2011 meetings, and extracts from their minutes are set out below. In summary, six of the eight Boards support the staff recommendation, though some noted concerns with the overall level of the pool.

Akaroa/Wairewa*Board Recommendation*

29. The Board recommended that the staff recommendation be adopted.

Burwood/Pegasus*Board Recommendation*

30. The Board recommended that the Council adopt recommendations a) and c). With regard to b), the Board recommended :

That the allocation of the remuneration adjustment proposed by the Remuneration Authority for elected members of the Christchurch City Council, be weighted in favour of the community board members over Councillors.

Fendalton/Waimairi*Board Recommendation*

31. The Board recommended that the staff recommendation be adopted.

Hagley/Ferrymead*Board Recommendation*

32. The Board recommended that the staff recommendation be adopted.

16 Cont'd

Lyttelton/Mt Herbert

Board Recommendation

33. The Board recommended that the staff recommendation be adopted.

Riccarton/Wigram

Board Recommendation

34. The Board recommended that the staff recommendation be adopted.

Shirley/Papanui

Board Consideration

35. The view was expressed that the current and proposed remuneration did not match the workload required of Community Board members. The Board was pleased to note that the Remuneration Authority would consider any enhanced responsibilities/delegations that might flow from the earthquakes, and that it would be undertaking some work on councillor/community board remuneration on a national basis with a view to any amendments being implemented for the 2012-2013 year.
36. One Board member proposed that the increase of approximately 2% in the remuneration pool be allocated evenly to all Community Board members including Chairs. The Board did not support this proposal and decided to support the staff recommendation.
37. That the staff recommendation be adopted.

Spreydon/Heathcote

Board Consideration

38. The Board noted the effective reduction in remuneration for Community Board members since the 2007 Determination, and noted that the level of remuneration does not reflect accurately the level of responsibilities undertaken by Community Board members. Further it was considered that due to the February 2011 earthquake there is a particularly high need for connections with the community to be strengthened at this time through the work of the Community Board.

Board Recommendation

39. The Board recommended that the staff recommendations a) and c) be adopted. With regard to recommendation b), the Board recommended that:

Particularly given the need for strengthened connections to the community since the 22 February 2011 earthquake, the increase in the pool be allocated to the remuneration of the Community Board members and Chairs only on a pro-rata basis.

17. 2011 LOCAL GOVERNMENT NEW ZEALAND CONFERENCE

General Manager responsible:	General Manager Regulation and Democracy Services
Officer responsible:	Democracy Services Manager
Author:	Clare Sullivan, Council Secretary

PURPOSE OF REPORT

1. The purpose of this report is:
 - To seek approval for elected members to attend the 2011 Local Government New Zealand (LGNZ) Conference to be held in Wellington from 10-13 July 2011.
 - To seek the appointment of the Council's voting delegates to the Annual General Meeting.
 - To seek whether the Council will: authorise Mike Mora to attend the LGNZ Conference; submit any remits for consideration at the Annual General Meeting, by 16 May 2011; and nominate any persons for the office of President and Vice-President, by 17 June 2011.

EXECUTIVE SUMMARY

2. This year's conference will be held in Wellington from Sunday 10 July to Wednesday 13 July 2011.
3. The Council usually authorises 5-6 Councillors to attend the conference. Last year, the Council gave approval for the Mayor and Councillors Helen Broughton, Sally Buck, Ngaire Button, Bob Shearing and Mike Wall to attend the conference.
5. In 2009 the Council also authorised, Mrs Yvonne Palmer and Mr Mike Mora to attend the conference, following a request from the National Executive Committee of Community Boards. However, the Council did not authorise this in 2010. A request has been received from Mr Mora for the Council to authorise that he attend the conference. Mr Mora is the Zone 5 Community Board representative.
6. The Christchurch City Council is entitled to appoint one presiding delegate with voting rights for the Annual General meeting, and an alternate voting delegate. The Council is also entitled to have up to four additional Councillors attending, being classed as viewing delegates. It is proposed that the Mayor be the presiding voting delegate, with a Councillor named as the alternate voting delegate. The rules of the New Zealand Local Government Association provide that the term "delegate" includes both an elected member and an officer of a member authority. The Annual General Meeting is being held on Wednesday 13 July 2011.
7. All Councillors have been supplied with a copy of the programme for this year's conference, the theme of which is "Future Focus 2011". The theme carries many interpretations and the emphasis will be on thinking and planning for the future of our communities. Keynote speakers include:
 - Brett O'Riley, Chief Executive NZICT Group
 - John Allen, Chief Executive Ministry Foreign Affairs and Race
 - Harry Verhaar, Senior Director, Energy and Climate Change, Philips Lighting
 - Melissa Clark Reynolds, Growing a Green Future.

The Prime Minister the Honourable John Key will open the conference.
8. In addition the Council has been asked by LGNZ as to whether it wishes to submit proposed remits for consideration at the LGNZ Annual General Meeting. These must be submitted by 16 May 2011. The remit policy is attached as **Appendix 1**. The Council has not proposed any remits for the past few years.
9. Nominations are also called for the offices of President and Vice-President. Nominations for these offices must be received by 17 June 2011.

17 Cont'd

FINANCIAL IMPLICATIONS

10. Earlybird fees of \$1,300 including GST will be incurred for each voting delegate/observer appointed by the Council. Accommodation and travel expenses will also be incurred. This expenditure can be accommodated within the provision for Mayoral/Councillor conference attendance and travel included in the 2010/11 Annual Plan.

LEGAL CONSIDERATIONS

9. There are no legal implications associated with the appointment of the Council's delegates/observers to attend this conference.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

10. Pages 156 and 157 of the LTCCP refer to the provision of support for elected members (which includes attendance at such conferences).

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

11. Not applicable.

CONSULTATION FULFILMENT

12. No consultation is required.

STAFF RECOMMENDATION

It is recommended that:

- (a) The Mayor and such other elected members as may be nominated at the Council meeting, be authorised to attend the 2011 Local Government New Zealand Conference in Auckland.
- (b) The Council appoint the Mayor as the presiding voting delegate and a Councillor as the alternate voting delegate, and up to three Councillors and the Chief Executive attending the conference, as the Council's viewing delegates at the Annual General Meeting.
- (c) The Council consider whether it wishes to:
 - (i) Authorise Mike Mora to attend the LGNZ Conference;
 - (ii) Submit any remits for consideration at the Annual General Meeting, by 16 May 2011;
 - (iii) Nominate any persons for the office of President and Vice-President, by 17 June 2011.

18. CANTERBURY MUSEUM – DRAFT ANNUAL PLAN 2011/12

General Manager responsible:	General Manager Regulation & Democracy Services
Officer responsible:	General Manager Regulation & Democracy Services
Author:	Peter Mitchell

PURPOSE OF REPORT

1. The purpose of this report is to submit to the Council the Draft Annual Plan of the Canterbury Museum Trust Board (**Attachment A**) for the year ending 30 June 2012 to enable the Council to consider the plan to make, if it wishes to do so, submissions on the draft annual plan.

PREFACE: POST EARTHQUAKE

2. The Canterbury Museum Annual Plan for the financial year 1 July 2011 to 30 June 2012 was prepared prior to the earthquake of 22 February 2011. The financial components of the Annual Plan were approved by the Board on 13 December 2010 for referral to the Contributing Local Authorities for their budgeting purposes. A meeting to discuss the draft Annual Plan 2011/12 and funding options was held on 7 February 2011 between the Mayors, Chief Executive Officers and Finance Managers of the Contributing Local Authorities and the Board Chair, Director and Financial Controller. The recommendations resulting from this meeting were approved by the Board on 11 April 2011 and are incorporated in the following document.

3. The Board comments that:

“Whilst we acknowledge that the earthquake will have a major effect on the Museum for the 2011/12 year and the outer years, at this stage there is insufficient information available to reforecast the Annual Plan. Please note that there will be a reduction in some income sources and a possible increase in some earthquake related expenses. The main income reductions will be dependent on our visitor numbers for 2011/12 which will be significantly impacted by the ability of the Christchurch CBD to attract visitors back after the earthquake, and whilst the demolition and rebuilding phase of the central city is progressing. The decrease in visitor numbers will affect our visitor donation income and also income from the Café, Store and Discovery. The most notable increase in expenditure may be in insurance premiums. Whilst it will be a very difficult year for the Museum, it will in any event live within its actual income as forecast in this Annual Plan”.

4. On 25 February 2011 the Museum was green-stickered with the following notice:

‘Inspected - No restriction on use or occupancy. The building has received a brief inspection only. While no apparent structural or other safety hazards have been found, a more comprehensive inspection of the exterior and interior may reveal safety hazards.’

A comprehensive structural engineering inspection has been scheduled with Holmes Consulting Group for late April.

5. As of 11 April 2011 the Director posted the following notice on the main doors at the Museum:

“Normal operations and programmes are suspended following the severe 22 February 2011 earthquake. The Museum is closed to the public until further notice. Staff are working on earthquake recovery projects with the aim of making public areas and collections safe for re-opening in approximately one month.’

Whether the City is ‘ready’ for the re-opening of the Museum at this point remains to be seen.”

18 Cont'd

EXECUTIVE SUMMARY

6. The levy increase has remained at 7 per cent for the 2011/12 Annual Plan as highlighted in the Canterbury Museum's 2010/11 Annual Plan. Christchurch City Council's share of the increase in levies is \$398,779, and this has been factored into the Council's 2011/12 Annual Plan. The increase will bring the Council's share of the operating levy to \$6,090,744.

FINANCIAL AND LEGAL CONSIDERATIONS

7. The Canterbury Museum Trust Board Act 1993 requires the Canterbury Museum Trust's Board to prepare and adopt an annual plan for each financial year. The plan includes the levies to be paid by the contributing local authorities.
8. The draft annual plan is referred to the four contributing local authorities (Christchurch City Council, Selwyn District Council, Hurunui District Council and Waimakariri District Council) for a period of consultation which concludes on 31 May 2011.
9. The levies proposed in the draft Annual Plan may be objected to by the Christchurch City Council or two or more of the remaining contributing authorities and if an objection is received the Board must convene a meeting. The Christchurch City Council or not less than three other contributing authorities may resolve that the levy be reduced to an amount which is not less than the total levy made in respect of the previous year. The proposed levies are binding on the four contributing authorities, unless the CCC or three of the other contributing authorities resolve to hold the levies. (Section 16 of Canterbury Museum Trust Board Act 1993)
10. Submissions may be made to the Museum requesting them to amend the plan.
11. Given that the operating levies are the same as forecast in the 2010/11 year it is recommended that the Council advise the Canterbury Museum Trust Board that it does not wish to make an objection to the Trust Board's 2011/12 Annual Plan.

BACKGROUND ON CANTERBURY MUSEUM 2011/12 DRAFT ANNUAL PLAN

12. The draft Annual Plan sets out in broad outline the mission, vision and core values of the Museum together with detail on the organisation structure, performance objectives, financial summaries and an outline of the proposed operating, capital and revitalisation budgets.
13. The plan is available for consideration by the contributing local authorities until Tuesday 31 May 2011.

OTHER CONTENT OF THE PLAN

14. The general content of the 2011/12 annual plan is largely the same as the previous years plan.

THE OBJECTION PROCESS

15. The Canterbury Museum Trust Board Act (Section 16) provides that either the Christchurch City Council or two or more of the remaining contributing local authorities may give notice objecting to the proposed levies. If this happens the Board must convene a meeting of the contributing authorities within a month. At that meeting the Christchurch City Council or not less than three other contributing authorities may resolve that the levy be reduced to an amount no less than the previous year.

STAFF RECOMMENDATIONS

It is recommended that:

- a) the Council consider what submissions it wishes to make on the Board's draft 2011/12 Annual Plan.
- b) the Councillor representative supports the Museum's 2011/12 operating levies.

19. CHRISTCHURCH EARTHQUAKE MAYORAL RELIEF FUND

General Manager responsible:	General Manager Corporate Services
Officer responsible:	Corporate Finance Manager
Author:	Jason Rivett, Finance Manager, Corporate Services and Robert O'Connor, Solicitor, Legal Services Unit

PURPOSE OF REPORT

1. The purpose of this report is to seek a Council resolution to formalise the terms of the Christchurch Earthquake Mayoral Relief Fund ("Mayoral Fund"), which was set up immediately after the 22 February 2011 earthquake as a special purpose fund to receive donations for the benefit of the people of Christchurch in the aftermath of the earthquake.

EXECUTIVE SUMMARY

2. Following the 22 February 2011 earthquake the Council established the Mayoral Fund as a special purpose fund within its accounts to receive donations for Council activities and works for the benefit of the people of Christchurch in the aftermath of the earthquake and opened a separate bank account for the Mayoral Fund. As at 2 May 2011 \$2,526,405.97 had been received by the Mayoral Fund.
3. The Mayoral Fund is distinct from the Christchurch Earthquake Appeal Trust promoted by central government and the Canterbury Earthquake Heritage Building Fund, which operates under its own trust deed. It is also distinct from appeals promoted by other organisations such as the Red Cross and the Salvation Army.
4. The Mayoral Fund is currently being treated in the Council's accounts in the same manner as other bequests and special funds held by the Council. It is not recognised as a separate trust and currently the arrangements concerning the Mayoral Fund have not been formally documented.
5. It is proposed that the Mayoral Fund continue as a special purpose fund separately identified in the Council's accounts, but that the arrangements concerning the operation of the Mayoral Fund be formally documented by way of Council resolution. It is also proposed that the Mayoral Fund be used by Council resolution to fund activities that contribute to the rebuilding of the social and physical infrastructure of Christchurch, and either assist in remedying hardship suffered by individuals, groups, community organisations and businesses, or assist in protecting, repairing damage to or enhancing the physical fabric of the city. The Mayor would make these recommendations to Council.
6. It is also proposed that the documentation formalising the terms of the Mayoral Fund be submitted to the Inland Revenue Department to obtain confirmation of 'donee organisation status'. The advantage of achieving such status is that persons making donations may claim a tax credit and deduction in respect of their donations to the Mayoral Fund.
7. Staff have liaised with the Inland Revenue Inland Department in developing this report. The Department has confirmed that if the staff recommendation in the form contained within this report is adopted 'donee organisation status' will be granted for the Mayoral Fund.

FINANCIAL IMPLICATIONS

8. The Mayoral Fund, including any income earned, will provide income to the Council in support of certain activities and works required as a result of the earthquake in accordance with the terms of the Mayoral Fund.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

9. No.

19 Cont'd

LEGAL CONSIDERATIONS

'Donee Organisation' Status

10. From a tax perspective, the Council's principal concern is to ensure that tax incentives are available to donors in relation to donations to the Mayoral Fund. The tax incentives are as follows:
 - (a) Most individual taxpayers can claim a refundable tax credit each year calculated at 33½% of the amount of their monetary gifts of \$5 or more to 'Donee Organisations' for the year (capped at 33½% of the amount of their taxable income for the year).
 - (b) Any company (which generally includes any form of body corporate) can claim a concessionary tax deduction each year for monetary gifts of \$5 or more to 'Donee Organisations' for the year (capped at the amount of the company's net income, calculated without the deduction, for the year).
11. To be a Donee Organisation, the Mayoral Fund would need to be one of the following:
 - (a) An entity or trust that applies its funds wholly or mainly for charitable, benevolent, philanthropic or cultural purposes within New Zealand, or a "private institution" established and maintained exclusively for one or more of those purposes within New Zealand.
 - (b) A "public fund" established and maintained exclusively for the purpose of providing money for any one or more of the purposes within New Zealand referred to above.
12. IRD confirmation of Donee Organisation status is obtained to ensure that IRD will accept donation receipts issued by an organisation in support of tax credit or tax concessionary deduction claim made by donors.
13. Donee Organisations also benefit from a general gift duty exemption, i.e. gifts that would otherwise be subject to gift duty are exempt from such duty. However, a Donee Organisation's income (which does not include donations) is only exempt from income tax if the organisation is a "Tax Charity" or qualifies for some other income tax exemption – as discussed below.
14. Preliminary discussions with the Inland Revenue Department indicate that a special purpose fund within the Council's accounts set up for the purposes specified in the staff recommendation are likely to be accepted as being for charitable, benevolent, philanthropic or cultural purposes and thus qualify for 'Donee Organisation status'.

Exemption from Income Tax

15. A secondary concern is that any income of the Mayoral Fund (e.g. interest received on funds held in the Mayoral Fund bank account is not subject to income tax. However, income of the Mayoral Fund might not be significant if donations to the fund are readily distributed or applied for the purposes of the Mayoral Fund.

Options

Option 1 Special Purpose Fund

16. The preferred option would be to formalise the terms of the Mayoral Fund as a special purpose fund, not a trust, by way of resolution, and then submit that documentation to IRD for confirmation of "Donee Organisation" status.

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17. Advantages of this option are as follows:

- (a) The documentation for the Mayoral Fund would be less formal and the Mayoral Fund can be established quickly.
- (b) The Mayoral Fund would not need to be strictly limited to charitable purposes – it could extend to other "benevolent", "philanthropic" and "cultural" purposes".
- (c) Based on previous experience, IRD should be willing to provide confirmation of 'Donee Organisation' for the special purpose fund, possibly subject to a written commitment that concessionary tax deductions would not be sought by the Council or any CCO of the local authority for donations to the Mayoral Fund. (An IRD number would be allocated to the Mayoral Fund, but for IRD internal administration purposes only.)
- (d) It would not be necessary to apply to register the Mayoral Fund with the Charities Commission under the Charities Act. This would not have any material adverse tax consequences, on the basis that:
 - (i) Any income of the Mayoral Fund would be derived by the Council, but not as a trustee, and therefore tax-exempt under the general exemption from income tax for local authorities.
 - (ii) Income of the Mayoral Fund (other than donations) is not expected to be significant.
- (e) The Mayoral Fund would not constitute a CCO, for the purposes of the Local Government Act.
- (f) The status of the Mayoral Fund as a special purpose fund, as opposed to a charitable trust, and the fact that the Mayoral Fund is not registered under the Charities Act is not expected to have a material impact on the level of donations to the Mayoral Fund. Whilst the Mayoral Fund could not be marketed as a "registered charity", it could still be marketed as a "Donee Organisation".

Option 2 Separate Trust Fund

- 18. The other option that has been considered would be to formalise the terms of the Mayoral Fund as a separate trust. Amongst other things, however, this option is not preferred because, unless the trust would not be controlled by the Council, it would constitute a CCO.
- 19. In contrast with the first option:
 - (a) The documentation for the trust would be more formal.
 - (b) The operation of the Mayoral Fund would be more formal.
 - (c) The Mayoral Fund would need to be strictly limited to charitable purposes, in order to be accepted for registration under the Charities Act and tax exempt.
 - (d) The documentation would need to be submitted to the Charities Commission, for registration under the Charities Act, and the IRD would also need to confirm "Donee Organisation" status. Whilst it is expected that both agencies would be willing to prioritise this matter, this is likely to take more time than just having to deal with the IRD.
 - (e) Upon registration under the Charities Act, any income of the Mayoral Fund would qualify for Tax Charity income tax exemption, but this would require some changes in relation to the administration of the account for the Mayoral Fund.
 - (f) A trust is likely to constitute a CCO for the purposes of the Local Government Act 2002.

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- (g) The Mayoral Fund could be marketed as a "registered charity", as well as a "Donee Organisation", but as noted above it is not expected that this would have a material impact on the level of donations to the Mayoral Fund.

Local Government Act 2002

20. Establishing the Mayoral Fund has been an initiative developed in response to the 22 February 2011 earthquake. The Canterbury Earthquake Response and Recovery Act 2010 defines "Canterbury earthquake" as being "the earthquake that occurred on 4 September 2010 in Canterbury, and includes all of its aftershocks". The initiative therefore falls within the purposes of that Act. Section 88(1) of the Canterbury Earthquake Recovery Act 2011 repeals the earlier Act. However, section 88(2) states that the Orders in Council made under the 2010 Act remain in force. The Canterbury Earthquake (Local Government Act 2002) Order 2010 therefore still applies to the decision to be made by the Council in respect of the Mayoral Fund.

Have you considered the legal implications of the issue under consideration?

21. Yes, see above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

22. No.

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

23. No.

ALIGNMENT WITH STRATEGIES

24. No.

Do the recommendations align with the Council's strategies?

25. No.

CONSULTATION FULFILMENT

26. The Canterbury Earthquake (Local Government Act 2002) Order 2010 states that the Council is exempt from certain decision-making requirements in the Local Government Act 2002, to the extent that a decision is directly or indirectly necessary or desirable to further one or more of the purposes of the Canterbury Earthquake Response and Recovery Act 2010.
27. This exemption includes the requirement in Section 78 of the LGA 2002 to consider the views and preferences of persons likely to be affected by, or who have an interest in, the decision.
28. The decision to be made by the Council is necessary to assist with the response to the 22 February 2011 earthquake. As indicated earlier, for that reason it falls within the purposes of the Canterbury Earthquake Response and Recovery Act 2010 and the Council is entitled to rely on the exemptions allowed by the Canterbury Earthquake (LGA 2002) Order.

STAFF RECOMMENDATION

It is recommended that the Council resolves as follows:

- (a) To approve the establishment and continued operation of the Christchurch Earthquake Mayoral Relief Fund as a special purpose fund within the Council's accounts on the terms recorded below.

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- (b) That the Christchurch Earthquake Mayoral Relief Fund was established, and will continue to be maintained, by the Council as a “public fund” (as described in section LD 3(2)(d) of the Income Tax Act 2007) exclusively for the purpose of providing money for any one or more charitable, benevolent, philanthropic or cultural purposes related to and in particular to provide relief to the people of Christchurch from the adverse effects of the 4 September 2010 and 22 February 2011 earthquakes, and associated aftershocks, by providing money for the any activity or work required as a result of those events that:
- (i) contributes to the rebuilding of the social and physical infrastructure of Christchurch, and
 - (ii) assists in:
 - remedying hardship suffered by individuals, groups, community organisations and businesses, and/or
 - protecting, repairing damage to or enhancing the physical fabric of the city.
- (c) That the General Manager Corporate Services be delegated authority to:
- (i) Apply to the Inland Revenue Department to seek confirmation of ‘donee organisation status’ for the Christchurch Earthquake Mayoral Relief Fund;
 - (ii) Solicit and receive donations to the Mayoral Fund from the public;
 - (iii) Ensure that neither the Christchurch City Council, nor any entity controlled by the Christchurch City Council, will be making donations to the Mayoral Fund in respect of which any tax incentive will be claimed;
 - (iv) Issue appropriate receipts for all donations received to the Mayoral Fund;
 - (v) Invest the funds held by the Mayoral Fund in accordance with standard Council policies and procedures providing that the General Manager Corporate Services ensures:
 - All money invested from this Mayoral Fund must be used exclusively for the purposes described in paragraph (b);
 - That if there is an inconsistency between this resolution and the Council’s investment policies, this resolution prevails; and
- (d) That any proposal to apply any of the monies held by the Christchurch Earthquake Mayoral Relief Fund to any of the above purposes be subject to Council approval on the Mayor’s recommendation.
- (e) That the General Manager Corporate Services report to the Council as part of the Quarterly Performance Report the amount of donations received by the Christchurch Earthquake Mayoral Relief Fund, the amounts disbursed, and the purposes benefited, in the quarter to which the report relates, and the Mayoral Fund balance as at the end of that quarter.

12. 5. 2011

20. NOTICES OF MOTION

12. 5. 2011

21. RESOLUTION TO EXCLUDE THE PUBLIC

Attached.