
5. Global Settlement Agreement

Reference: 19/880197

Presenter(s): Brendan Anstiss – General Manager Strategy and Transformation

Secretarial Note: This report was originally published separately on 29 July 2019 and the Council will receive and hear deputations on the Global Settlement Agreement on 6 August 2019. The meeting will adjourn to 8 August 2019 for the Council to make the final decision.

1. Purpose of Report

- 1.1 The purpose of this report is for the Council to approve the Global Settlement Agreement.

2. Significance

- 2.1 The decisions in this report are assessed as of medium significance in relation to the Christchurch City Council's Significance and Engagement Policy.
- 2.2 The level of significance was determined based on an assessment of the current decisions being sought from Council, the public interest in these decisions and the steps being taken to enable the Council to consider community views and preferences.
- 2.3 While the negotiations with the Crown have, by necessity, been held in confidence, the Council has always committed that the final consideration and decision related to the Global Settlement Agreement will be made in public.
- 2.4 To this end, the Council and public were formally advised via a paper to the 27 June 2019 Council meeting that the global settlement would be considered by Council at the meeting on 8 August 2019. Briefings on the background and content of the Global Settlement Agreement have been offered in recent weeks to any interested parties, groups or individuals and a number of these have been provided. In addition, efforts have been made to release this report as early as possible to the public.
- 2.5 The public will have the opportunity to make deputations on this paper at a meeting on 6 August 2019. The meeting will then be adjourned to 8 August 2019 when the Council will make its decision.

3. Executive Summary

- 3.1 This report proposes that the Council agrees a Global Settlement with the Crown. The working draft of the Global Settlement Agreement is included as Attachment A. This remains a working draft as a small number of final issues are resolved^{1 2}, and will become final post agreement by both Council and the Crown.
- 3.2 The Global Settlement Agreement is designed to settle any ambiguous aspects of the original 2013 Cost Sharing Agreement. In combination with the \$300m Christchurch Regeneration Acceleration Fund (CRAF), it is also designed to encourage regeneration momentum, reduce uncertainty, and normalise the relationship between the Crown and Council.

¹ Items marked by square brackets [], in the working draft of the Global Settlement Agreement are still actively being considered by the parties. Any updates on these matters will be advised as soon as possible.

² Minor redactions in two sections (Performing Arts Precinct and Residential Red Zone schedule) exist due to the need to protect ongoing commercial negotiations by the Crown. These redactions will be removed once the commercial transactions are completed by the Crown or no longer exist.

- 3.3 The Agreement includes the transfer from the Crown to the Council of central city public realm assets (including the Margaret Mahy Playground and Avon River Precinct); roading assets; the Bus Interchange; the Metro Sports Facility; former residential red zoned land in the Ōtākaro Avon River Corridor, Port Hills, Brooklands and Southshore; and land for the Performing Arts Precinct. Agreement is also proposed on governance arrangements for transitional use of the former residential red zone; inclusion of Ngāi Tahu preferences (especially related to ongoing governance); transition of the functions of Regenerate Christchurch; a right of first refusal for the Council on Crown owned central city land; and establishment of a senior officials group responsible for ongoing implementation monitoring of the Global Settlement Agreement.
- 3.4 Transfer of Te Pae, the Christchurch Convention and Exhibition Centre, is not proposed as part of the Global Settlement Agreement. Ownership will remain with the Crown.
- 3.5 The Canterbury Multi Use Arena and the development agreement for the Metro Sports Facility are dealt with under separate processes given their complexities.
- 3.6 The Crown and Council will each complete and variously make payments as previously agreed under the 2013 Cost Share Agreement.
- 3.7 All aspects of the Global Settlement Agreement are within Council budgets as previously approved through the 2018-2028 Long Term Plan and 2019 Annual Plan. No additional or unbudgeted payments are required.
- 3.8 If approved by Council the Global Settlement Agreement will need to be agreed by the Crown, and then signed by delegated authority before coming into effect.

4. Staff Recommendations

That the Council:

1. Notes that, consistent with previous Council decisions, senior Council staff have led a process with Crown officials to negotiate and recommend a global settlement with the Crown.
2. Notes that this process has included progress on determining and allocating the \$300m Christchurch Regeneration Acceleration Fund; as well as a preliminary and detailed due diligence exercise; and direct negotiation with the Crown in arriving at a proposed Global Settlement Agreement.
3. Agrees to the Global Settlement Agreement detailed as Attachment A and delegates approval to the Mayor to make any changes to the Agreement as may be necessary.
4. Delegates authority to:
 - a. the Mayor to sign the final agreement on behalf of Council once it has also been agreed by the Crown; and
 - b. the Chief Executive to take the necessary steps to implement the terms and conditions of the Global Settlement Agreement, once signed.
5. Notes that if the Crown wishes to make any material changes to the Agreement that this would require re-consideration and approval of the Council.
6. Notes that the three detailed investment cases that comprise the \$300m Christchurch Regeneration Acceleration Fund (Canterbury Multiuse Arena, \$220m; Avon Otakaro River Corridor regeneration funding, \$40m; and roading and transport infrastructure funding, \$40m) will now be completed and presented for endorsement to Council over coming months before final submission and approval by the Crown.

5. Context/Background

- 5.1 In February 2018 Council mandated a two-step process with regard to firstly, agreeing the priorities for the \$300m Christchurch Regeneration Acceleration Fund (CRAF: announced in Budget 2018); and secondly, completing the Global Settlement negotiation. Progress on the priorities and allocation of the \$300m CRAF is well advanced with final investment cases now pending for the Canterbury Multi-use Arena, Ōtākaro Avon River Corridor, and transport infrastructure. Once these investment cases are agreed by the Council and Crown, the \$300m funding will start to be able to be drawn down.
- 5.2 At this juncture (and still subject to consideration and approval of the final investment cases), the overall allocations within the \$300m remain as, Canterbury Multi-use Arena - \$220m; Ōtākaro Avon River Corridor seed funding - \$40m; and transport infrastructure funding - \$40m.
- 5.3 The second aspect relates to a Global Settlement Agreement with the Crown. This is intended to finalise outstanding issues between the Crown and Council (especially related to the 2013 Cost Sharing Agreement) and ensure that the Council and Crown relationship is normalised and focused on joint and emerging priorities. It is a significant milestone in the return of full decision making back to appropriate local institutions (from Central Government). The Global Settlement Agreement is also designed to provide certainty, and in conjunction with the \$300m CRAF funding, accelerate momentum for delivery of tangible projects and benefits.
- 5.4 Council agreed on 13 December 2018 to commence negotiations with the Crown for the purposes of arriving at a global settlement agreement (CNCL/2018/00326). On 4 April 2019 Council received an update report and endorsed the agreement-in-principle that staff from the Council and the Crown were working to conclude the Global Settlement Agreement (FPCO/2019/00020).
- 5.5 Negotiations between senior Council and Crown officials have now materially concluded and a Global Settlement Agreement has been drafted and is recommended for approval by both the Council and Crown. This document is Attachment A. It remains a working draft while final issues are resolved and until agreement is provided by both the Council and the Crown.
- 5.6 Officials from Development Christchurch Limited (DCL), supported by professional services firms, have led the due diligence exercise over the key assets considered for the Global Settlement Agreement – in particular the assets of the Ōtākaro Avon River Corridor (flatland RRZ); Te Pae (Christchurch Convention and Exhibition Centre); surplus central city land; and the Bus Interchange.
- 5.7 The material for the Global Settlement has been reviewed by relevant Council staff, including significant input from expert Legal Services staff. Progress has also been supported by the Global Settlement Steering Group (comprised of Karleen Edwards/Mary Richardson, Paul Munro, Rob Hall, Joanna Norris, Carol Bellette, Jonathan King and Brendan Anstiss).
- 5.8 It is noted that any agreement will need to be approved by both the Council and the Crown. If this Global Settlement agreement (Attachment A) is approved by Council then it will subsequently go to the Crown for Cabinet approval.

6. Global Settlement Agreement

- 6.1 The Global Settlement Agreement is designed to settle any ambiguous aspects of the original 2013 Cost Sharing Agreement. In combination with the \$300m CRAF, it is also designed to encourage regeneration momentum, reduce uncertainty, and normalise the relationship between the Crown and Council.

- 6.2 The Global Settlement Agreement affirms a number of the decisions made in the 2013 Cost Sharing Agreement (or otherwise given effect to through various Council Annual Plans or Long Term Plans since then). Proposed affirming decisions are;
- 6.2.1 Ownership of all public realm (including South Frame, Avon River Precinct, and Margaret Mahy Family Playground) will be with Council in exchange for the budgeted payment of \$13m.
 - 6.2.2 Ownership and delivery responsibility for the Performing Arts Precinct will be with Council (Council has budgeted \$30m for delivery of stage 1, being the Court Theatre). The Crown will divest all the required land to Council at no cost. The Crown will also provide funding for public realm works (approximately \$1.5m) and land decontamination (approximately \$1.5m) that may be required at the Precinct (out of a total of \$13m for decontamination). The Council will procure a car park on the Performing Arts Precinct land. Council has thus far led a commercial expression of interest process and will shortly be in the market seeking requests for proposals. The car park will be integrated with, and support the objectives of the Performing Arts Precinct. Council will coordinate with the Court Theatre on the specifications for the car park.
 - 6.2.3 Ownership of the Bus Interchange will be with Council in exchange for the budgeted payment of \$22.933m. The Crown will be responsible for resolution of any necessary remedial works.
 - 6.2.4 The Crown will provide its share of Cathedral Square funding (\$4.6m) to the Council, which will match this, and commit the full \$9.2m to ongoing regeneration of Cathedral Square. As part of its contribution, the Council has already committed to work that is now underway in the South Eastern corner of Cathedral Square.
- 6.3 The Global Settlement also seeks to provide certainty and clarity on a number of additional issues. These include;
- 6.3.1 Inclusion of Ngāi Tahu and Ngāi Tūāhuriri statement of preference and the recognition for the role and interests of Te Rūnanga o Ngāi Tahu (as Treaty partner), Te Ngāi Tūāhuriri, and Te Hapu o Ngāti Wheke in residential red zone land, and inclusion in future governance.
 - 6.3.2 Ownership of the Ōtākaro Avon River Corridor (OARC; former residential red zoned (RRZ) land), Port Hills RRZ, Brooklands and Southshore RRZ will transfer to Council at nil cost. This land has a present capital value (for rating purposes) of approximately \$90m, but obviously a far higher purchase price was paid by the Crown. The land titles for the OARC (including existing Council owned land in the OARC) will first be reconfigured by LINZ to the requirements outlined in either any approved Regeneration Plan or as specified by Council. The legal land reconfiguration is expected to take a number of years for LINZ to complete and the land will therefore transfer in tranches as this work is completed. The Crown via LINZ will also support some land / title issues in other RRZ areas, especially related to road stopping, and will make a payment of \$1m to the Council for it to undertake any necessary title reconfiguration for RRZ land outside the OARC.
 - 6.3.3 The Crown will be responsible for paying rates on RRZ land until title transfer is completed.
 - 6.3.4 Maintenance obligations will transfer to Council for all RRZ land (except Port Hills RRZ) on 1 July 2020.

- 6.3.5 The Port Hills RRZ land will transfer to Council on 31 May 2021 (prior to expiry of the Greater Christchurch Regeneration Act 2016 (GCRA)) and the Council will make its budgeted payments totalling \$40.53m for Port Hills properties red zoned due to rockfall / rock roll on 30 September 2019.
- 6.3.6 Co-governance arrangements will be established to best support transitional use decisions for all former RRZ land. Co-governance is expected to include Council, Community Board, Ngāi Tahu / Ngāi Tūāhuriri, stakeholder groups, and community representation. Council made an allowance of \$350k for each of the next two financial years to support this co-governance arrangement and provide seed funding to support practical projects. A Council paper detailing these arrangements will be considered by the Social, Community and Housing Committee in August 2019.
- 6.3.7 Council will have 20 working days first right of refusal over any surplus central city land owned by Otakaro. Council and Otakaro would need to agree any sale and purchase conditions (including price).
- 6.3.8 Regenerate Christchurch will be requested to prepare and implement a transition plan. This is consistent with the Letter of Expectations recently issued by the shareholders (Council and Minister for Greater Christchurch Regeneration).

7. Te Pae

- 7.1 There is no change to the Crown's ownership (via Otakaro) and operation of Te Pae (the Christchurch Convention and Exhibition Centre). All construction, ownership and operational costs will remain with the Crown.
- 7.2 The Crown and Council have agreed to continue discussions related to Te Pae as necessary.
- 7.3 Both the Crown and Council strongly support a successful and vibrant convention centre for Christchurch City and are confident that Te Pae – regardless of ownership - will deliver this.

8. Canterbury Multiuse Arena

- 8.1 Ownership, delivery and operation of the Canterbury Multiuse Arena will be determined via the investment case that is currently being progressed with urgency. To avoid any confusion or duplication, the Global Settlement Agreement simply refers to the forthcoming investment case, upon which decisions will be made by the Crown and Council.

9. Decontamination

- 9.1 The agreement proposes a cash fund of \$13m provided by the Crown to the Council for the purpose of land decontamination on the Performing Arts Precinct site and the Canterbury Multiuse Arena site. As noted earlier, \$1.5m of this fund is also proposed for public realm works on the Performing Arts Precinct site. There is flexibility in the allocation of the fund and this will be solely at Council's discretion (although subject to approval of the Canterbury Multiuse Arena investment case). Further technical work, including structural designs and foundation designs, and further land assessment, is required on both sites before any decontamination necessity, scope, and methodology to address if required, are confirmed.

10. Metro Sports Facility (MSF)

- 10.1 The MSF (and associated land, including car parking) will transfer to the Council. The Council will contribute \$146.996m and Ōtākaro will continue to deliver the MSF and retain delivery risk as per the 2011 Cost Sharing Agreement. The Council will own and operate the facility once completed.

11. Surplus Central City Land

- 11.1 Council will have first right of refusal for a period of 20 working days (from signing the Global Settlement Agreement) on any surplus land in the central city that is owned by Otakaro (and not under an existing sale process). Terms and conditions will need to be agreed with Otakaro.

12. Horizontal Infrastructure

- 12.1 The global settlement negotiation did investigate the possibility of further contribution by the Crown to the horizontal infrastructure costs. The Crown's position was, and is, that it has meet all the provisions of the 2013 Cost Share Agreement and the emergency repair provisions under the Guide to the National CDEM Plan with respect to network reinstatement for all eligible horizontal infrastructure. This is effectively the same conclusion reached by the independent assessor in her 2015 review of the horizontal infrastructure costs (under the 2013 Cost Sharing Agreement). The Crown does not wish to relitigate the arrangements previously settled in the 2013 Cost Sharing Agreement and thus, no further horizontal infrastructure payment by the Crown will be made.
- 12.2 The Global Settlement Agreement does include the provision by the Crown at nil cost approximately 600 hectares of land in the Ōtākaro Avon River Corridor. This land was purchased by the Crown over a period of years post-earthquakes as part of the policy response to the residential red zoning. This land is expected to be subject to a Regeneration Plan (under the GCRA [2016]). Approximately 2,600 hectares of Christchurch water catchment drains through this land into the Ōtākaro Avon River Corridor, providing the Council a significant opportunity to improve stormwater treatment and the river water quality. At the same time, approximately 4,000 homes are presently protected by the Ōtākaro Avon river stopbanks and improving and future-proofing these arrangements utilising a greater expanse of Ōtākaro Avon river land is envisaged under the draft regeneration plan and Council's 30 year Infrastructure Strategy.
- 12.3 Utilising the Ōtākaro Avon River Corridor land for both enhanced stormwater management (expected to be approximately 80 hectares) and flood protection will deliver enduring and practical benefits to many Christchurch residents; will be consistent with Council requirements under the 2019 global stormwater consent; will offer significant ecological and environment benefits; and reflects the importance and natural values of this area to the manawhenua, Ngāi Tūāhuriri.

13. Resolving Conditions to Transfer and Additional Terms

- 13.1 Many of the assets to be transferred under the Global Settlement Agreement have conditions or "tags" whereby the Crown (or Ōtākaro) must complete conditions before the asset is transferred to Council and payment made.
- 13.2 The purpose of these conditions is to ensure that the asset is in the agreed state at transfer and that all expected and reasonable obligations on the Crown have been met before the Council accepts the asset.
- 13.3 There are some examples where the conditions of transfer are significant.
 - 13.3.1 Bus Interchange: Ōtākaro must complete at its cost the identified remedial work to the HVAC system, the roof coating, and if necessary any door opening technology issues. The Council will hold a retention to the estimated value of these works (i.e. it will not make the full and final payment until the works are completed by Ōtākaro).

- 13.3.2 **Residential Red Zone Land:** The Crown (via LINZ) must reconfigure all land titles in the Ōtākaro Avon River Corridor (including existing Council owned land) in accordance with Council requirements. Council provided to the Crown its requirements in May 2019. LINZ are expecting to utilise the GCRA for this purpose and it is agreed that the focus will be on the Ōtākaro Avon River Corridor and those aspects of land configuration that can be most expeditiously completed under the GCRA (i.e. alternative legislative options are not readily available).
- 13.3.3 If the Crown is not able to complete the land configuration work on the Ōtākaro Avon River Corridor by the expiry of the GCRA in June 2021, then the Council will continue the work and be reimbursed by LINZ up until 30 June 2025.
- 13.3.4 The Council will lead any title reconfiguration work outside the Ōtākaro Avon River Corridor (as it may consider necessary) and the Crown will provide \$1m of funding to Council to enable this.
- 13.3.5 **Performing Arts Precinct:** The Crown will divest the land to the Council at the Performing Arts Precinct (at no cost). The Crown will also provide funding for public realm works and land decontamination that may be required at the Precinct.

14. Financial Implications

- 14.1 There are no unbudgeted impacts on the Council from the Global Settlement Agreement, although timing of payments will put pressure on interest revenue for 19/20 financial year, this will need to be monitored closely.
- 14.1.1 All capital payments have been budgeted (or are already on the balance sheet) and agreed through previous Annual and Long Term Plans.
- 14.1.2 Operating budgets for the Bus Interchange and central city public realm (including Avon Precinct, Margaret Mahy Playground) are already on budget for the 19/20 financial year, and maintenance budgets for the residential red zoned land (\$2.7m in total [excluding rates], commencing 1 July 2020) have been resolved through previous Annual Plans. These budgets will allow the relevant business units to assume operational responsibility for these assets once the necessary actions by the Crown to enable transfer are completed.
- 14.2 The Council has carefully considered and received independent advice on the most advantageous placement of the various assets being transferred (e.g. Council Controlled Organisation, Council owned, mixed ownership). For the most part, all transferring assets will be held by the Council. The Ōtākaro Avon River Corridor residential red zone will be held by Council, although in due course Council can give consideration to alternative ownership structures – or long term lease arrangements - including to community and / or commercial groups, and Ngāi Tūāhuriri. The same applies for other former residential red zoned land.
- 14.3 If DCL (on behalf of the Council) exercises the right of first refusal for surplus central city land (and agreement is reached on sale with Otakaro), then this will be paid for and owned by DCL. At this juncture, the Council does not intend to purchase any of this land directly.

15. Legal Implications

- 15.1 The Legal Services Unit has provided legal advice and support as required to the senior Council staff involved in the negotiations with Crown officials, and has been closely involved in the drafting of the proposed Global Settlement Agreement document. The legal advisers have given advice based on the information and knowledge available and provided to the legal services unit at the time.

- 15.2 Because of the scale of the subject matter that the proposed Global Settlement Agreement deals with, it has been necessary to deal with each asset proposed to be transferred to the Council in some detail. Accordingly, the Agreement has been divided into two specific parts, the first generally dealing with overarching or generic matters, and the second dealing with each of the individual assets involved by schedules.
- 15.3 In considering the proposed Global Settlement Agreement, it is necessary to recognise the strategic goal of the Council to achieve an agreement with the Crown of a 'global' nature across nearly the full range of issues and assets at hand, and the strategic opportunities for the Council that such an agreement presents. However, as the Council's legal advisers, the Legal Services Unit has also been mindful of the need to manage and limit, as far as is practicable in an environment of a negotiation process between two sophisticated and commercially aware parties, the financial risks that will pass to the Council as assets are transferred to it.
- 15.4 It is for these reasons that the proposed Global Settlement Agreement includes the following provisions:
- 15.4.1 **Bus Interchange** – the completion by the Crown of certain remedial works before transfer, and the novation of required contracts and warranties to the Council.
- 15.4.2 **Residential Red Zoned Land** – the requirement on the Crown (LINZ) to undertake all required land titles reconfiguration in the OARC before transfer (using GCRA powers prior to expiry of those powers), with financial support from the Crown to the Council for any land titles reconfiguration work in the OARC not completed by the expiry of that Act and for land titles reconfiguration outside the Corridor. The Crown has also provided to the Council some information concerning the risks arising from property ownership of the RRZ, especially in relation to the Port Hills RRZ. Also, transfer of the Port Hills RRZ to the Council is delayed until 31 May 2021, with the ability for the Council to reject any land then the subject of any nuisance claim by a third party.
- 15.4.3 **Performing Arts Precinct** – the agreement of the Crown to divest the Performing Arts Precinct land to the Council, at no cost. The Crown is also required to contribute financially to the cost of the land decontamination work and public realm development required.
- 15.5 However, notwithstanding inclusion of the above provisions, it is not always possible to contemplate or remove all financial risks that may arise in the future. This is especially so in the circumstances of a document which seeks to deliver particular strategic outcomes of a non-financial nature and is the result of a negotiation process between two sophisticated and commercially aware parties. The result is a balance between achieving the Council's strategic objectives on one hand, and managing and limiting financial risk on the other. Where that balance finally sits between these two imperatives is a matter of political or commercial judgment for the Council to make.

Community Views and Preferences

- 15.6 The Council must, in the course of its decision-making process in relation to a matter, give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter (s.78 Local Government Act 2002). How to achieve compliance with this requirement is up to the Council to determine, based largely on the significance of the matter (s.79 of the Act).
- 15.7 The Council is also entitled to take into account the extent to which the current views and preferences of the community are already known (s.82(4)(b)). This is relevant to the decisions the Council is being called upon to make in response to the staff report.

- 15.8 Provision for the Council's contribution to the cost of anchor projects in the city was initially included in the 3 Year Plan 2013-2016, then in the Long Term Plan 2015-2025 and, most recently, the 2018-28 Long Term Plan. The Council consulted with its community before adopting these plans, and would be entitled to conclude it is aware of the community's views on this matter. It is apparent there is support for the Council applying ratepayer funds to the projects included in the 2013 Cost Sharing Agreement between the Council and the Crown.
- 15.9 As noted elsewhere in this report, the Council and the Crown have now negotiated settlement of matters not fully provided for in the Cost Sharing Agreement. This focuses on the cost to the Council of operating the assets the Crown agreed to transfer to the Council in 2013, and the terms on which such transfers are to be made.
- 15.10 Council staff recognise the Council has an obligation to conduct its business in an open, transparent, and democratically accountable manner (s.14(1)(a) of the Act) and has consistently advised the Crown that the Council will be considering the proposed Global Settlement Agreement in a meeting which will be open to the public. The Council has also been clear in its wish to allow the community the opportunity to 'have its say' in respect of the Agreement before it is adopted.
- 15.11 A difficulty with this is the pressure on the Council to conclude the matter without undue delay. However, as noted in paragraph 2.5, the public will have the opportunity to present their views through deputations to be heard on 6 August 2019, before the Council is scheduled to make its decision on 8 August 2019.
- 15.12 The advice from the Legal Services Unit (confirmed by one of the Council's external legal providers) is that by taking this approach the Council has complied with its obligations under the Local Government Act 2002. There are a number of reasons for this.
- 15.12.1 The capital and operational cost for the Council's contribution to the anchor projects has already been consulted on and provided for in the Council's Long Term Plan.
- 15.12.2 The circumstances in which the decision is to be made do not allow the Council sufficient scope and opportunity to consider a wide range of options, nor to revisit community views and preferences (s.79(2)(c) of the Act). The Council is doing as much as it can to allow people to present their views, through the deputation process.
- 15.12.3 The Council's Significance and Engagement Policy specifically provides that the Council may elect not to undertake consultation if a decision is required as a matter of urgency. The Crown has also expressed the need to conclude any outstanding matters with some urgency.

16. Next Steps and Implementation Monitoring

- 16.1 Once agreed by Council, the Global Settlement Agreement will be presented by the Minister to Cabinet for the Crown's agreement. If Cabinet agree, then it is proposed that the Mayor and joint Minister's sign the Agreement.
- 16.2 Once the Global Settlement is agreed, responsibility for ongoing implementation will be overseen by a senior officials group from the Council, DPMC, DCL, Ōtākaro and LINZ. The purpose of this group is to ensure progress with the decisions and prevention of any ambiguity.
- 16.3 For the sake of clarity, it is noted that each schedule of the Global Settlement Agreement has various and different requirements to be completed before an asset transfers and payment is made. It will be the responsibility of the implementation monitoring group to ensure consistency with the schedules, and escalation to governance (both Crown and Council) if required.

16.4 At the same time, Council will continue to:

16.4.1 Finalise the investment cases for the \$300m Christchurch Regeneration Acceleration Fund proposals (Multi-Use Arena, Ōtākaro Avon River Corridor seed funding, and roading and transport infrastructure). The investment cases are expected to come back to Council for endorsement and then referral to Cabinet for agreement in the near future.

16.4.2 Conclude the development agreement between the Council and Ōtākaro in relation to the Metro Sports Facility.

16.5 Finalising the Global Settlement Agreement will be a significant achievement for the Council and will bring to an end ambiguities in the 2013 Cost Sharing Agreement. It will reflect a normalised relationship between the Crown and Council – one that reflects the importance and significance of Christchurch as the second largest city in New Zealand and capital of the South Island. The maturity of this proposal reflects that the city has the ambition and capability that its residents deserve and is fully empowered to make its own choices.

Attachments

No.	Title	Page
A	Draft Global Settlement Agreement	
B	Global Settlement - Additional Information (<i>Under Separate Cover</i>)	
C	GSA - Full Version - Redacted (<i>Under Separate Cover</i>)	

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

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Approved By	Brendan Anstiss - General Manager Strategy and Transformation Carol Bellette - General Manager Finance and Commercial (CFO)

Christchurch City Council

Her Majesty the Queen in Right of New Zealand acting
by and through the Minister of Finance and the Minister
for Greater Christchurch Regeneration

Global Settlement Agreement
[●] July 2019

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Parties

This global settlement agreement (the **Agreement**) is between:

- a. Christchurch City Council (the **Council**); and
- b. Her Majesty the Queen in Right of New Zealand, acting by and through the Minister of Finance and the Minister for Greater Christchurch Regeneration (the **Crown**).

Background

1. Context and Purpose

- a. The parties are entering into this Agreement to record the parties' agreement in respect of certain issues arising out of the parties' respective roles in the recovery and regeneration of Christchurch following the 2010 and 2011 earthquakes (the **Global Settlement**).
- b. The Global Settlement is a collaboration between the Crown and the Council. It provides the opportunity to set the Council up for success and complete the transition to local leadership with the Council leading and coordinating Christchurch's regeneration into the future. This in turn is expected to support the social, environmental and cultural needs of the people of Christchurch and promote economic sustainability.
- c. The Global Settlement will provide clarity on all of the outstanding matters from the Cost Sharing Agreement and other subsequent matters between the parties regarding Christchurch's regeneration.
- d. The parties expect the Global Settlement will mark and usher in a new normal relationship between them. In working together to finalise and implement the Global Settlement, the parties' overall intent is to support the following four outcomes (**Proposed Outcomes**):
 - i. **People:** support positive outcomes for the people of Christchurch, and provide certainty and confidence about the on-going regeneration;
 - ii. **Momentum:** increase the pace of regeneration by contribution to the timely regeneration of Christchurch, with the best possible outcomes;
 - iii. **Value:** enable the parties to operate in a fiscally responsible manner, while realising social, cultural, economic and environmental benefits for Christchurch; and
 - iv. **Future:** advance the transition to local leadership and a 'new normal' relationship between the Crown and the Council.

- e. With this in mind, the parties have agreed on a process for transition and developing new institutional arrangements that will enable the Council to lead regeneration in the post-Regenerate Christchurch environment.
- f. The parties are entering this Agreement as a consequence of the steps taken following the 2010/2011 Canterbury earthquake sequence, which was an extraordinary natural disaster in New Zealand's history.
- g. The scale and magnitude of that sequence resulted in an unprecedented level of damage to greater Christchurch. An extraordinary level of involvement from the parties was required to rebuild and start the regeneration of the city, and support its people, given the circumstances. The Crown established Ōtakaro in April 2016 to take over some of the functions of the Canterbury Earthquake Recovery Authority, as Christchurch moved into a new phase, from recovery to regeneration.
- h. Over the last eight years, local and central government, together with other local leaders and the community, have worked collaboratively to explore and pioneer an approach for regenerating greater Christchurch. The parties recognise that for Christchurch to be successful, it needs a solid foundation for locally-led regeneration. The parties also agree that the successful regeneration of Christchurch will benefit New Zealand. As such, the Crown supports the Council's long-term vision for Christchurch as a city of opportunity for all.
- i. To support Christchurch and to allow its people to thrive, a clear pathway for the Council to lead is required, that at the same time appropriately manages the cost pressures that are unique to Christchurch following the earthquakes, and is equitable for other communities in New Zealand affected by natural disasters.
- j. While the Cost Sharing Agreement specified how aspects of greater Christchurch's recovery would be managed and funded, some issues remain open. The Global Settlement, drawing off the Agreement in Principle, is the opportunity to resolve those remaining issues and lay the foundation for the Council to lead and co-ordinate the regeneration efforts.
- k. The Crown has spent \$14 billion (with an additional \$3 billion expected to be incurred). The Council has incurred around \$3.65 billion of earthquake related expenses, and also expects to incur a further \$4 billion of earthquake-related capital investment over the next 30 years.
- l. The Council acknowledges that the Crown will provide no further direct funding towards the Council's land drainage costs, but that the Crown will support the Council by providing the Crown-owned Residential Red Zone Land in the Ōtakaro Avon River Corridor, as described in Schedule 3. The Council may use such land to help meet its land drainage requirements for the surrounding green zone areas.
- m. Through the Christchurch Regeneration Acceleration Facility, the Government has committed \$300 million for regeneration projects as part of the global settlement.
- n. The parties have also agreed on a phased approach to increasing community involvement in the governance and decision-making in respect of transitional and future uses of Residential Red Zone Land.

- o. Both the Crown and the Council recognise Te Rūnanga o Ngāi Tahu's unique role as Treaty partner, along with its important role as strategic partner under the GCRA and as a local leader in greater Christchurch's continued regeneration. The parties also recognise Te Ngāi Tūāhuriri and Te Hapū o Ngāti Wheke as mana whenua within their respective takiwā, in that:
 - i. Te Hapū o Ngāti Wheke is the entity with responsibility pertaining to all resources and protection of Ngāi Tahu interests within the residential red zones centred on Rāpaki and including the catchment of Whakaraupō.
 - ii. Te Ngāi Tūāhuriri is the entity with responsibility pertaining to all the resources and protection of Ngāi Tahu interests within all other remaining residential red zone areas (as established through the Te Rūnanga o Ngāi Tahu Declaration of Membership Order 2001).
- p. The parties wish to transfer various assets to Council as part of its lead role in the regeneration process while acknowledging the roles still to be played by the Crown, LINZ and Ōtākaro.
- q. In recognition of all of the above, the parties now record their agreement.

Operative provisions

1. Definitions and Interpretation

- a. **Definitions:** In this Agreement (unless the context otherwise requires):
 - Agreement in Principle** means the agreement in principle between the Council and the Crown in respect of a settlement of issues relating to the recovery and regeneration of Christchurch, dated 10 May 2019;
 - Bus Interchange** means the Property as defined in the sale and purchase agreement in Schedule 1;
 - Business Day** means a day, which is not a Saturday or a Sunday, on which banks are open for general business in Christchurch;
 - CCRP** means the Christchurch Central Recovery Plan;
 - Central City Land** means the land described in Schedule 4;
 - Cost Sharing Agreement** means the cost sharing agreement between the Crown and the Council dated 26 June 2013, and as amended and clarified by two joint clarifications on 26 June 2013;
 - Council** has the meaning given in the Parties section;
 - Crown** has the meaning given in the Parties section;
 - GCRA** means the Greater Christchurch Regeneration Act 2016;

GST means goods and services tax levied under the Goods and Services Tax Act 1985 (**GST Act**), at the rate prevailing from time to time, including any tax levied in substitution for such tax, but excluding any penalties or interest payable in respect of such tax;

LINZ means Land Information New Zealand;

Memorandum of Understanding means the memorandum of understanding relating to the Process to Transfer Public Realm Assets and Land dated 11 April 2017 (between Ōtākaro and the Council) and the Agreement relating to Transfer and Vesting of Public Realm Assets and Land dated 6 March 2018 (between Ōtākaro and the Council);

Minister means the Minister of the Crown who, with the authority of the Prime Minister, is for the time being responsible for the administration of section 130 of the GCR Act;

Ōtākaro means Ōtākaro Limited;

PAP Encumbrance means the encumbrance to be registered over the Performing Arts Precinct in the form set out in Schedule 5;

Performing Arts Precinct means the Property as defined in the sale and purchase agreement in Schedule 2 being the land in the Performing Arts Precinct excluding the land owned by the vendor at 152-156 Armagh Street contained in record of title 687811 and the privately-owned land at 128-138 Armagh Street contained in record of title CB40C/246;

Proposed Outcomes has the meaning given to it in paragraph d of the Background section;

Regenerate Christchurch means the statutory entity established by section 121 of the GCRA and jointly operated by the Council and the Crown;

Residential Red Zone Land means the Property as defined in the sale and purchase agreement in Schedule 3; and

Schedule means any or all of schedules 1 to 5 of this Agreement.

b. **Interpretation:** In this Agreement:

i. a reference to:

- (1) this Agreement includes all schedules, exhibits, attachments, annexures and appendices to it;
- (2) a document or agreement (including this Agreement) is to that document or agreement as varied, novated, ratified or replaced from time to time;
- (3) a clause, schedule, exhibit, attachment, annexure or appendix is a reference to a clause, schedule exhibit, attachment, annexure or appendix of this Agreement unless specifically stated otherwise;
- (4) a *statute* is to a New Zealand statute and includes all regulations, orders, bylaws, codes and notices made under or pursuant to such a statute and includes references to all amendments to that statute whether by subsequent statute or statute passed in substitution for the statute; and

- (5) an agency or body if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or function removed (**obsolete body**), means the agency, agencies, body or bodies which performs most closely some or all of the functions of the obsolete body, or to whom any functions of the obsolete body are transferred;
- ii. headings are for ease of reference only and will not be deemed to form any part of the context or affect the interpretation of this Agreement;
 - iii. expressions defined in the main body of this Agreement bear the defined meanings in the whole of this Agreement including the Background and the Schedules;
 - iv. another grammatical form of a defined word or expression has a corresponding meaning;
 - v. the singular includes the plural and vice versa;
 - vi. a *party* includes a reference to that party's lawful executors, administrators, successors and permitted assigns, and *parties* means all parties to this Agreement;
 - vii. *dollars* or *\$* is a reference to New Zealand currency;
 - viii. any reference to time and date is to a time and date in Christchurch, New Zealand unless a contrary intention is expressed;
 - ix. if an event must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next succeeding Business Day;
 - x. the meaning of general words is not limited by specific examples introduced by the words *including*, *for example* or similar expressions; and
 - xi. the terms of this Agreement must not be construed adversely against a party if the reason for doing so is that the party prepared this Agreement or caused it to be prepared.

2. Bus Interchange

- a. The parties agree that the arrangements previously agreed between them in relation to the Bus Interchange are addressed in the form of agreement attached in Schedule 1.

3. Performing Arts Precinct

- a. The parties agree that the arrangements previously agreed between them in relation to the Performing Arts Precinct are addressed in the contents of this clause 3 and the form of agreement attached in Schedule 2.
- b. redacted under s9(2)(j) OIA and s7(2)(i) LGOIMA

c.

- d. The parties agree that the Council will be responsible at its sole cost for delivery of all facilities (including the car park) on Performing Arts Precinct land being transferred.
- e. By 30 November 2019, the Crown and the Council will identify whether the current designation should be lifted, or should transfer to the Council, and any relevant exceptions to that transfer.
- f. In recognition of the investment that has been made by the Crown in acquiring land within the Performing Arts Precinct, the parties have agreed that if the Council leases or transfers any of the Performing Arts Precinct to a third party that is not for a purpose associated with the Performing Arts Precinct the Council will split the net proceeds of transfer or lease (as the case may be) 50/50 with the Crown. To ensure that the Crown's position in relation to the above is sufficiently protected, the parties agree that the PAP Encumbrance will be registered on settlement of the acquisition of the Performing Arts Precinct by the Council.

4. Residential Red Zone Land

- a. The parties agree that the arrangements previously agreed between them in relation to the Residential Red Zone are addressed in the form of agreement attached in Schedule 3.

5. Central City Land

- a. The parties agree that the arrangements previously agreed between them in relation to the Central City Land are addressed in the Letter of Agreement regarding Central City Land attached in Schedule 4.

6. Margaret Mahy Playground

- a. The Council acknowledges that the land constituting the Margaret Mahy Playground being records of title 786163 and 734774 together with all improvements has previously been transferred to it by the Crown with deeds of novation entered between Ōtākaro, the Council and the various suppliers of improvements.
- b. On 30 September 2019, the Council will pay to the Crown the sum of \$6,600,000.00 plus GST (if any) but zero-rated pursuant to section 11(1)(mb) of the GST Act in consideration of the transfer referred to in clause 2a.

7. Avon River Precinct

- a. The parties acknowledge and agree as follows:
 - i. the land constituting parts of the Avon River Precinct being records of title 823649, 823651 and 791587 together with all improvements thereon, have previously been transferred to the Council by Ōtākaro; and
 - ii. Ōtākaro will continue to be responsible for carrying out all obligations and transferring to the Council all remaining assets relating to the Avon River Precinct, pursuant to the process set out in the Memorandum of Understanding.
- b. On 30 September 2019, the Council will pay to the Crown the sum of \$6,400,000.00 plus GST (if any) but zero-rated pursuant to section 11(1)(mb) of the GST Act as its contribution to the Avon River Precinct project funding.

8. Cathedral Square

- a. To facilitate the regeneration of Cathedral Square, on 30 September 2019 the Crown will pay to the Council the sum of \$4,600,000.00 plus GST (if any) upon receipt of a valid tax invoice.
- b. The Council agrees to apply the sum paid to it by the Crown under clause 8.a towards the regeneration of Cathedral Square. Additionally, the Council will also contribute the matching sum of \$4,600,000.00 plus GST (if any) towards such regeneration.

9. Port Hills

- a. On 30 September 2019, the Council will pay to LINZ the sum of \$ 40,530,380.00 plus GST (if any) but zero-rated pursuant to section 11(1)(mb) of the GST Act being the amount owing by it under the Cost Sharing Agreement for its share of costs associated with the purchase of certain properties in the Port Hills as at the date of this Agreement.

- b. For the avoidance of doubt, following payment of the amount set out in clause 9.a the Council shall have no further funding obligations to the Crown under the Cost Sharing Agreement in relation to sharing costs associated with the purchase of certain properties in the Port Hills.

10. Metro Sports Facility

- a. The purposes of this clause is to ensure the parties can collaboratively deliver the Metro Sports Facility as identified in the CCRP in a way that maintains momentum, and ensure a positive outcome for the people of Christchurch.
- b. The parties acknowledge and confirm that the Metro Sports Facility shall be delivered generally in accordance with Schedule 6 of the Cost Sharing Agreement with Ōtākaro continuing to deliver the Metro Sports Facility and retaining delivery risk.
- c. The Metro Sports Facility (and associated land, including land used for carparking) will transfer to the Council or another party agreed as part of further negotiations at practical completion, as defined in the design and construction contract entered into by Ōtākaro (as principal) for the delivery of the Metro Sports Facility.
- d. Both parties appreciate that the project has experienced cost pressures and want to see the project completed in the most pragmatic, successful and cost-effective way. Should any unforeseen cost pressure arise in the future, the parties will engage in good faith to consider pragmatic and cost-effective solutions.

11. Canterbury Multi-Use Arena

- a. The parties agree that the Canterbury Multi Use Arena as identified in the CCRP (as the Stadium) is subject to a separate process that involves an investment case assessment that is not fully addressed in this Agreement.
- b. Subject to modifications that flow from the process set out in clause 11.a, the Crown and the Council agree that the Canterbury Multi-Use Arena shall be delivered generally in accordance with Schedule 5 of the Cost Sharing Agreement.

12. Te Pae

- a. The parties acknowledge that Te Pae as identified in the CCRP (as the Convention Centre) shall be delivered and is currently owned by Ōtākaro.
- b. The parties may continue to engage on future ownership of Te Pae as appropriate.

13. Decontamination

- a. Subject to the approval of the Canterbury Multi-Use Arena investment case (and provided this requires that the Council is to be responsible for the costs of decontamination works in the Canterbury Multi-Use Arena) and following receipt of a valid tax invoice, the Crown will pay \$10,000,000 plus GST (if any) to the Council as a contribution towards decontamination works with the Crown to have no further obligation or responsibility in respect of any contamination works for the Canterbury Multi-Use Arena. The parties agree that the Council may apply such amount within the Performing Arts Precinct and / or the Canterbury Multi-Use Arena for decontamination works as the Council sees fit.
- b. The parties acknowledge that the Council is also receiving \$3,000,000 from Ōtākaro under the agreement contained in Schedule 2 with such amount having been appropriated to Ōtākaro for the purposes of decontamination and public realm works. The parties agree that the Council may apply such amount within the Performing Arts Precinct and / or the Canterbury Multi-Use Arena for decontamination and public realm works as the Council sees fit.

14. Further Obligations

- a. The parties agree they will:
 - i. work cooperatively and act in good faith in connection with this Agreement, taking into account the Proposed Outcomes;
 - ii. be open, frank, honest, prompt, fair and consistent in all dealings with each other;
 - iii. be non-adversarial and seek constructive steps to avoid difference and identify solutions; and
 - iv. be ready to discuss issues and negotiate with each other in a principled manner.
- b. The Crown will notify the Council before any decision is made on the winding up of Ōtākaro, seek the Council's view in relation to the same [and make any reasonable provision for any outstanding obligations owed by Ōtākaro to the Council].

15. Warranties

- a. The parties each warrant to the other as follows:
 - i. it has the right, power and authority, and has taken all action necessary, to execute, deliver and exercise its rights, and perform its obligations, under this Agreement;
 - ii. its obligations under this Agreement are enforceable in accordance with their respective terms; and

- iii. the execution, delivery and performance by it of this Agreement will not:
 - (6) breach any statutory, contractual or fiduciary obligation to which it is subject;
or
 - (7) breach any law, rule, directive or administrative order to which it is subject,where, in each case, the breach or conflict would be material in the context of its ability to perform its obligations under this Agreement.

16. Implementation Governance

- a. The parties agree that it is likely to be beneficial for them to have ongoing dialogue in relation to matters arising from and impacting on this Agreement. Accordingly, it is agreed that the parties will establish and operate a governance group (**the Group**) for this purpose.
- b. The Group will comprise the following:
 - i. A nominee for the time being of the Crown; and
 - ii. A nominee for the time being of the Council.
- c. The Group will meet quarterly or more frequently as agreed. The Group will invite representatives of Ōtakaro, LINZ and Development Christchurch Limited to attend such meetings as appropriate.
- d. For the avoidance of doubt, the Group has no mandate to bind the parties.

17. Dispute resolution

- a. If any dispute arises between the parties that cannot be resolved through direct dialogue or through the Group referred to in clause 16 in relation to this Agreement (a **Dispute**), they will negotiate in good faith to resolve such Dispute, such negotiation to commence upon either party giving the other written notice of the Dispute (**Dispute Notice**).
- b. If the parties fail to reach agreement in relation to the Dispute within 10 Business Days of the Dispute Notice, the Dispute will be referred to:
 - i. the Chief Executive of the Council (or his or her nominee); and
 - ii. on behalf of the Crown, the Chief Executive (or equivalent) (or his or her nominee) of the Department of the Prime Minister and Cabinet,

who will each use his or her reasonable endeavours to resolve the Dispute within 10 Business Days from the date the Dispute is referred to him or her.

- c. If the parties fail to reach agreement in relation to the Dispute within 20 Business Days of the referral of the Dispute to the senior executives described in clause 17.b, the following provisions will apply:
- i. either party may refer the Dispute to an appropriately qualified and reputable expert in the field to which the Dispute relates (by way of example, a lawyer, accountant or engineer), as is most appropriate, taking into account the Proposed Outcomes (**Expert**). The identity of the Expert will be:
 - (1) as agreed by the parties; or
 - (2) failing agreement within 5 Business Days of the date of either of the Crown or the Council (as applicable) serving on the other details of its suggested Expert, as appointed by the President (or equivalent) for the time being of the relevant institutional body governing the relevant discipline to which the subject matter of the Dispute relates, for example the New Zealand Institute of Chartered Accountants (in the case of a financial Dispute), the New Zealand Law Society (in the case of a legal Dispute) or Engineering New Zealand (in the case of a Dispute relating to construction matters);
 - ii. the referral to the Expert will require that the Expert acts in a timely and pragmatic manner and in particular that the Expert make a decision in respect of the Dispute within 20 Business Days from the date of the referral;
 - iii. each party shall provide all reasonable assistance to the Expert that may be required for the purposes of them making their determination;
 - iv. the parties will share equally the cost of the Expert;
 - v. the decision of the Expert will, in the absence of fraud or manifest error, be conclusive and binding on the parties, and
 - vi. in the event of a multi-disciplinary dispute, more than one Expert may be appointed
- d. This clause does not apply to the exercise of a statutory power or decision-making process by the parties.

18. Transition Planning in respect of Regenerate Christchurch

- a. The parties have agreed on arrangements for the transition back to local leadership for regeneration in Christchurch, including reducing the functions of Regenerate Christchurch. The parties further agree that the intention is for the majority of the functions of Regenerate Christchurch to have been transferred or delegated by 30 June 2020, with the transition of any remaining functions being completed by the time the GCRA is repealed.
- b. The parties acknowledge the valuable contribution Regenerate Christchurch has made to the regeneration of Christchurch and the strong working relationships that have been established as a result of the collaborative approach required by the GCRA. The parties

acknowledge and agree it is vital that this approach continues as the Council assumes leadership of regeneration in the city.

- c. It is intended that Regenerate Christchurch will prepare a Transition Plan, in partnership with the Council, as soon as possible after the signing of this Agreement.
- d. Under the Transition Plan (among other things):
 - i. Regenerate Christchurch's regeneration leadership responsibilities and strategic functions will be either concluded or progressively transitioned with the majority of its work to be either concluded or transitioned by 30 June 2020.
 - ii. Regenerate Christchurch retains and continues to undertake its mandatory legislative and administrative functions up to the repeal of the GCRA at which time Regenerate Christchurch will be formally disestablished and none of its functions will continue.
 - iii. The Minister and the Council will continue to provide guidance to the Regenerate Christchurch board from time to time on the strategic direction and specific priorities sought by them through letters of expectation to the board.
- e. The Council will work closely with Regenerate Christchurch to support the smooth transition of roles and responsibilities relating to regeneration in Christchurch.

19. Transition Planning for Governance Arrangements for RRZ

- a. The parties agree that a phased approach will be taken to increasing community involvement in land use governance that reflects the current and proposed future residential red zone land ownership as follows:
 - i. Phase 1: The Council and LINZ will establish a consultative group comprising stakeholders and community representatives to advise the Council and LINZ on transitional land use while land ownership remains with the Crown. The consultative group will have a strategic role in receiving and considering applications for transitional use of residential red zone land and make recommendations to LINZ as land owner and provide feedback, advice and suggestions. LINZ will retain ultimate responsibility for assessing and approving transitional use applications, for Crown-owned land, consistent with the obligations LINZ has as land owner under the GCRA and Health and Safety at Work Act, and considering the recommendations of the consultative group.
 - ii. Phase 2: A community governance group/entity, with delegated decision-making powers, could be established once the Council owns all or a sufficiently substantive amount of residential red zone land.
- b. Subject to the above provisions, the parties agree that transitional land use may (amongst other things):
 - i. Support any Regeneration Plans or planning or more permanent uses of residential red zone land;

- ii. Strengthen the connection between the residential red zone land and adjacent communities;
 - iii. Provide a range of recreational and other opportunities for Christchurch residents;
 - iv. Improve the environmental health of residential red zone land; and
 - v. Enable the testing of new and innovative ideas.
- c. The parties agree that the immediate next step is for Council and LINZ officials to work together to develop the role, functions and membership of a consultative group, including the parameters for a possible dedicated grants fund. Council and LINZ officials will also develop draft Terms of Reference and operating procedures for the consultative group and identify the grants fund quantum and criteria for funding applications. The parties expect this work to be completed by 31 December 2019.
- d. Council and LINZ officials will seek approval from the Council, the Crown and LINZ to establish the consultative group, including the funding and resourcing required.
- e. In Phase 2, the Council will assume decision-making powers in stages, as parcels of land are transferred from LINZ. The Council proposes establishing a community co-governance entity with the appropriate decision-making power to make decisions on the Council's behalf.
- f. The role of Te Rūnanga o Ngāi Tahu as Treaty partner is recognised, with the Council committing to include Ngāi Tahu representation alongside other community representatives within the consultative group and in longer-term governance arrangements.
- g. At the point that governance principles and/or processes are established, the Council agrees that it will take into account the principles of Te Tiriti o Waitangi/the Treaty of Waitangi. For example, principles of partnership, rangatiratanga, active participation in decision-making, and active protection may apply in the circumstances at the time.
- h. The parties agree the following in relation to funding:
- i. The Council agrees to provide sufficient resources to support the consultative group.
 - ii. The Crown agrees to meet all its own costs incurred in receiving and considering transitional use of Crown owned land and will not seek recovery of these costs from the consultative group.
 - iii. The Council will be responsible for all costs associated with the establishment and operation of the community governance entity (Phase 2).

20. General

- a. The parties acknowledge that they have statutory obligations, responsibilities, powers, functions and decision-making processes. Notwithstanding any other provision in this

Agreement, the parties acknowledge that they are each required to carry out their statutory functions in accordance with the provisions of the relevant acts.

- b. Unless otherwise stated in this Agreement, the parties will bear their own costs and expenses in connection with the negotiation, preparation and implementation of this Agreement.
- c. If any provision of this Agreement is held to be invalid, illegal or unenforceable, such provision is to be severed and the remainder of the Agreement will remain in full force and effect.
- d. If there is any inconsistency between the documents which are part of, or incorporated into, this Agreement, the order of precedence will be as follows:
 - i. first, the Schedules; and
 - ii. second, the terms set out in the main body of this Agreement.
- e. This Agreement records the entire understanding of the parties relating to the matters dealt with in this Agreement. Unless expressly stated otherwise, this Agreement supersedes all previous understandings or agreements (whether written, oral or both) relating to such matters. In particular, it is agreed that this Agreement is the entire agreement between the parties relating to Bus Interchange, Performing Arts Precinct, Residential Red Zone Land, Central City Land, Margaret Mahy Playground, Avon River Precinct, Cathedral Square, Port Hills cost sharing arrangement, Te Pae and Transitional Planning in respect of Regenerate Christchurch and for Governance Arrangements for Residential Red Zone Land. Further, this Agreement records the position in relation to the Metro Sports Facility and the Canterbury Multi-Use Arena. It is agreed that the Cost Sharing Agreement (except, for the avoidance of doubt, Schedules 5 and 6) and the Agreement in Principle are now void and of no effect. For the avoidance of doubt, the parties record that the Memorandum of Understanding is not affected by this Agreement and remains in full force and effect.
- f. Any waiver by a party of any of its rights or remedies under this Agreement will be effective only if it is recorded in writing and signed by that party. If the waiver relates to a breach of any provision of this Agreement, this will not (unless stated otherwise) operate as a waiver of any other breach of that provision. No waiver of any breach, or failure to enforce any provision, of this Agreement at any time by a party will in any way affect, limit or waive that party's right to subsequently require strict compliance with this Agreement.
- g. This Agreement may be signed in counterparts. All executed counterparts will together constitute one document.
- h. No amendment to this Agreement will be effective unless it is in writing and signed by both parties.
- i. This Agreement binds, and takes effect for the benefit of, the parties and their respective successors and permitted assigns.
- j. Save as expressly provided in this Agreement, neither party may assign, novate or otherwise transfer its interest in this Agreement without the prior written consent of the other parties.

- k. Covenants or other undertakings which are stated in this Agreement to be for the benefit of any person other than a party to this Agreement will be enforceable in accordance with Part 2, Subpart 1 of the Contract and Commercial Law Act 2017.
- l. This Agreement is governed by the laws of New Zealand. The parties submit to the exclusive jurisdiction of the New Zealand courts in respect of all matters relating to this Agreement.

WORKING DRAFT

Schedule 1
Bus Interchange

WORKING DRAFT

Schedule 1

BUS INTERCHANGE AGREEMENT

The Parties	Ōtākaro Limited (vendor); and Christchurch City Council (purchaser).
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It is agreed that the vendor sells and the purchaser purchases the property on the terms set out in this Schedule and otherwise in accordance with the standard terms of the Auckland District Law Society Agreement for Sale and Purchase of Real Estate Ninth Edition 2012 (8) (the "**ADLS Agreement**"). In the event of any conflict between this Schedule and the ADLS Agreement, this Schedule shall prevail.

EXECUTION

Executed as an agreement for and on behalf of the vendor, Ōtākaro Limited, by:

Authorised signatory

Executed as an agreement for and on behalf of the purchaser, Christchurch City Council, by:

Mary Richardson
Acting Chief Executive

The Property	Part of the block defined by Lichfield Street, Colombo Street, Tuam Street and Sol Square, Christchurch being an estate in fee simple as is more particularly described as: Lot 1 DP 495013 (record of title 850549 to issue) having an approximate area of 1.1582 hectares.
Purchase Price	\$22,933,000 plus GST (if any)
Settlement Date	30 September 2019
Amendments to General Terms of the ADLS Agreement	Clause 6.2 is deleted except for the following provision in clause 6.2(1): <i>"The purchaser is deemed to have accepted the vendor's title".</i> Clause 7.2(1) is amended to include the following words at the beginning of the subclause: <i>"except as disclosed by the vendor to the purchaser as part of the due diligence process,"</i>

Further Terms	<p>19. SUBDIVISION</p> <p>19.1 Prior to settlement and as soon as reasonably practicable after the date of this agreement the vendor will complete a subdivision of the Property from the balance of the vendor's land comprised in records of title CB5D/404 and 651880 (the "Subdivision") as set out in LT 495013 ("the LT Plan"). The vendor will, at the vendor's own cost, proceed with all speed to deposit the LT Plan with Land Information New Zealand to enable a new record of title for the Property to be issued with the title issuing subject to the easements in gross in favour of Orion New Zealand Limited as set out in the LT Plan.</p> <p>20. TRANSFER OF ASSETS</p> <p>20.1 In addition to transferring the Property, on the settlement date the vendor will transfer the assets owned by it and used for the purposes of the Bus Interchange ("the BI ") ("the Assets"), including (but not limited to) the following:</p> <ul style="list-style-type: none">(a) the BI plant, fixtures, fittings, furniture, equipment, and any other improvements, installations and additions;(b) subject to the agreement of Airtech NZ Limited, the contract for supply of mechanical HVAC maintenance services commencing 1 March 2019 and expiring 28 February 2020 between Ōtākaro and Airtech NZ Limited;(c) [the benefit of all warranties (or replacement warranties), where such warranties are capable of assignment, in relation to the construction of the BI which have not expired at the settlement date and that are in the possession of the vendor and noting that the vendor will use reasonable endeavours to provide the warranties to enable an assignment; and] <p>OR</p> <p>[benefit of:</p> <ul style="list-style-type: none">(i) all warranties in relation to the construction of the BI which are in the possession of the vendor, have not expired at the settlement date and are capable of assignment; and(ii) all replacement warranties in relation to the construction of the BI which the purchaser has requested the vendor perfect prior to settlement, noting that the vendor will use its best endeavours to procure assignable, correctly executed replacement warranties (on the same terms as
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	<p>were required by the BI construction contract) from the original warrantors.]</p> <p>(d) all other assets of the BI not specifically excluded below.</p> <p>20.2 As soon as reasonably practicable after the date of this agreement and up until the settlement date, the vendor agrees to provide all reasonable assistance (at no cost) to the purchaser to develop a facilities and asset management plan for the BI. Assistance will primarily be provided by Guy Baker, provided that the provision of such assistance does not unreasonably interfere with his day to day employment.</p> <p>20.3 For the avoidance of doubt, the Assets transferred under this agreement do not include the following:</p> <p>(a) all amounts owing by Ōtākaro to its creditors in respect of the BI for the period up until the settlement date;</p> <p>(b) any assets or liabilities of Ōtākaro not relating to the BI;</p> <p>(c) all other liabilities of the Crown or any of its related parties (including Ōtākaro) relating to the BI and the Assets, not expressly assumed in writing; and</p> <p>(d) all disputes and litigation relating to the BI and the Assets at the settlement date not expressly assumed in writing.</p> <p>21. PURCHASER CONFIRMATIONS</p> <p>21.1 The purchaser confirms that it has obtained all necessary consents and approvals from its Councillors and / or delegates to enter into and give effect to this agreement.</p> <p>22. REMEDIAL WORKS</p> <p>22.1 Prior to settlement the vendor will use reasonable endeavours to procure completion of (at no cost to the purchaser) the remedial work to the roof coating on the BI, the HVAC system and [door opening technology] (Remedial Works) to the reasonable satisfaction of the purchaser.</p> <p>22.2 The vendor will use all reasonable endeavours to obtain the provision of new warranties relating to the Remedial Works on terms acceptable to the purchaser (acting reasonably).</p> <p>22.3 The vendor will provide the purchaser reasonable rights of access to the Property to inspect the Remedial Works upon prior written notice of an intention to inspect.</p>
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23. RETENTION

23.1 In the event that the Remedial Works have not been completed by the settlement date, the vendor and the purchaser agree that a retention of the amount of \$2,293,300.00 being 10% of the Purchase Price (the "Retention Amount") will be held from the Purchase price on the following basis with the vendor to procure that an undertaking from the vendor's solicitor is given to the purchaser in relation to the same:

- (a) The Retention Amount is to be held in the vendor's solicitor's trust account on interest bearing deposit in the name of both the vendor and the purchaser pending completion of the Remedial Works by the vendor (at no cost to the purchaser) to the purchaser's reasonable satisfaction including within a reasonable period of time having regard to the particular circumstances.
- (b) Once the Remedial Works have been completed to the purchaser's reasonable satisfaction the Retention Amount (including all interest earned) will be released to the vendor's Solicitors for the vendor's account.

24. DISPUTE RESOLUTION

24.1 In the event of any disagreement between the parties in relation to whether or not the Remedial Works have been appropriately completed (including whether the Remedial Works have been completed within a reasonable period of time) then such disagreement shall be resolved as follows:

- (a) The disagreement will be referred to the Chief Executive of the purchaser (or his or her nominee) and the Chief Executive of the vendor (or his or her nominee) who will use their reasonable endeavours to resolve the disagreement within 10 working days of such referral;
- (b) In the event the Chief Executives (or their nominees) do not resolve the disagreement, then either party may refer the disagreement to an experienced engineer (the Expert) agreed upon by the purchaser and the vendor and if not so agreed, then nominated by the then President of Engineering New Zealand;
- (c) The referral to the Expert will require that the Expert acts in a timely and pragmatic manner and that in particular, the Expert make a determination in respect of the disagreement within 20

	<p>working days from the date of the referral;</p> <p>(d) The decision of the Expert could include requiring the release of part or all of the Retention to the purchaser to enable it to complete some or all of the Remedial Works;</p> <p>(e) Each party shall provide all reasonable assistance to the Expert that may be required for the purposes of him or her making their determination;</p> <p>(f) The purchaser and the vendor will share equally the cost of the Expert, and</p> <p>(g) The decision of the Expert will, in the absence of fraud or manifest error, be conclusive and binding on the parties.</p> <p>25. DOCUMENTATION</p> <p>25.1 The vendor will provide the following documents to the purchaser on the settlement date:</p> <p>(a) Confirmation from the vendor to the purchaser that it is not aware of any defects in relation to the BI (other than those previously disclosed to the purchaser).</p> <p>(b) All documentation required to be made available under the Construction Contract on Practical Completion and issue of the Final Completion Certificate that is in the possession of the vendor, including all warranties (as set out in clause 20.1(c)), relevant certificates, producer statements, final as-built drawings and operation and maintenance manuals.</p> <p>(c) The novation or assignment of the contract and warranties referred to in clauses 20.1(b) and 20.1(c).</p> <p>26. GENERAL</p> <p>26.1 Lowest price: For the purposes of the financial arrangements rules in the Income Tax Act 2007, the purchase price for the Property is the lowest price the parties would have agreed upon for the Property, on the date this agreement was entered into, if payment would have been required in full at the time the first right in the Property was transferred, and on that basis no income or expenditure arises in respect of the sale and purchase of the Property under those rules.</p> <p>26.2 Further assurance: Each party shall make all applications, execute all documents and do or procure all other acts and things reasonably required to implement and to carry out its obligations under, and the intention of, this agreement.</p>
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	<p>26.3 Default interest: the parties agree that the default interest payable under this agreement shall be 15% per annum.</p> <p>27. COSTS</p> <p>27.1 Each party will meet its own costs relating to this agreement.</p>
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WORKING DRAFT

Schedule 2
Performing Arts Precinct

WORKING DRAFT

Schedule 2

PERFORMING ARTS PRECINCT AGREEMENT

The Parties	Ōtākaro Limited (vendor); and Christchurch City Council (purchaser).
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It is agreed that the vendor sells and the purchaser purchases the property on the terms set out in this Schedule and otherwise in accordance with the standard terms of the Auckland District Law Society Agreement for Sale and Purchase of Real Estate Ninth Edition 2012 (8) (the "**ADLS Agreement**"). In the event of any conflict between this Schedule and the ADLS Agreement, this Schedule shall prevail.

EXECUTION

Executed as an agreement for and on behalf of the vendor, Ōtākaro Limited, by:

Authorised Signatory

Executed as an agreement for and on behalf of the purchaser, Christchurch City Council, by:

Mary Richardson
Acting Chief Executive

The Property	Part of the block defined by Colombo Street, Armagh Street, New Regent Street and Gloucester Street, Christchurch being an estate in fee simple as is more particularly described as the following records of title: CB27B/942, CB396/65, CB349/171, CB9A/221, CB366/35, CB21A/496, CB9B/720, CB11K/1202, CB23F/586, CB23F/587, CB347/227, CB23F/474, 687812 and CB20B/1490
Purchase Price	\$1.00 plus GST (if any)
Settlement Date	30 September 2019
Amendments to General Terms of the ADLS Agreement	Clause 6.2 is deleted except for the following provision in clause 6.2(1): <i>"The purchaser is deemed to have accepted the vendor's title".</i>

Further Terms	
	<p>19. LICENCE TO OCCUPY</p> <p>19.1 By a licence dated 29 October 2018 a copy of which is attached at Schedule A (Licence) the vendor agreed to grant a temporary licence of that part of the property shown edged red in Schedule A to MC Christchurch Holdings Limited T/A Crowne Plaza (Crowne Plaza).</p> <p>19.2 The purchaser acknowledges and agrees that the property is sold subject to the Licence and the purchaser covenants with the vendor to enter into the deed of novation attached at Schedule B in relation to the Licence (Deed of Novation) taking on the obligations of the vendor pursuant to the terms of the Licence. The vendor warrants to the purchaser that to the best of its knowledge the provisions of the Licence have been performed up to the settlement date.</p> <p>19.3 If on or before the settlement date Crowne Plaza has not executed the Deed of Novation, the parties agree that the vendor will give notice to Crowne Plaza pursuant to clause 12 of the Licence terminating the Licence on the date being three (3) months after the date of the notice and the purchaser will allow Crowne Plaza to continue to occupy the Land until expiry of the termination notice. The vendor will account to the purchaser for any Rental received during any period between the settlement date and expiry of the termination notice.</p> <p>19.4 For the avoidance of doubt, any definitions used in the above clause 19 that are not defined in this agreement shall have the meanings given to them in the Licence.</p> <p>20. ADDITIONAL LAND</p> <p>20.1 The vendor also owns the land at 154 to 156 Armagh Street, Christchurch (as is more particularly described as Lot 1 Deposited Plan 480674, record of title 687811). The parties agree to communicate in relation to the possible transfer of this land (subject to the terms of existing lease) from the vendor to the purchaser or to the existing tenant of this land (The Piano: Centre for Music and the Arts) and will endeavour to reach an agreed position by 1 December 2019.</p> <p>20.2 The purchaser is also interested in possibly acquiring the land at 128 to 138 Armagh Street, Christchurch (as is more particularly described as Lot 1 Deposited Plan 69579, record of title CB40C/246). In the event the vendor acquires ownership of this</p>

	<p>land it will immediately transfer the same to the purchaser without cost.</p> <p>21. PUBLIC REALM LAND / DECONTAMINATION</p> <p>21.1 The vendor agrees to pay \$3,000,000 plus GST (if any) following receipt of a valid tax invoice to the purchaser on the Settlement date as a contribution in respect of public realm and decontamination works to be undertaken by the purchaser at its sole cost.</p> <p>21.2 For the avoidance of doubt, neither the vendor nor the Crown shall have any further responsibility in relation to any public realm or decontamination works in the Performing Arts Precinct.</p> <p>22. NO RELIANCE BY PURCHASER</p> <p>22.1 The purchaser acknowledges and agrees that it has entered into this agreement in reliance solely upon its own judgment and in making such judgment as it considers appropriate (including after taking such independent advice as they consider appropriate in the circumstances) and not in reliance upon any representations, warranties, undertakings or statements made by or on behalf of the vendor or any of its officers, employees, agents or advisors. The purchaser acknowledges that the vendor gives not representations, warranties or undertakings in respect of the condition of the Property.</p> <p>23. GENERAL</p> <p>23.1 Lowest price: For the purposes of the financial arrangements rules in the Income Tax Act 2007, the purchase price for the Property is the lowest price the parties would have agreed upon for the Property, on the date this agreement was entered into, if payment would have been required in full at the time the first right in the Property was transferred, and on that basis no income or expenditure arises in respect of the sale and purchase of the Property under those rules.</p> <p>23.2 Further assurance: Each party shall make all applications, execute all documents and do or procure all other acts and things reasonably required to implement and to carry out its obligations under, and the intention of, this agreement.</p> <p>23.3 Default interest: The parties agree that the default interest payable under this agreement shall be 15% per annum.</p> <p>23.4 Costs: Each party will meet its own costs relating to this agreement.</p>
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Schedule A – Licence

WORKING DRAFT

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Schedule B – Deed of Novation

WORKING DRAFT

Ōtākaro Limited

Deed of Novation

Car Park Licence – 738-750 Colombo
Street

Ōtākaro Limited (**Ōtākaro**)

MC Christchurch Holdings Limited T/A Crowne Plaza (**Crowne
Plaza**)

Christchurch City Council (**Council**)

WORKING DRAFT

Details

Date

Parties

Name
Short name: Ōtākaro Limited
 Ōtākaro

Name
Short name: MC Christchurch Holdings Limited T/A Crowne Plaza
 Crowne Plaza

Name
Short name: Christchurch City Council
 Council

Background

- A. Pursuant to a licence dated 29 October 2018 (**Licence**) Ōtākaro has granted Crowne Plaza a licence to occupy the area shown edged red on the plan attached at Schedule 1 (**Land**).
- B. Ōtākaro and Council have entered into an agreement for sale and purchase of property including the Land (**Agreement**) with the result that:
- (i) Ōtākaro wishes to be discharged and released as licensor from the Licence;
 - (ii) Council wishes to be bound as licensor by the terms of the Licence; and
 - (iii) Crowne Plaza has agreed to discharge and release Ōtākaro with effect from and including the settlement date under the Agreement (**Settlement Date**) upon the undertakings of Council contained in this Deed to perform the obligations of Ōtākaro under the Licence.
- C. The parties agree to the novation of the Licence on the terms of this Deed.

Agreed terms

1. Novation, Acceptance, Consent and Release

- 1.1 Subject to the terms and conditions of this Deed, with effect on and from the Settlement Date Ōtākaro, Crowne Plaza and Council agree and acknowledge that:
- a. Ōtākaro novates to Council all obligations, liabilities, rights, title and interest of Ōtākaro in the Licence and Council accepts such novation;
 - b. Crowne Plaza consents to the novation of all obligations, liabilities, rights, title and interest of Ōtākaro in the Licence;
 - c. All the property, rights, powers and privileges of Ōtākaro together with all obligations and liabilities arising under or in respect of the Licence are vested absolutely in Council;
 - d. Ōtākaro ceases to be entitled to any of the rights, powers or privileges in respect of the Licence and is released and discharged from all obligations and liabilities under the Licence save in relation to any breaches of such obligations and liabilities which have been notified to it prior to the Settlement Date; and
 - e. Crowne Plaza and Ōtākaro are parties to a new agreement on the same terms as the Licence.
- 1.2 Notwithstanding anything in clause 1.1, Council shall have no obligations or liabilities for any matter in relation to the Licence arising prior to the Settlement Date.

2. General

- 2.1 Costs
Each party will meet its own costs relating to this Deed.
- 2.2 Further assurance
Each party is to promptly execute all documents and do all things that any other party from time to time reasonably requires of it to effect, perfect or complete the provisions of this Deed and any transaction contemplated by it.
- 2.3 Counterparts
This Deed may consist of a number of counterparts and if so the counterparts taken together constitute one and the same instrument.
- 2.4 Effect of execution
This Deed is binding on a party to it even if it is not executed by any other person named as a party.

Signing Page

EXECUTED as a deed

EXECUTED by
Ōtākaro Limited

Signature of witness

Name of witness

Occupation of witness

City/town of residence

EXECUTED by
Christchurch City Council

Signature of witness

Name of witness

Occupation of witness

City/town of residence

EXECUTED by
MC Christchurch Holdings Limited T/A Crowne PPlaza

Signature of witness

Name of witness

Occupation of witness

City/town of residence

Signature of director/authorised person

Name of director/authorised person

Signature of director/authorised person

Name of director/authorised person

Signature of councillor

Name of councillor

Signature of councillor

Name of councillor

Signature of director/authorised person

Name of director/authorised person

Signature of director/authorised person

Name of director/authorised person

Schedule 3
Residential Red Zone Land

WORKING DRAFT

Schedule 3

RESIDENTIAL RED ZONE AGREEMENT

The Parties	Her Majesty the Queen acting by and through the Chief Executive of Land Information New Zealand (vendor); and Christchurch City Council (purchaser).
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It is agreed that the vendor sells and the purchaser purchases the property on the terms set out in this Schedule and otherwise in accordance with the standard terms of the Auckland District Law Society Agreement for Sale and Purchase of Real Estate Ninth Edition 2012 (8) (the "**ADLS Agreement**"). In the event of any conflict between this Schedule and the ADLS Agreement, this Schedule shall prevail.

EXECUTION

Executed as an agreement for and on behalf of the vendor, Her Majesty the Queen acting by and through the Chief Executive of Land Information New Zealand, by:

Lisa Barrett
Chief Executive

Executed as an agreement for and on behalf of the purchaser, Christchurch City Council, by:

Mary Richardson
Acting Chief Executive

The Property	As described in the letter dated 26 July 2019 from the vendor to the purchaser.
Purchase Price	\$1.00 plus GST (if any) if demanded
Settlement Date	As set out in further term 25
Amendments to General Terms of the ADLS Agreement	Clauses 5.2 and 5.3 are deleted. Clauses 6.1 and 6.3 are deleted. Clause 6.2 is deleted except for the following provision in clause 6.2(1):

	<p><i>"The purchaser is deemed to have accepted the vendor's title".</i></p> <p>Clauses 7.1 is amended in the first line to read <i>"The vendor warrants and undertakes that at the date of the agreement the vendor, to the best of its knowledge, has not:"</i></p> <p>Clause 7.1(2) is deleted.</p>
<p>Further Terms</p>	<p>19. INTERPRETATION</p> <p>19.1 "Balance Land" means those parcels of land outside the OARC that form part of the Property as set out in the letter dated 26 July 2019 from the vendor to the purchaser. and described as Southshore, Port Hills and Brooklands;</p> <p>19.2 "Balance Land (Port Hills)" means those parcels of land within the Balance Land that are described as Port Hills in the letter dated 26 July 2019 from the vendor to the purchaser;</p> <p>19.3 "Council OARC Land" means the stopped roads and other land owned by the purchaser required to give effect to the Ōtakaro Avon River Corridor reconfiguration and as agreed as per clause 22.2(a);</p> <p>19.4 "GCR Act" means the Greater Christchurch Regeneration Act 2016;</p> <p>19.5 "Minister" means the Minister for Greater Christchurch Regeneration; and</p> <p>19.6 "OARC" means those parcels of land forming part of the Property located within the Ōtakaro Avon River Corridor as set out in the letter dated 26 July 2019 from the vendor to the purchaser..</p> <p>19.7 "Reduced Survey Standard" means a survey prescription varying some of the requirements of the Rules for Cadastral Survey 2010, pursuant to section 47(5) of the Cadastral Survey Act 2002, to allow a reduced standard of accuracy, as considered appropriate by the Surveyor-General, for the definition of existing parcel boundaries where those boundaries are used as boundaries of the new lots being created to reconfigure the OARC.</p> <p>20. STATUTORY CLEARANCE</p> <p>20.1 The records of title set out in Schedule A are believed to be the subject of a right of first refusal under the Ngāi Tahu Claims Settlement Act 1998 and / or subject to a right of offer back</p>

	<p>under the Public Works Act 1981 (PWA). The vendor will undertake all required actions to meet its statutory requirements in respect of these Acts. In the event Te Rūnanga o Ngāi Tahu or any PWA offeree accepts any offer made to them and purchases the record of title in question, then such record of title will be excluded from this Agreement. Except for the exclusion of any records of title pursuant to this clause, this Agreement shall continue with full force and effect.</p> <p>21. REDUCED SURVEY STANDARD</p> <p>21.1 As soon as reasonably practicable after the date of this agreement, the vendor will apply to the Surveyor-General to obtain the Reduced Survey Standard.</p> <p>22. ŌTĀKARO AVON RIVER CORRIDOR RECONFIGURATION</p> <p>22.1 Prior to settlement and subject to clauses 23.1 to 23.4, the vendor will (as set out in clauses 22.1 to 22.10 reconfigure the OARC and the Council OARC Land with such reconfiguration to be based on, with the exception of the creation any new roads, the high-level concept plans provided by the purchaser to the vendor on 3 May 2019 (Concept Plans) with individual records of title to issue. For the avoidance of doubt, no new roads will be created as part of the reconfiguration.</p> <p>22.2 As soon as reasonably practicable after the date of this agreement, representatives of the vendor and the purchaser will establish a working group (Working Group) to provide further detail to the Concept Plans and, in particular, to determine:</p> <ul style="list-style-type: none">(a) Those parts (if any) of the Council-owned land (including any roads to be stopped) as shown in the Concept Plans that will be taken or set apart under section 92(4) of the GCR Act and included in the reconfiguration contemplated by clause 22.1;(b) The easements in gross in favour of the purchaser recorded on the existing records of title to the OARC, any consent notices, covenants and other interests, notices or memorials in favour of the purchaser to be cancelled or retained;(c) The mutual easements, covenants or other instruments between records of title in the OARC to be cancelled or retained together with cancellation of any cross lease titles included in those areas;
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	<ul style="list-style-type: none">(d) Any easements to be created in favour of utility providers for existing infrastructure within the roads to stop;(e) The approximate areas and dimensions of land to be included in each new individual record of title;(f) The priority of work to be undertaken; and(g) Any other matters considered relevant by the Working Group. <p>22.3 The parties will use all reasonable endeavours to ensure the Working Group completes the work set out in clause 22.2 by 31 December 2019.</p> <p>22.4 In the event the Working Group fails to reach agreement on any matter under its consideration on a timely basis then either party may refer such matter for determination in accordance with clause 31.</p> <p>22.5 The vendor will provide the purchaser with scheme plan/s based on the Concept Plans and the determinations of the Working Group process. For the avoidance of doubt, scheme plans may be provided to the purchaser at different times.</p> <p>22.6 Except as provided for as part of the Working Group process, the scheme plan/s will be prepared on the basis that any existing easements recorded on the existing records of title to the OARC for the benefit of the third parties or over or for the benefit of land owned by third parties will be retained.</p> <p>22.7 The purchaser will advise the vendor in writing within twenty (20) working days of the date of receipt of any scheme plan (time being of the essence) whether it approves the scheme plan in the form provided to it (such approval not to be unreasonably withheld) or whether it requests for changes to be made to the scheme plan. If the purchaser does not respond to the vendor within twenty (20) working days such timeframe it shall be deemed to have approved the scheme plan. Any purchaser's notice requesting changes must specify how the scheme plan does not materially reflect the outcome of the Working Group process and the Working Group shall then proceed to determine whether or not the scheme plan should be amended. If the Working Group has not resolved whether or not the scheme plan should be amended within twenty (20) working days of the purchaser's notice, then the dispute will be referred for determination in accordance with clause 31.</p>
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	<p>22.8 As soon as reasonably practicable following the approval or determination of any scheme plan and provided the Surveyor-General has agreed to apply a Reduced Survey Standard in a timely manner, the vendor will procure the necessary survey work and the preparation of a subdivision plan (to become a Survey Office Plan or a Deposited Plan as the vendor may see fit) in accordance with such scheme plan (noting that such subdivision plan will capture the matters addressed in the Working Group process including the granting of any easements to utility providers). The vendor will use all reasonable endeavours to:</p> <ul style="list-style-type: none">(a) stop the roads as shown in the subdivision plan. The purchaser acknowledges that any road stopping will only take effect in the event the appropriate statutory decisions are made by the Chief Executive of Land Information New Zealand following consultation with the purchaser in its regulatory capacity.(b) utilise the amalgamation powers pursuant to sections 94 to 100 of the GCR Act to enable the amalgamation of the OARC (including any Council OARC Land) into individual surveyed records of title as shown in the subdivision plan together with the cancellation of all mutual interests (as set out in clause 22.2(c)). The purchaser acknowledges that the exercise of the above powers will only take effect in the event the appropriate statutory decisions are made by the Minister. <p>22.9 As soon as reasonably practicable following the approval or determination of any scheme plan in circumstances where the Surveyor-General has not agreed to apply a Reduced Survey Standard in a timely manner, the vendor without procuring any survey work and the preparation of any subdivision plan (other than in relation to any road stopping with a road stopping plan to be prepared and noting that any easements agreed to be granted to utility providers over stopped road as part of the Working Group process will be granted over the relevant whole section/s surveyed in the road stopping plan) will use reasonable endeavours to:</p> <ul style="list-style-type: none">(a) stop the roads as shown in the road stopping plan. The purchaser acknowledges that any road stopping will only take effect in the event the appropriate statutory decisions are made by the Chief Executive of Land Information New
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	<p>Zealand following consultation with the purchaser in its regulatory capacity.</p> <p>(b) utilise the amalgamation powers pursuant to sections 94 to 100 of the GCR Act to enable the amalgamation of the OARC (including any Council OARC Land) into individual records of title as shown in the scheme plan but utilising existing legal descriptions of the relevant parcels together with the cancellation of all mutual interests (as set out in clause 22.2(c)). The purchaser acknowledges that the exercise of the above powers will only take effect in the event the appropriate statutory decisions are made by the Minister.</p> <p>22.10 [If so required by the vendor and subject to the making of any required statutory decision, the purchaser will provide, at no cost to the vendor, all approvals under section 243 Resource Management Act 1991 necessary to surrender any easements and will also provide, at no cost to the vendor, all releases of any consent notices, covenants and other interests, notices or memorials in favour of the purchaser where the same are to be cancelled.]</p> <p>22.11 It is acknowledged that the Council OARC Land will remain beneficially owned by the purchaser at all times and that during any period of legal ownership by the vendor it is holding the Council OARC Land on trust for the purchaser.</p> <p>23. ALTERNATIVE ŌTĀKARO AVON RIVER CORRIDOR RECONFIGURATION</p> <p>23.1 In the event that the necessary statutory decisions required to undertake the reconfiguration contemplated in clauses 22.1 to 22.10 are not made, or for any other reason the reconfiguration contemplated in clauses 22.1 to 22.10 is not completed (in whole or in part), by 30 April 2021, then the provisions of clause 23.2 shall apply.</p> <p>23.2 If the necessary statutory powers in the GCR Act (the Powers) are extended by Parliament for a period of time, then the vendor's obligations under clauses 22.1 to 22.10 shall continue to apply for that period of time. If the Powers are not extended by Parliament or, if at the end of any period of extension described in 23.1 above, the reconfiguration contemplated in clauses 22.1 to 22.10 is not completed (in whole or in part), then the vendor may either:</p>
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	<p>(a) use all reasonable endeavours to reconfigure the land generally in accordance with clauses 22.1 to 22.10 (noting that the Powers will be replaced with the closest legislative alternative) in so far as is reasonably practicable; or</p> <p>(b) transfer the OARC to the purchaser in its then current configuration and the provisions of clause 23.3 shall apply.</p> <p>23.3 If the OARC is transferred to the purchaser in the circumstances contemplated by clause 23.2(b) then prior to 30 June 2025, the purchaser may carry out the outstanding reconfiguration as contemplated by the Concept Plans and Working Group process, and/or the scheme plans, to the extent such scheme plans have been produced / agreed, and on an open book basis with no charge for the purchaser's staff time, but with all third party costs incurred by the purchaser associated with the reconfiguration to be reimbursed to it by the vendor. The purchaser will submit its tax invoices for such costs on a quarterly basis supported by copies of the third parties' invoices and payment will then be made by the vendor. Should this clause 23.3 apply the vendor will have no further responsibility for any reconfiguration in the OARC other than, for the avoidance of doubt, the obligation to reimburse the purchaser as set out in this clause 23.3.</p> <p>23.4 [For the avoidance of doubt the provisions of clause 22.10 shall apply to any reconfiguration undertaken by the purchaser under clause 23.3 such that no cost shall be recovered by the purchaser from the vendor in relation to the provision of any required approvals under section 243 Resource Management Act 1991; nor any releases of any consent notices, covenants or other interests, notices or memorials by the purchaser in its regulatory capacity.]</p> <p>24. BALANCE OF LAND RECONFIGURATION</p> <p>24.1 The parties agree that the Working Group will determine the extent of the road stopping in Brooklands and Southshore (such road stopping to be based on the Concept Plans) and the priority to be adopted in relation to such road stopping. Prior to settlement and following the Working Group process as set out in clause 22.2 in relation to any roads to stop in Brooklands and Southshore, the vendor will stop any such roads. The purchaser acknowledges that the road stopping will only take</p>
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	<p>effect in the event the appropriate statutory decisions are made by the Chief Executive of Land Information New Zealand following consultation with the purchaser in its regulatory capacity.</p> <p>24.2 In the event the Working Group fails to reach agreement on which roads in Brooklands and Southshore will be stopped and / or the priority to be adopted in relation to the same then either party may refer such matter for determination in accordance with clause 31.</p> <p>24.3 The parties have agreed that the vendor shall pay \$1,000,000 plus GST if any to the purchaser for the purposes of the purchaser carrying out reconfiguration work on the Balance Land (the Reconfiguration Amount). Accordingly, on the earlier of the settlement date in clause 25.1(c) and the settlement date in clause 25.1(d) the vendor will pay the Reconfiguration Amount to the purchaser provided the purchaser has provided the vendor (or the vendor's solicitor) with a valid tax invoice in relation to the same.</p> <p>25. SETTLEMENT DATE</p> <p>25.1 The parties acknowledge and agree that settlement under this agreement shall be completed as follows:</p> <ul style="list-style-type: none">(a) OARC – Settlement date shall be 1 July 2020 or twenty (20) working days after the vendor has notified the purchaser that the vendor's obligations in relation to the required reconfiguration work have been met, whichever is later (in the event the parties fail to reach agreement on whether the vendor's obligations have been met then either party may refer such matter for determination in accordance with clause 31). The land that has been reconfigured as contemplated by clauses 22 and / or 23.2(a) may be transferred to the purchaser in tranches as agreed;(b) Balance Land (Port Hills) – Settlement date shall be 31 May 2021;(c) Balance Land (Southshore) – Settlement date shall be 1 July 2020 or twenty (20) working days after the road stopping is completed or the decision is made by the Chief Executive of Land Information New Zealand not to stop the roads, whichever is later; and
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	<p>(d) Balance Land (Brooklands) - Settlement date shall be 1 July 2020 or twenty (20) working days after the road stopping is completed or the decision is made by the Chief Executive of Land Information New Zealand not to stop the roads, whichever is later,</p> <p>or on such other date/s as the parties may agree.</p> <p>25.2 The parties agree that if the logistics of the settlement transfers are such that they cannot be reasonably completed in the single day contemplated in clause 25.1 then such transfers will be given effect to as soon as practicable with transfers taking place over successive working days.</p> <p>25.3 The parties acknowledge that rates will continue to be payable by the vendor until transfer of the relevant parcel of land.</p> <p>26. redacted under s9(2)(k) OIA and s7(2)(j) LGOIMA</p> <p>26.1</p> <p>26.2</p> <p>26.3</p> <p>26.4</p> <p>27.</p> <p>28. TERMS OF TRANSFER</p> <p>28.1 The purchaser acknowledges that the vendor is transferring the Property to it subject to the following terms and accepts the transfer of the Property on this basis:</p>
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	<p>(a) From settlement the purchaser will be responsible for all costs associated with the Property, including on-going management costs.</p> <p>(b) From settlement the purchaser will be responsible for, at its sole cost and determination, removal of any unnecessary horizontal infrastructure (including roads) or any reinstating of horizontal infrastructure (including roads).</p> <p>(c) [In recognition of the investment that has been made by the vendor (and the Crown) in acquiring the property, the purchaser and vendor agree that if the purchaser leases or transfers any of the property the purchaser will split the net proceeds of transfer or lease (as the case may be) 50/50 with the vendor / Crown. The parties will discuss the appropriate mechanism (if any) to ensure that the vendor's / Crown's position in relation to the above is sufficiently protected.]</p> <p>29. MAINTENANCE COSTS</p> <p>29.1 In respect of any part of the Property (but excluding the Balance Land (Port Hills), The purchaser agrees that from 1 July 2020 it will be responsible for maintenance and operations associated with the land (including all associated cost).</p> <p>29.2 In respect of the Balance Land (Port Hills), the purchaser agrees that it will be responsible for maintenance and operations associated with the land (including all associated costs) from 31 May 2021.</p> <p>30. RISK AND INSURANCE</p> <p>30.1 The purchaser acknowledges and accepts that the vendor does not hold insurance for the Property.</p> <p>30.2 For the avoidance of doubt, the vendor will not be assigning to the purchaser the benefit of any Earthquake Commission or private insurance claims it may hold in respect of the Property.</p> <p>31. DISPUTE RESOLUTION</p> <p>31.1 In the event of any disagreement between the vendor and the purchaser as contemplated by clauses 22.4, 22.7, 24.2, 25.1(a) and 27 then such disagreement shall be resolved as follows:</p>
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	<p>(a) The disagreement will be referred to the Chief Executive of the purchaser (or his or her nominee) and the Chief Executive of the vendor (or his or her nominee) who will use their reasonable endeavours to resolve the disagreement within 10 working days of such referral;</p> <p>(b) In the event the Chief Executives (or their nominees) do not resolve the disagreement, then either party may refer the disagreement to an experienced property lawyer (the Expert) agreed upon by the vendor and the purchaser and if not so agreed, then nominated by the then President of the New Zealand Law Society;</p> <p>(c) The referral to the Expert will require that the Expert acts in a timely and pragmatic manner and that in particular, the Expert make a determination in respect of the disagreement within 20 working days from the date of the referral;</p> <p>(d) Each party shall provide all reasonable assistance to the Expert that may be required for the purposes of him or her making their determination;</p> <p>(e) The vendor and the purchaser will share equally the cost of the Expert, and</p> <p>(f) The decision of the Expert will, in the absence of fraud or manifest error, be conclusive and binding on the parties.</p> <p>32. EXERCISE OF STATUTORY RIGHTS, POWERS AND DUTIES</p> <p>32.1 The vendor and purchaser acknowledge and agree that they respectively have statutory rights, powers and duties.</p> <p>32.2 Nothing in this agreement prevents, restricts or derogates the vendor (or any other arm of the Crown) or the purchaser exercising any statutory rights, powers or duties.</p> <p>32.3 If anything in this agreement is inconsistent with any of the parties' statutory rights, powers or duties then those statutory rights, powers or duties shall prevail and this agreement shall be construed accordingly.</p> <p>33. NO RELIANCE BY PURCHASER</p> <p>33.1 The purchaser acknowledges and agrees that it has entered into this agreement in reliance solely upon its own judgment and in making such judgment as it considers appropriate (including</p>
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	<p>after taking such independent advice as they consider appropriate in the circumstances) and not in reliance upon any representations, warranties, undertakings or statements made by or on behalf of the vendor or any of its officers, employees, agents or advisors. The purchaser acknowledges that the vendor gives not representations, warranties or undertakings in respect of the condition of the Property.</p> <p>34. MINERALS</p> <p>34.1 For the avoidance of doubt, on settlement the Property will be subject to Part IVA of the Conservation Act 1987 and section 11 of the Crown Minerals Act 1991 with the effect that every mineral existing in its natural condition in the Property is reserved to the Crown.</p> <p>34.2 Prior to, or as part of the e-dealing giving effect to the transfer of the Property, the Crown shall register notations against the records of title for the Property reserving such interests.</p> <p>35. GENERAL</p> <p>35.1 Lowest price: For the purposes of the financial arrangements rules in the Income Tax Act 2007, the Purchase price for the Property is the lowest price the parties would have agreed upon for the Property, on the date this agreement was entered into, if payment would have been required in full at the time the first right in the Property was transferred, and on that basis no income or expenditure arises in respect of the sale and purchase of the Property under those rules.</p> <p>35.2 Further assurance: Each party shall make all applications, execute all documents and do or procure all other acts and things reasonably required to implement and to carry out its obligations under, and the intention of, this agreement.</p> <p>35.3 Default interest: The parties agree that the default interest payable under this agreement shall be 15% per annum.</p> <p>35.4 Costs: except as otherwise stated in this agreement, each party shall be responsible for their own costs of and incidental to entering and transacting this agreement.</p> <p>35.5 Notices: Any notice permitted or required to be given under this agreement must be in writing.</p> <p>35.6 Non-Merger: Notwithstanding any rule of law to the contrary, the agreements, obligations and warranties of the parties in this</p>
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	<p>agreement it will not merge with the transfer of title to the Property or with the delivery of the title to the Property. Further, all other operational agreements between the parties (including but not limited to the agreements relating to Lucas Lane, Deans Head and the Mass Land Movement Remediation Project) will continue to have full force and effect until terminated in accordance with their respective provisions.</p>
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redacted under s9(2)(a) OIA and s7(2)(a) LGOIMA

Schedule 4
Central City Land

WORKING DRAFT

SCHEDULE 4

[TO BE REPRODUCED ON ŌTĀKARO LIMITED LETTERHEAD]

[] July 2019

Mary Richardson
Acting Chief Executive
Christchurch City Council
Christchurch

By Email

Dear Mary

Central City Land

1. This letter records the agreement between Ōtākaro Limited (Ōtākaro) and Christchurch City Council (the Council) in relation to certain land owned by Ōtākaro in the Christchurch Central City.
2. If the Council within 20 Business Days of the date of the Global Settlement Agreement entered into between the Crown and the Council, notifies Ōtākaro that it is interested in purchasing any of the Central City Land as set out in the Schedule attached, then without creating any obligation on Ōtākaro or the Council to necessarily reach agreement, the Council and Ōtākaro will engage in discussions to ascertain if an Agreement for Sale and Purchase can be entered on such terms as may be agreed.
3. From time to time, Ōtākaro will advise the Council of any other land that it owns and which Ōtākaro (acting reasonably) considers can be made available for sale to the Council. If the Council within 20 Business Days of the date of such advice notifies Ōtākaro that it is interested in purchasing such land, then without creating any obligation on Ōtākaro or the Council to necessarily reach agreement, the Council and Ōtākaro will engage in discussions to ascertain if an Agreement for Sale and Purchase can be entered on such terms as may be agreed.
4. For the avoidance of doubt, if the Council does not issue a notice under either Paragraph 2 or Paragraph 3 above, or if the Council issues such a notice and an Agreement for Sale and Purchase is not agreed between the Council and Ōtākaro in respect of the land in question within 20 Business Days after the issue of that notice, then Ōtākaro may thereafter deal with the land in question as it sees fit. Further, please note that no land can be considered as being available for sale to the Council if it is the subject of a pre-existing disposal process.

Schedule of Central City Land

Description of Assets (Assets)	
	<ul style="list-style-type: none">• RT CB449/106 (911m²) and RT 731614 (118m²) being 142-144 Tuam St)• RT 703793 (278m² being 210 Tuam St)• RTs CB638/66, CB638/65 & CB638/70 (764m² being 117-125 Manchester St)• Part RT CB11K/109 (300m² being 614 Colombo St)• RT 703794 (562m² being 214 Tuam St)

WORKING DRAFT

Schedule 5
PAP Encumbrance

WORKING DRAFT

SCHEDULE 5

Form 18

Encumbrance instrument

(Section 100 Land Transfer Act 2017)

Land registration district

CANTERBURY

BARCODE

Record of Title (unique identifier)

All/part

Area/description of part

[TBC]

ALL

Encumbrancer

Surname(s) must be underlined.

CHRISTCHURCH CITY COUNCIL (the "Council")

Encumbrancee

Surname(s) must be underlined.

HER MAJESTY THE QUEEN (the "Crown")

Estate or interest to be encumbered

Insert, eg, fee simple, leasehold in lease number, etc.

Fee Simple.

Encumbrance memorandum number

N/A

Nature of security

State whether sum of money, annuity, or rentcharge, and amount.

Annual Rent Charge of \$1.00 (inclusive of goods and services tax, if any)

Operative clause

Delete words in [], as appropriate.

The Encumbrancer encumbers for the benefit of the Encumbrancee the land in the above record of title(s) with the above sum of money, annuity, or rent charge to be raised and paid in accordance with the terms set out in the [above-encumbrance-memorandum]-[Annexure Schedule(s)]-and so as to incorporate in this encumbrance the terms and other provisions set out in the [above-encumbrancee-memorandum]-[and]-[Annexure Schedule(s)] for the better securing to the Encumbrancee the payment(s) secured by this encumbrance, and compliance by the Encumbrancer with the terms of this encumbrance.

SCHEDULE 5

Terms

- 1 Length of term **999 years commencing on the date of this encumbrance**
- 2 Payment date(s) **1st day of January in each year, if demanded**
- 3 Rate(s) of interest: **0%**
- 4 Event(s) in which the sum, annuity or rentcharge becomes payable: **If demanded by the Encumbrancee by the Payment Dates**
- 5 Event(s) in which the sum, annuity or rentcharge ceases to be payable: **In accordance with Annexure Schedule 1**

Covenants and conditions

Continue in Annexure Schedule(s), if required

In accordance with Annexure Schedule 1

Modification of statutory provisions

Continue in Annexure Schedule(s), if required

Sections 23, 289, 301 and 302 of the Property Law Act 2007 and all other provisions of that Act and the Land Transfer Act 2017 relating to encumbrances shall apply to this encumbrance, except that the Council shall have no power of sale.

The Council hereby consents pursuant to the Land Transfer Act 2017 to the registration of the following instruments in respect of the land subject to this encumbrance:

- (a) the creation, variation or surrender of an easement;
- (b) the registration of mortgage, variation of a mortgage instrument or priority of mortgages, and this consent shall be deemed to be the consent of the Crown to the registration of a particular instrument specified.

Insert instrument type

Encumbrance

Continue in additional Annexure Schedule, if required

ANNEXURE SCHEDULE 1

CIRCUMSTANCES

The land subject to this encumbrance (the "**Property**") is part of the land being regenerated as the Performing Arts Precinct under the Christchurch Central Recovery Plan.

The Property has been transferred to the Council subject to the requirement that the Council comply with the covenants set out in this encumbrance.

COVENANTS

1. **Transfer or Lease of the Property:** In circumstances where the Council transfers or grants a Lease of the Property (or any part thereof) for a purpose not associated with the Performing Arts Precinct, the Council covenants with the Crown:
 - (a) to seek to maximise net financial return received from such transfer or Lease transaction (where possible and appropriate);
 - (b) to advise the Crown of any such transfer or Lease; and
 - (c) to pay to the Crown (within 20 working days of demand being made by the Crown) 50% of the Net Proceeds of Divestment actually received by the Council on such transfer or Lease.
2. For the avoidance of doubt:
 - (a) the transfer or Lease of the Property (or any part of it) by the Council for the purposes of the Performing Arts Precinct (including a transfer or Lease related to the use or development of the Property or any part of it for car-parking) shall not be subject to the obligations in clause 1.
 - (b) The use or development of the Property (or any part of it) for car-parking shall be deemed to be a use for the purposes of the Performing Arts Precinct and shall not be subject to the obligations in clause 1.
3. **Partial discharge of this encumbrance:** Provided the Council has complied with its covenants in clause 1, on the transfer of part of the Property (the "**Relevant Part**") the Crown shall execute and provide a partial discharge of this encumbrance instrument to the Council in respect of the Relevant Part.
4. **Discharge of this encumbrance:** Upon application in writing by the Council, the Crown will execute

Insert instrument type

Encumbrance

Continue in additional Annexure Schedule, if required

and provide to the Council a discharge of this encumbrance where the Crown is satisfied (in its sole and absolute discretion) that the covenants of this encumbrance have become obsolete. For the avoidance of doubt, under no circumstances shall payment of the rent charge be sufficient to obtain a discharge of this encumbrance.

5. **Injunctive relief:** The Council acknowledges that the Crown shall be entitled to an injunction or other equitable relief for any threatened or actual breach of clause 1 as (without prejudice to any rights or remedies of the Crown) damages alone would not be an adequate remedy.
6. **Non-waiver:** No failure or delay by the Crown to enforce this encumbrance shall constitute a waiver or restrict any further enforcement. Nothing in this encumbrance shall compel the Crown to enforce or maintain this encumbrance.
7. **Costs:** The Council shall pay all the Crown's legal costs (on a solicitor/client basis) directly attributable to the enforcement of this encumbrance.
8. **Exercise of powers:** Nothing in this encumbrance shall be construed so as to remove or limit any rights, powers or remedies vested in the Crown by law, or to compel the Crown to exercise all or any rights, powers or remedies granted by this encumbrance.
9. **Disputes:** The Parties agree that any disputes about the meaning or application of this Encumbrance will be resolved through cooperation, but any dispute that cannot be resolved by staff from the Crown and the Council shall be:
 - (a) First escalated to the Chief Executive of the Council and the Deputy Chief Executive of the department responsible at that time for managing the obligations set out in this Encumbrance, whose joint decision shall be complied with; but
 - (b) If they cannot agree, the dispute will be escalated to the Mayor of the Council and the Minister responsible at that time for managing the obligations set out in this Encumbrance, who shall jointly direct how this Encumbrance is to be interpreted and applied.
10. **Definitions:** For the purposes of this encumbrance:
 - (a) "**Lease**" means a lease of land that is for a period of five (5) years or more (including any rights of renewal) and for which more than a nominal rental is received by the Council (as landlord); and
 - (b) "**Net Proceeds of Divestment** " means the amount received from the transfer or Lease together with any holding income that may have been accrued to the Council less the following costs (if appropriate) incurred by the Council in respect of the land being transferred

Annexure Schedule

Page 5 of Pages

Insert instrument type

Encumbrance

Continue in additional Annexure Schedule, if required

or leased, namely:

- professional fees and disbursements in respect of the transfer or Lease;
- real estate commission and associated disbursements;
- GST (if any) or any other applicable tax liability;
- management costs;
- maintenance costs;
- holding costs (which for the avoidance of doubt shall include annual rates payable to any local authority); and
- land remediation costs (excluding any amounts contributed by the Crown and/or Ōtākaro Limited to the Council for the same).

Executed on behalf of Christchurch City Council:

Her Worship Lianne Dalziel, Mayor of Christchurch City

Executed on behalf of the Her Majesty the Queen in Right of New Zealand acting by and through the Minister of Finance and the Minister for Greater Christchurch Regeneration:

Hon Grant Robertson, Minister of Finance

Hon Dr Megan Woods, Minister for Greater Christchurch
Regeneration

WORKING DRAFT

Memorandum

Date: 8 August 2019
From: Brendan Anstiss
To: Christchurch City Council
Cc: Ian Thomson, Adela Kardos, Robert O'Conner, Bruce Moher, Carol Bellette
Subject: **Global Settlement - additional information**
Reference:

1. Purpose of this Memo

- 1.1 This memorandum provides supplementary information to support the Global Settlement Agreement paper on the Council agenda as item 5 for 8 August 2019. This paper should be read in conjunction with the existing paper on the agenda.
- 1.2 Additional staff recommendations are also provided consistent with the content of this memo. A full copy of all recommendations are detailed in Section 4 of this memo. These will be displayed when the matter is considered by Council.
- 1.3 Finally, this memorandum also includes (as an attachment) the updated Global Settlement Agreement with track changes from the version originally provided to Council (and made public) on 29 July 2019. A Px unredacted version of the Global Settlement Agreement is separately available to Councillors.

2. Update on matters raised during deputations:

Financial Summary

- 2.1 A summary of the proposed global settlement financial costs / Council payments and a cross reference to the Annual or Long Term Plans of Council was sought. This is detailed in the following table
- 2.2 Global settlement financial payments:

Project	Council payment \$	notes	e-reference	Annual or LTP reference
Bus Interchange	\$22.9m	10% retention to be paid to Crown solicitor if remedial works not done by 30 Sept	https://ccc.govt.nz/assets/Documents/The-Council/Plans-Strategies-Policies-Bylaws/Plans/Long-Term-Plan/2018-2028/Vols/LTP-201828-Vol1-08Capitalprogramme.pdf	2018/28 LTP Capital programme page 225, carried forward to 2019/20

Avon River Precinct	\$6.4m		https://www.ccc.govt.nz/assets/Documents/The-Council/Plans-Strategies-Policies-Bylaws/Plans/annual-plan/AnnualPlan2012-13.pdf	2012/13 Annual Plan Capital programme page 83, accrued to Balance sheet liability 30 June 2018
Margaret Mahy Family Playground	\$6.6m		https://www.ccc.govt.nz/assets/Documents/The-Council/Plans-Strategies-Policies-Bylaws/Plans/Long-Term-Plan/LTP2015-25Vol1-09capitalprogramme.pdf	2015/25 LTP Capital programme page 197, accrued to Balance sheet liability 30 June 2016
Port Hills RRZ Land	\$40.5m		https://www.ccc.govt.nz/assets/Documents/The-Council/Plans-Strategies-Policies-Bylaws/Plans/Long-Term-Plan/typ2013/ThreeYearPlanFinalVolume1.pdf	2013/16 Three Year Plan Financial Strategy page 49/50 accrued to Balance sheet liability 30 June 2016
Gross outflow	\$76.4m	no gst as zero rated		

2.3 For completeness, it is noted that;

2.3.1 These are the Council payments expected to be made on 30 Sept 2019, which is the effective settlement date for the transfer of the relevant assets (with the exception of the Port Hills land which will not transfer until 30 April 2021).

2.3.2 Offsetting the gross outflow in the above table, the Council will receive payments from the Crown for its contribution to Cathedral Square (\$4.6m), non-OARC land reconfiguration (\$1m), and PAP/CMUA decontamination and public realm (\$13m). These payments are in addition to the assets that will transfer.

RRZ maintenance costs

2.4 Deputations sought confirmation that the Council has sufficiently budgeted maintenance costs for the residential red zone.

2.5 Council has budgeted an additional \$3m opex for maintenance (including rates) for the residential red zone from 1 July 2020 (the date that Council will assume operational responsibility).

2.6 For comparison purposes, LINZ actual costs for 2018/19 for the entire residential red zone were \$2.378m. The largest components of the LINZ actual costs were; mowing maintenance contract (\$790k); reactive vegetation and tree services (\$472k); rates (\$442k); fencing repairs (\$104k); with remaining individual line item costs each under \$100k (e.g. weather monitoring, fence hire, graffiti removal etc).

- 2.7 The Council units that will likely assume the operational responsibility for the maintenance of the residential red zone are presently working on their commissioning plans, services expected to be provided, and how they can best engage with the community to ensure that where we can, we use innovate and community orientated approaches to increase a sense of community involvement, while at the same time, at least maintaining current services.
- 2.8 In short, we have budgeted sufficiently to maintain all existing services provided.
- 2.9 Where enhancements to the services currently provided are sought (and that have a financial cost) – such as area wide planting or other forms of regeneration, these will be funded out of budgets other than the maintenance budget (for example, the \$40m residential red zone seed funding).

Consideration of options related to the global settlement (as per s77 of the LGA)

- 2.10 Section 77 (1) of the Local Government Act requires the Council to seek to identify all reasonably practicable options for the achievement of the objective of a decision, and to assess the options in terms of their advantages and disadvantages.
- 2.11 The Act also entitles the Council to make, in its discretion, a judgement about how to achieve compliance with s. 77(1) that is largely in proportion to the significance of the matters affected by the decision to be made. The matters currently being considered by the Council have been assessed as being of medium significance.
- 2.12 One of the reasons for this is that although the number of people with an interest in the matter was likely to be large, the impact on them is relatively low, given the fact the decisions had already been signalled in the 2018-28 draft Long Term Plan and 2019-20 Annual Plan.
- 2.13 This reflects the fact that the Council's contribution to the anchor projects and the proposed transfer of assets to the Council have already been well documented in both the 2015-25 and 2018-28 Long Term Plans, and most recently in the draft 2019-29 Annual Plan prior to it being adopted by the Council. If there were other reasonably practicable options available to the Council to consider before it reached final agreement with the Crown on these matters, then there has been plenty of opportunity since the 2013 Cost Sharing Agreement for them to be identified and assessed.
- 2.14 The Council is entitled therefore to take the view that, in its assessment (and, it would appear, the community's), there are no reasonably practicable options available other than negotiating the Global Settlement Agreement with the Crown on the best terms it can. The Council could decide to breach or negotiate a release from the Cost Sharing Agreement, but this would appear to be neither reasonably practicable nor reflective of the views and preferences of the community. In fact, based on the deputations presented to the Council on 6 August, the community is looking for certainty, not further delays.
- 2.15 Over the last 18 months Council has considered a number of papers related to the global settlement that have progressively stepped through planned and appropriate stage gates:
 - 2.15.1 Paper 1: Council originally considered a Px paper on 1 February 2018 that mandated Council officials to establish a project team and commence planning with the Crown designed to negotiate a global settlement. In the proceeding months, attention was focused on securing the \$300m CRAF and Council making preliminary allocations for this fund.
 - 2.15.2 Paper2: The matter came back to a Px meeting of Council on 13 December 2018 and as a result of that paper, Council officials commenced negotiations with the Crown for the purposes of agreeing a global settlement.

- 2.15.3 Paper 3: A further Px update on the negotiations and an Agreement in Principle were presented to the 4 April 2019 Council meeting. Council resolved to endorse the Agreement in Principle and final negotiations therefore continued.
- 2.15.4 The negotiations have continued to be informed by the direction of councillors.
- 2.15.5 Paper 4: On 8 August 2019, the final paper on the Global Settlement Agreement will be presented for Council consideration.
- 2.15.6 As has always been the case, Council's ultimate decision making remains unfettered by previous progressive decisions on these matters. The decisions now before Council are effectively to accept the proposed Global Settlement Agreement; amend and accept the proposed Global Settlement Agreement; or decline the proposed Global Settlement Agreement. These are all legitimate choices for Council.
- 2.15.7 The advantages of accepting the Global Settlement Agreement are:
- It is consistent with Council desire to complete a global settlement agreement with the Crown.
 - It provides certainty, increases regeneration momentum, and normalises the relationship with the Crown.
 - It sees Council acquiring a number of public and or civic assets such as the Bus Interchange, Avon River Precinct, central city public realm, Magaret Mahy Playground, land for the performing arts precinct, the Metro-sports Facility (once completed), and the residential red zone land.
 - There are no unbudgeted costs to Council of these acquisitions.
 - Agreeing the global settlement addresses the Cabinet requirement (that Council and the Crown reach agreement) before the Government releases the \$300 CRAF.
- 2.15.8 The disadvantages of accepting the Global Settlement Agreement are:
- Council is required to make payments as per the 2013 CSA.
 - Council is required to continue to budget sufficiently in future Long Term Plans for the maintenance costs of owning the assets to be transferred.
- 2.15.9 Obviously, for the inverse – declining the Global Settlement Agreement – the above advantages and disadvantages are reversed.

Legal Advice with respect to s97 of the LGA

- 2.16 One of the presenters on 6 August raised an issue with regard to s.97 of the Act, which provides that certain decision can only be made if explicitly provided for in the Council's Long Term Plan. One of these is a decision to transfer the ownership or control of a strategic asset to or from the Council. The implication was, in respect of the Residential Red Zone land, that the Council was required to undertake a special consultative procedure before agreeing to the transfer of the land.
- 2.17 This issue had already been considered by staff. In their view, because the Residential Red Zone land will not be a strategic asset at the time of transfer, s.97 did not apply.
- 2.18 The presenter referred to the Council's Significance and Engagement Policy, which includes as a strategic asset, "all parks and reserves owned by or administered by the Council". Again, the implication was that because the Residential Red Zone land is largely greenspace, it will become on transfer to the Council, a park and therefore a strategic asset.

- 2.19 The purpose of s. 97(1)(b) is to "ring fence" certain decisions, to ensure they are made only after extensive consultation with the community. This would include a proposal to transfer all parks and reserves owned or administered by the Council. This clearly is not contemplated here and, in any event, the Residential Red Zone land will only be part of the parks and reserves owned by the Council, once it is transferred.
- 2.20 It is the view of staff that s. 97(1)(b) does not apply to the proposed transfer. Since this matter was raised, staff have sought external legal advice, which will be available if necessary when the Council reconvenes its meeting on 8 August.
- 2.21 The other decision referred to in s.97 is a decision to alter significantly the intended level of service provision for any significant activity undertaken by the Council, including a decision to commence any such activity (s.97(1)(a)).
- 2.22 The Council currently owns or administers over 9,000 hectares of parks and reserves. The total land area comprising the Residential Red Zone is approximately 600 hectares.
- 2.23 Not all of that land will be added to the Council's parks and reserves portfolio. It therefore won't result in a significant alteration to the levels of service already provided by the Council.

3. Changes or updates to the Global Settlement Agreement

- 3.1 Negotiations on the global settlement have continued over the last week and as at 3.30pm on Wednesday 7 August only a small number of matters remain outstanding. For completeness, updates on the issues progressed over the last week or where a Council decision is now sought, are detailed as follows (corresponding additional recommendations are also included in Section 4):
- 3.2 An updated version of the draft Global Settlement Agreement is attached to this memorandum with the proposed additions and changes tracked from the original version that was attached to the staff report.

These additions and changes are summarised as follows:

Global Settlement Agreement Proper

- a) Front Page – the date has been changed.
- b) Contents – the page numbering has been corrected.
- c) Clause 1 – Definitions - the definition of 'Performing Arts Precinct' has been corrected.
- d) Clause 3(b) - Performing Arts Precinct – the wording has been corrected.
- e) Clause 3(f) – Performing Arts Precinct – clarification has been included that the proposed PAP encumbrance is to apply to the Outstanding Property, if it is acquired by CCC.
- f) New clause 3(g) – Performing Arts Precinct – Outstanding Land - clarification has been added on how the Crown's 50% share of any transfer or lease proceeds (if any) of the Outstanding Land is calculated by excluding from that calculation any amount paid by the Council in excess of the Crown's contribution to the original purchase.
- g) Clause 10(a) – Metro Sports Facility – the wording has been corrected.

- h) Clause 13 – Decontamination – a reference to GST has been added.
- i) Clause 14(b) – Further Obligations - Otakaro winding up – wording has been added to clarify the Crown obligation to the Council on a winding up of Otakaro Limited.

Schedule 1 – Bus Interchange Agreement

- j) Clause 20.1(c) – Transfer of Warranties – the current wording contains alternative options for dealing with the provision by Otakaro to the Council of the required warranties. Council staff recommend some changed wording, including clause 25, which is detailed below.

Schedule 2 – Performing Arts Precinct – Encumbrance

- k) Minor drafting corrections throughout.

Schedule 3 – Residential Red Zone Agreement

- l) Clause 19 – Interpretation – the reference to the date of the Crown (LINZ) letter (to account for the exclusion of the Porthaven land) has been corrected. The purpose of this letter is to merely record the full list of the approximately 6700 Records of Title included in the transfer to the Council without the necessity of listing them in full in the Global Settlement Agreement itself.
- m) Clause 28.1(c) – Terms of Transfer – this has been amended to record the Crown's requirement that the Crown's 50% share of any proceeds of any transfers or leases be protected by the registration of an encumbrance against the land titles on transfer to the Council. This issue is discussed later in this memorandum with alternative recommendations provided.
- n) New Schedule B – this adds the form of the encumbrance required by the Crown to protect Crown's 50% share of any proceeds of any transfers or leases. This issue is discussed later in this memorandum with alternative recommendations provided.

Issues related to sharing of any profit for sale or lease of RRZ land (schedule 3, clause 28.1 (c))

- 3.3 This matter was square bracketed in schedule 3, clause 28.1 (c) of the 29 July 2019 version of the Global Settlement Agreement. Inclusion of this clause was sought by the Crown during the course of negotiations and reflects a similar clause in the agreement reached with Waimakariri District Council in respect to their residential red zone land.
- 3.4 A number of deputations raised the risk that this clause may preclude the feasibility of some development in the residential red zone land and therefore inadvertently, impair regeneration. This is not the intent of either the Crown or Council.
- 3.5 In a similar vein, a number of deputations raised the importance of retaining the integrity of the entire Otakaro Avon River Corridor as part of the residential red zone. As I understand, it is certainly not Council's intent to dispose of land for commercial gain, but it is clear that many proponents will wish to enter into lease arrangements, and there may also be some land, especially on the Port Hills, where disposal to neighbouring property owners for example, may be advantageous and allow beneficial remedial work to occur.

- 3.6 While negotiations have continued with the Crown on this clause, final agreement on wording acceptable to both parties has not been reached.
- 3.7 As part of Council's decision making, it is therefore proposed that the existing clause 28.1(c) be deleted and replaced with the following:

Schedule 3 - Residential Red Zone Agreement

a) Clause 28.1(c) - Sharing revenue 50/50 with the Crown

"In recognition of the investment that has been made by the vendor (and the Council) in acquiring the property, the purchaser and the vendor agree that if the purchaser leases or transfers any of the property within 10 years of the date of this Global Settlement Agreement (**the 10-year Period**) the purchaser will split the net proceeds of transfer or lease actually received by the Council 50/50 with the vendor/Crown, on the following basis:

- i) The calculation of the amount (if any) payable by the purchaser to the vendor shall be undertaken on the last day of the 10-year Period or as soon after that date as shall be reasonably practical; and
- ii) The amount payable under this clause (if any) shall be paid within 20 working days of the calculation of the amount payable being completed.
- iii) Notwithstanding anything else, this clause 28.1(c) will only apply to any transfer or lease transaction where the sale price, in respect of a transfer, or the annual rent, in respect of a lease, exceeds \$50,000 excluding GST (if any). For the avoidance of doubt, it is acknowledged that in the case of a lease, the \$50,000 excluding GST (if any) threshold applies to the annual rent payable under the lease and not to the aggregate rental payable over the term of the lease.
- iv) For the purposes of this clause 28.1(c) the term "net proceeds of transfer or lease" means the total aggregate amount received by the Council from all of the applicable transfers or leases in the 10-year Period less the total aggregate amount of the following costs incurred by the Council in the 10-year Period in respect of the property:
 - a. Professional fees and disbursements in respect of each applicable individual transfer or lease transaction;
 - b. Real estate commission and associated disbursements in respect of each applicable individual transfer of lease transaction;
 - c. GST (if any) or any other applicable tax liability in respect of each applicable individual transfer or lease transaction;
 - d. Management costs in respect of the property;
 - e. Maintenance costs in respect of the property;
 - f. Holding costs in respect of the property (which for the avoidance of doubt includes annual rates payable to any local authority);
 - g. Land remediation or development costs.
- v) It is acknowledged that if the total aggregate amount of the costs incurred by the Council in the 10-year Period in respect of the property referred to in clause 28.1(c) (iv) exceed the total aggregate amount received by the Council from all of the applicable transfers or leases in the 10-year Period referred to in clause 28.1(c) (iv), then the amount payable under this clause 28.1(c) shall be nil."

- 3.8 Council staff believe that the above clause is appropriate to reflect the broader principles of the global settlement - including the return to local leadership and diminished role for the Crown; reflects that responsibility and cost that will rest with Council ownership of the land; and at the same time, ensures that in the unlikely event that any land is directly disposed by Council at net gain, that proceeds are shared between the Crown and Council.

- 3.9 Related to this issue, Council staff also recommend that the draft Encumbrance Instrument referred to in Schedule B of Schedule 3 be deleted.
- 3.10 As part of LINZ's land titles reconfiguration work LINZ could be required to apply to the Council in its regulatory capacity under the Resource Management Act for releases of certain instruments. The Council could also be asked to provide releases of other non-regulatory instruments. The Crown has asked the Council to agree not to charge its standard statutory and other fees in respect of providing such releases. Council staff consider that this request is inappropriate, and therefore recommend that clauses 22.10 and 23.4 of Schedule 3 be deleted.

Limitations on existing transitional use leases and LINZ to address invasive species

- 3.11 A number of deputations raised the current concern that the current lease arrangements proposed by LINZ for residential red zone land temporary use activities contain what they consider to be a penalising exit clause (of up to a maximum 180 days). Deputations advised that this makes it very challenging as effectively the leases are only rolling – 180 days at most – and can therefore be terminated by the Crown. Deputations also raised concern that LINZ are not appropriately completing maintenance and prevention of invasive weed species.
- 3.12 While not a matter that Council can directly impact on via the Global Settlement Agreement, it is proposed that Council resolve as follows:
- Delegates to the Mayor and General Manager Strategy and Transformation, to raise the matters of the unsuitability of the current exit clauses in LINZ RRZ leases and maintenance of invasive species, with the responsible Minister (Associate Minister Williams) and LINZ officials, respectively.

Inclusion of “ecological values” in Global Settlement Agreement proper

- 3.13 Clause 19(b)(iv) – Transition Planning for Governance Arrangements for RRZ – Council staff recommend that the words “and ecological” be added after the word “environment”.

Schedule 1 – Bus Interchange Agreement

- 3.14 Clause 23.1 – Retention Amount – Council staff recommend that the retention be the amount of \$2,293,300 being 10% of the Purchase Price payable by the Council and that the Retention Amount be available to also reimburse the Council for any liabilities arising from any claims that the Council may receive as a consequence of the remedial works required to the Bus Interchange under clause 22.
- 3.15 Council staff therefore recommend that clause 23.1 be amended by deleting the existing clause 23.1(b) and replacing it with the following additional clauses:

“(b) In the event that the purchaser receives any claim from any person in respect of the Remedial Works, and makes any payment or incurs any loss in respect of such claim, then the purchaser is entitled to be reimbursed or compensated from the Retention Amount for the full amount of such payment made or loss incurred by the purchaser. Reimbursement or compensation payments from the Retention Amount must be made to the purchaser upon demand being made by the purchaser. If the Retention Amount is insufficient or if a claim against the purchaser from any person in respect of the Remedial Works arises after the Retention Amount has been released pursuant to clause 23.1(c), then, in either of those events, the vendor must reimburse or compensate the purchaser upon demand for the full amount of such payment made or loss incurred by the purchaser. A certificate from the purchaser's Chief Executive as to the

quantum of the sum payable to it under this clause will be sufficient evidence of the amount due to be paid to the purchaser under this clause 23.1(b).

(c) Once the Remedial Works have been completed to the purchaser's reasonable satisfaction the Retention Amount (including all interest earned) will be released to the vendor's solicitors for the vendor's account."

- 3.16 To deal with the Bus Interchange warranties Council staff recommend that clause 20.1(c) is deleted and that clause 25.1 be deleted and replaced with the following:

"25.1 The vendor will provide the following documents to the purchaser on the settlement date:

- (i) Confirmation from the vendor to the purchaser that it is not aware of any defects in relation to the BI (other than those previously disclosed to the purchaser).
- (ii) All documentation required to be made available under the Construction Contract on Practical Completion and issue of the Final Completion Certificate that is in the possession of the vendor, including any relevant certificates, producer statements, final as-built drawings and operation and maintenance manuals.

25.2 From the date of this agreement the vendor will use reasonable endeavours to obtain the warranties set out in Schedule [A] (the Warranties) in a duly executed manner to the extent that the Warranties are not already in the vendor's possession, with the Warranties then on hand that are capable of being assigned, then to be assigned to the purchaser on the settlement date. If the vendor is unable to obtain any of the Warranties by the settlement date, it will continue to use reasonable endeavours to obtain such outstanding Warranties and to assign the same to the purchaser as soon as practicable thereafter.

25.3 The vendor will provide written confirmation to the purchaser on settlement date that it has complied with all maintenance or other requirements under the Warranties, such that the Warranties have not been voided and remain enforceable.

25.4 The vendor will provide the purchaser with replacement warranties for any Remedial Works undertaken within 60 days of completion of the Remedial Works."

Other Matters

- 3.17 In recognition that the Council may choose to make amendments to the Global Settlement Agreement, and then submit this amended version to the Minister (for Cabinet agreement), and that some matters may require further high level discussion, it is also proposed to delegate authority to the Mayor and Deputy Mayor to negotiate any final matters directly with the Minister and/or Associate Minister.

4. Summary of all recommendations (new recommendations are italicised)

That the Council:

1. Notes that, consistent with previous Council decisions, senior Council staff have led a process with Crown officials to negotiate and recommend a global settlement with the Crown.

2. Notes that this process has included progress on determining and allocating the \$300m Christchurch Regeneration Acceleration Fund; as well as a preliminary and detailed due diligence exercise; and direct negotiation with the Crown in arriving at a proposed Global Settlement Agreement.
3. *Notes the supplementary information provided following the hearing of Deputations on 6 August 2019 (in the memorandum dated 8 August 2019) that will be attached to Item 5, the Global Settlement Agreement, of the 8 August Council agenda.*
4. *Note the inclusion of summary financial payment information; budgeted opex maintenance comparison; advice on s77 and s97 of the LGA; and a number of additional matters raised through Deputations or directly by councillors.*
5. Agrees to the Global Settlement Agreement detailed as Attachment to the memorandum dated 8 August 2019 and as amended below and delegates approval to the Mayor to make any changes to the Agreement as may be necessary:
 - a. *Amend Schedule 1 by deleting clause 20.1(c) and deleting clause 25.1 and replacing it as detailed in this memorandum.*
 - b. *Amends Schedule 3, Clause 28.1(c) – “Sharing revenue 50/50 with the Crown” in the manner recommended by staff in the accompanying memorandum.*
 - c. *Amends Schedule 3 by deleting the Encumbrance Instrument in Schedule B of Schedule 3.*
 - d. *Amends Schedule 3 by deleting clauses 22.10 and 23.4.*
 - e. *Amends the Global Settlement Agreement proper (Clause 19(b)(iv)) to include the words “and ecological” after the word “environment”.*
 - f. *Amends Schedule 1, Clause 23.1 – “Bus Interchange Agreement” in the manner recommended by staff in the accompanying memorandum.*
6. Delegates authority to:
 - a. the Mayor to sign the final agreement on behalf of Council once it has also been agreed by the Crown.
 - b. the Chief Executive to take the necessary steps to implement the terms and conditions of the Global Settlement Agreement, once signed.
 - c. *the Mayor and General Manager Strategy and Transformation, to raise the matters of the unsuitability of the current exit clauses in LINZ RRZ leases and maintenance of invasive species, with the responsible Minister (Associate Minister Williams) and LINZ officials, respectively.*
 - d. *the Mayor and Deputy Mayor to negotiate any final matters on the Global Settlement Agreement directly with the Minister and/or Associate Minister, and notes that if the Crown wishes to make any material changes to the Agreement that this would require re-consideration and approval of the Council.*
7. Notes that the three detailed investment cases that comprise the \$300m Christchurch Regeneration Acceleration Fund (Canterbury Multiuse Arena, \$220m; Avon Otakaro River Corridor regeneration funding, \$40m; and roading and transport infrastructure funding, \$40m) will now be completed and presented for endorsement to Council over coming months before final submission and approval by the Crown.

Attachments

There are no attachments to this report.

Signatories

Author	Brendan Anstiss - General Manager Strategy and Transformation
Approved By	Brendan Anstiss - General Manager Strategy and Transformation

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SCHEDULES

- SCHEDULE 1: Bus Interchange
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- SCHEDULE 5: Performing Arts Precinct Encumbrance

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Field Code Changed

Dated

Parties

This global settlement agreement (the **Agreement**) is between:

- a. Christchurch City Council (the **Council**); and
- b. Her Majesty the Queen in Right of New Zealand, acting by and through the Minister of Finance and the Minister for Greater Christchurch Regeneration (the **Crown**).

Background

1. Context and Purpose

- a. The parties are entering into this Agreement to record the parties' agreement in respect of certain issues arising out of the parties' respective roles in the recovery and regeneration of Christchurch following the 2010 and 2011 earthquakes (the **Global Settlement**).
- b. The Global Settlement is a collaboration between the Crown and the Council. It provides the opportunity to set the Council up for success and complete the transition to local leadership with the Council leading and coordinating Christchurch's regeneration into the future. This in turn is expected to support the social, environmental and cultural needs of the people of Christchurch and promote economic sustainability.
- c. The Global Settlement will provide clarity on all of the outstanding matters from the Cost Sharing Agreement and other subsequent matters between the parties regarding Christchurch's regeneration.
- d. The parties expect the Global Settlement will mark and usher in a new normal relationship between them. In working together to finalise and implement the Global Settlement, the parties' overall intent is to support the following four outcomes (**Proposed Outcomes**):
 - i. **People:** support positive outcomes for the people of Christchurch, and provide certainty and confidence about the on-going regeneration;
 - ii. **Momentum:** increase the pace of regeneration by contribution to the timely regeneration of Christchurch, with the best possible outcomes;

- iii. **Value:** enable the parties to operate in a fiscally responsible manner, while realising social, cultural, economic and environmental benefits for Christchurch; and
- iv. **Future:** advance the transition to local leadership and a 'new normal' relationship between the Crown and the Council.
- e. With this in mind, the parties have agreed on a process for transition and developing new institutional arrangements that will enable the Council to lead regeneration in the post-Regenerate Christchurch environment.
- f. The parties are entering this Agreement as a consequence of the steps taken following the 2010/2011 Canterbury earthquake sequence, which was an extraordinary natural disaster in New Zealand's history.
- g. The scale and magnitude of that sequence resulted in an unprecedented level of damage to greater Christchurch. An extraordinary level of involvement from the parties was required to rebuild and start the regeneration of the city, and support its people, given the circumstances. The Crown established Ōtākaro in April 2016 to take over some of the functions of the Canterbury Earthquake Recovery Authority, as Christchurch moved into a new phase, from recovery to regeneration.
- h. Over the last eight years, local and central government, together with other local leaders and the community, have worked collaboratively to explore and pioneer an approach for regenerating greater Christchurch. The parties recognise that for Christchurch to be successful, it needs a solid foundation for locally-led regeneration. The parties also agree that the successful regeneration of Christchurch will benefit New Zealand. As such, the Crown supports the Council's long-term vision for Christchurch as a city of opportunity for all.
- i. To support Christchurch and to allow its people to thrive, a clear pathway for the Council to lead is required, that at the same time appropriately manages the cost pressures that are unique to Christchurch following the earthquakes, and is equitable for other communities in New Zealand affected by natural disasters.
- j. While the Cost Sharing Agreement specified how aspects of greater Christchurch's recovery would be managed and funded, some issues remain open. The Global Settlement, drawing off the Agreement in Principle, is the opportunity to resolve those remaining issues and lay the foundation for the Council to lead and co-ordinate the regeneration efforts.
- k. The Crown has spent \$14 billion (with an additional \$3 billion expected to be incurred). The Council has incurred around \$3.65 billion of earthquake related expenses, and also expects to incur a further \$4 billion of earthquake-related capital investment over the next 30 years.
- l. The Council acknowledges that the Crown will provide no further direct funding towards the Council's land drainage costs, but that the Crown will support the Council by providing the Crown-owned Residential Red Zone Land in the Ōtākaro Avon River Corridor, as described in Schedule 3. The Council may use such land to help meet its land drainage requirements for the surrounding green zone areas.

- m. Through the Christchurch Regeneration Acceleration Facility, the Government has committed \$300 million for regeneration projects as part of the global settlement.
- n. The parties have also agreed on a phased approach to increasing community involvement in the governance and decision-making in respect of transitional and future uses of Residential Red Zone Land.
- o. Both the Crown and the Council recognise Te Rūnanga o Ngāi Tahu's unique role as Treaty partner, along with its important role as strategic partner under the GCRA and as a local leader in greater Christchurch's continued regeneration. The parties also recognise Te Ngāi Tūāhuriri and Te Hapū o Ngāti Wheke as mana whenua within their respective takiwā, in that:
 - i. Te Hapū o Ngāti Wheke is the entity with responsibility pertaining to all resources and protection of Ngāi Tahu interests within the residential red zones centred on Rāpaki and including the catchment of Whakaraupō.
 - ii. Te Ngāi Tūāhuriri is the entity with responsibility pertaining to all the resources and protection of Ngāi Tahu interests within all other remaining residential red zone areas (as established through the Te Rūnanga o Ngāi Tahu Declaration of Membership Order 2001).
- p. The parties wish to transfer various assets to Council as part of its lead role in the regeneration process while acknowledging the roles still to be played by the Crown, LINZ and Ōtākaro.
- q. In recognition of all of the above, the parties now record their agreement.

Operative provisions

1. Definitions and Interpretation

- a. **Definitions:** In this Agreement (unless the context otherwise requires):
 - Agreement in Principle** means the agreement in principle between the Council and the Crown in respect of a settlement of issues relating to the recovery and regeneration of Christchurch, dated 10 May 2019;
 - Bus Interchange** means the Property as defined in the sale and purchase agreement in Schedule 1;
 - Business Day** means a day, which is not a Saturday or a Sunday, on which banks are open for general business in Christchurch;
 - CCRP** means the Christchurch Central Recovery Plan;
 - Central City Land** means the land described in Schedule 4;

Cost Sharing Agreement means the cost sharing agreement between the Crown and the Council dated 26 June 2013, and as amended and clarified by two joint clarifications on 26 June 2013;

Council has the meaning given in the Parties section;

Crown has the meaning given in the Parties section;

GCRA means the Greater Christchurch Regeneration Act 2016;

GST means goods and services tax levied under the Goods and Services Tax Act 1985 (**GST Act**), at the rate prevailing from time to time, including any tax levied in substitution for such tax, but excluding any penalties or interest payable in respect of such tax;

LINZ means Land Information New Zealand;

Memorandum of Understanding means the memorandum of understanding relating to the Process to Transfer Public Realm Assets and Land dated 11 April 2017 (between Ōtākaro and the Council) and the Agreement relating to Transfer and Vesting of Public Realm Assets and Land dated 6 March 2018 (between Ōtākaro and the Council);

Minister means the Minister of the Crown who, with the authority of the Prime Minister, is for the time being responsible for the administration of section 130 of the GCR Act;

Ōtākaro means Ōtākaro Limited;

PAP Encumbrance means the encumbrance to be registered over the Performing Arts Precinct in the form set out in Schedule 5;

Performing Arts Precinct means the Property as defined in the sale and purchase agreement in Schedule 2 ~~being and for the land in the Performing Arts Precinct~~ ~~excluding avoidance of doubt exclude~~ the land owned by the vendor at 152-156 Armagh Street contained in record of title 687811 and the privately-owned land at 128-138 Armagh Street contained in record of title CB40C/246;

Proposed Outcomes has the meaning given to it in paragraph d of the Background section;

Regenerate Christchurch means the statutory entity established by section 121 of the GCRA and jointly operated by the Council and the Crown;

Residential Red Zone Land means the Property as defined in the sale and purchase agreement in Schedule 3; and

Schedule means any or all of schedules 1 to 5 of this Agreement.

b. **Interpretation:** In this Agreement:

L a reference to:

- (1) this Agreement includes all schedules, exhibits, attachments, annexures and appendices to it;
- (2) a document or agreement (including this Agreement) is to that document or agreement as varied, novated, ratified or replaced from time to time;

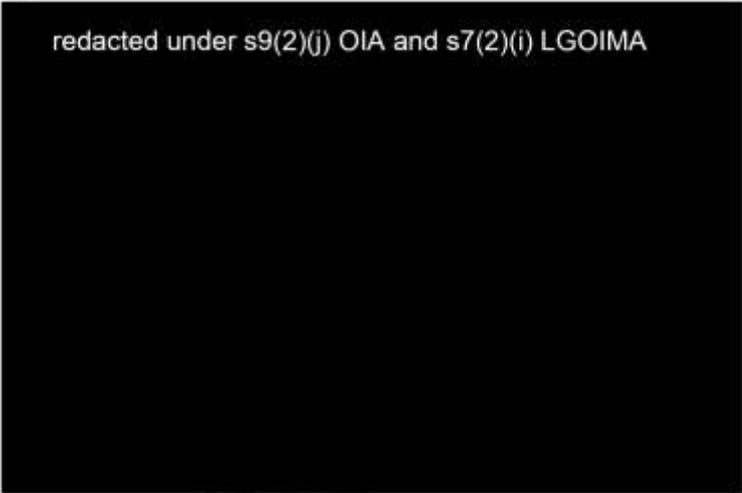
- (3) a clause, schedule, exhibit, attachment, annexure or appendix is a reference to a clause, schedule exhibit, attachment, annexure or appendix of this Agreement unless specifically stated otherwise;
 - (4) a *statute* is to a New Zealand statute and includes all regulations, orders, bylaws, codes and notices made under or pursuant to such a statute and includes references to all amendments to that statute whether by subsequent statute or statute passed in substitution for the statute; and
 - (5) an agency or body if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or function removed (**obsolete body**), means the agency, agencies, body or bodies which performs most closely some or all of the functions of the obsolete body, or to whom any functions of the obsolete body are transferred;
- ii. headings are for ease of reference only and will not be deemed to form any part of the context or affect the interpretation of this Agreement;
 - iii. expressions defined in the main body of this Agreement bear the defined meanings in the whole of this Agreement including the Background and the Schedules;
 - iv. another grammatical form of a defined word or expression has a corresponding meaning;
 - v. the singular includes the plural and vice versa;
 - vi. a *party* includes a reference to that party's lawful executors, administrators, successors and permitted assigns, and *parties* means all parties to this Agreement;
 - vii. *dollars* or *\$* is a reference to New Zealand currency;
 - viii. any reference to time and date is to a time and date in Christchurch, New Zealand unless a contrary intention is expressed;
 - ix. if an event must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next succeeding Business Day;
 - x. the meaning of general words is not limited by specific examples introduced by the words *including, for example* or similar expressions; and
 - xi. the terms of this Agreement must not be construed adversely against a party if the reason for doing so is that the party prepared this Agreement or caused it to be prepared.

2. Bus Interchange

- a. The parties agree that the arrangements previously agreed between them in relation to the Bus Interchange are addressed in the form of agreement attached in Schedule 1.

3. Performing Arts Precinct

- a. The parties agree that the arrangements previously agreed between them in relation to the Performing Arts Precinct are addressed in the contents of this clause 3 and the form of agreement attached in Schedule 2.

b. 
redacted under s9(2)(j) OIA and s7(2)(i) LGOIMA

c.

- d. The parties agree that the Council will be responsible at its sole cost for delivery of all facilities (including the car park) on Performing Arts Precinct land being transferred.
- e. By 30 November 2019, the Crown and the Council will identify whether the current designation should be lifted, or should transfer to the Council, and any relevant exceptions to that transfer.
- f. In recognition of the investment that has been made by the Crown in acquiring land within the Performing Arts Precinct, the parties have agreed that if the Council leases or transfers any of the Performing Arts Precinct to a third party that is not for a purpose associated with the Performing Arts Precinct the Council will ~~split~~share the net proceeds of transfer or lease (as the case may be) 50/50 with the Crown. To ensure that the Crown's position in relation to the above is sufficiently protected, the parties agree that the PAP Encumbrance will be registered on settlement of the acquisition of the Performing Arts Precinct by the Council. ~~If the Council acquires ownership of the Outstanding Property (whether through the circumstances contemplated by clause 3b or clause 3c), then an encumbrance on the same terms as the PAP Encumbrance (but to be amended in accordance with clause 3g) will be registered on settlement of the acquisition of the Outstanding Land by the Council.~~
- ~~g. If the Council acquires the Outstanding Land through the circumstances contemplated by clause 3c, then any amount not reimbursed by the Crown to the Council as a result of the~~

[purchase price paid by the Council together with the acquisition costs incurred by the Council but excluding all Council internal staff costs exceeding the sum of \\$5,500,000, will be deducted from the amount received by the Council in calculating the Net Proceeds of Divestment as defined in the encumbrance.](#)

4. Residential Red Zone Land

- a. The parties agree that the arrangements previously agreed between them in relation to the Residential Red Zone are addressed in the form of agreement attached in Schedule 3.

5. Central City Land

- a. The parties agree that the arrangements previously agreed between them in relation to the Central City Land are addressed in the Letter of Agreement regarding Central City Land attached in Schedule 4.

6. Margaret Mahy Playground

- a. The Council acknowledges that the land constituting the Margaret Mahy Playground being records of title 786163 and 734774 together with all improvements has previously been transferred to it by the Crown with deeds of novation entered between Ōtākaro, the Council and the various suppliers of improvements.
- b. On 30 September 2019, the Council will pay to the Crown the sum of \$6,600,000.00 plus GST (if any) but zero-rated pursuant to section 11(1)(mb) of the GST Act in consideration of the transfer referred to in clause 2a.

7. Avon River Precinct

- a. The parties acknowledge and agree as follows:
 - i. the land constituting parts of the Avon River Precinct being records of title 823649, 823651 and 791587 together with all improvements thereon, have previously been transferred to the Council by Ōtākaro; and
 - ii. Ōtākaro will continue to be responsible for carrying out all obligations and transferring to the Council all remaining assets relating to the Avon River Precinct, pursuant to the process set out in the Memorandum of Understanding.
- b. On 30 September 2019, the Council will pay to the Crown the sum of \$6,400,000.00 plus GST (if any) but zero-rated pursuant to section 11(1)(mb) of the GST Act as its contribution to the Avon River Precinct project funding.

8. Cathedral Square

- a. To facilitate the regeneration of Cathedral Square, on 30 September 2019 the Crown will pay to the Council the sum of \$4,600,000.00 plus GST (if any) upon receipt of a valid tax invoice.
- b. The Council agrees to apply the sum paid to it by the Crown under clause 8.a towards the regeneration of Cathedral Square. Additionally, the Council will also contribute the matching sum of \$4,600,000.00 plus GST (if any) towards such regeneration.

9. Port Hills

- a. On 30 September 2019, the Council will pay to LINZ the sum of \$ 40,530,380.00 plus GST (if any) but zero-rated pursuant to section 11(1)(mb) of the GST Act being the amount owing by it under the Cost Sharing Agreement for its share of costs associated with the purchase of certain properties in the Port Hills as at the date of this Agreement.
- b. For the avoidance of doubt, following payment of the amount set out in clause 9.a the Council shall have no further funding obligations to the Crown under the Cost Sharing Agreement in relation to sharing costs associated with the purchase of certain properties in the Port Hills.

10. Metro Sports Facility

- a. The purposes of this clause ~~is, are~~ to ensure the parties can collaboratively deliver the Metro Sports Facility as identified in the CCRP in a way that maintains momentum, and ensure a positive outcome for the people of Christchurch.
- b. The parties acknowledge and confirm that the Metro Sports Facility shall be delivered generally in accordance with Schedule 6 of the Cost Sharing Agreement with Ōtākaro continuing to deliver the Metro Sports Facility and retaining delivery risk.
- c. The Metro Sports Facility (and associated land, including land used for carparking) will transfer to the Council or another party agreed as part of further negotiations at practical completion, as defined in the design and construction contract entered into by Ōtākaro (as principal) for the delivery of the Metro Sports Facility.
- d. Both parties appreciate that the project has experienced cost pressures and want to see the project completed in the most pragmatic, successful and cost-effective way. Should any unforeseen cost pressure arise in the future, the parties will engage in good faith to consider pragmatic and cost-effective solutions.

11. Canterbury Multi-Use Arena

- a. The parties agree that the Canterbury Multi Use Arena as identified in the CCRP (as the Stadium) is subject to a separate process that involves an investment case assessment that is not fully addressed in this Agreement.
- b. Subject to modifications that flow from the process set out in clause 11.a, the Crown and the Council agree that the Canterbury Multi-Use Arena shall be delivered generally in accordance with Schedule 5 of the Cost Sharing Agreement.

12. Te Pae

- a. The parties acknowledge that Te Pae as identified in the CCRP (as the Convention Centre) shall be delivered and is currently owned by Ōtākaro.
- b. The parties may continue to engage on future ownership of Te Pae as appropriate.

13. Decontamination

- a. Subject to the approval of the Canterbury Multi-Use Arena investment case (and provided this requires that the Council is to be responsible for the costs of decontamination works in the Canterbury Multi-Use Arena) and following receipt of a valid tax invoice, the Crown will pay \$10,000,000 plus GST (if any) to the Council as a contribution towards decontamination works with the Crown to have no further obligation or responsibility in respect of any contamination works for the Canterbury Multi-Use Arena. The parties agree that the Council may apply such amount within the Performing Arts Precinct and / or the Canterbury Multi-Use Arena for decontamination works as the Council sees fit.
- b. The parties acknowledge that the Council is also receiving \$3,000,000 plus GST (if any) from Ōtākaro under the agreement contained in Schedule 2 with such amount having been appropriated to Ōtākaro for the purposes of decontamination and public realm works. The parties agree that the Council may apply such amount within the Performing Arts Precinct and / or the Canterbury Multi-Use Arena for decontamination and public realm works as the Council sees fit.

14. Further Obligations

- a. The parties agree they will:
 - i. work cooperatively and act in good faith in connection with this Agreement, taking into account the Proposed Outcomes;
 - ii. be open, frank, honest, prompt, fair and consistent in all dealings with each other;

- iii. be non-adversarial and seek constructive steps to avoid difference and identify solutions; and
 - iv. be ready to discuss issues and negotiate with each other in a principled manner.
- b. The Crown will notify the Council before any decision is made on the winding up of Ōtākaro. ~~The Crown will~~ seek the Council's view in relation to the same ~~and make any reasonable provision for any outstanding~~ ~~the Crown, on being satisfied (acting reasonably) that Ōtākaro has performed all its obligations owed by Ōtākaro to the Council,~~ ~~may proceed to wind-up Ōtākaro.~~

15. Warranties

- a. The parties each warrant to the other as follows:
- i. it has the right, power and authority, and has taken all action necessary, to execute, deliver and exercise its rights, and perform its obligations, under this Agreement;
 - ii. its obligations under this Agreement are enforceable in accordance with their respective terms; and
 - iii. the execution, delivery and performance by it of this Agreement will not:
 - (6) breach any statutory, contractual or fiduciary obligation to which it is subject; or
 - (7) breach any law, rule, directive or administrative order to which it is subject,where, in each case, the breach or conflict would be material in the context of its ability to perform its obligations under this Agreement.

16. Implementation Governance

- a. The parties agree that it is likely to be beneficial for them to have ongoing dialogue in relation to matters arising from and impacting on this Agreement. Accordingly, it is agreed that the parties will establish and operate a governance group (the **Group**) for this purpose.
- b. The Group will comprise the following:
- i. A nominee for the time being of the Crown; and
 - ii. A nominee for the time being of the Council.
- c. The Group will meet quarterly or more frequently as agreed. The Group will invite representatives of Ōtākaro, LINZ and Development Christchurch Limited to attend such meetings as appropriate.
- d. For the avoidance of doubt, the Group has no mandate to bind the parties.

17. Dispute resolution

- a. If any dispute arises between the parties that cannot be resolved through direct dialogue or through the Group referred to in clause 16 in relation to this Agreement (a **Dispute**), they will negotiate in good faith to resolve such Dispute, such negotiation to commence upon either party giving the other written notice of the Dispute (**Dispute Notice**).
- b. If the parties fail to reach agreement in relation to the Dispute within 10 Business Days of the Dispute Notice, the Dispute will be referred to:
- i. the Chief Executive of the Council (or his or her nominee); and
 - ii. on behalf of the Crown, the Chief Executive (or equivalent) (or his or her nominee) of the Department of the Prime Minister and Cabinet,
- who will each use his or her reasonable endeavours to resolve the Dispute within 10 Business Days from the date the Dispute is referred to him or her.
- c. If the parties fail to reach agreement in relation to the Dispute within 20 Business Days of the referral of the Dispute to the senior executives described in clause 17.b, the following provisions will apply:
- i. either party may refer the Dispute to an appropriately qualified and reputable expert in the field to which the Dispute relates (by way of example, a lawyer, accountant or engineer), as is most appropriate, taking into account the Proposed Outcomes (**Expert**). The identity of the Expert will be:
 - (1) as agreed by the parties; or
 - (2) failing agreement within 5 Business Days of the date of either of the Crown or the Council (as applicable) serving on the other details of its suggested Expert, as appointed by the President (or equivalent) for the time being of the relevant institutional body governing the relevant discipline to which the subject matter of the Dispute relates, for example the New Zealand Institute of Chartered Accountants (in the case of a financial Dispute), the New Zealand Law Society (in the case of a legal Dispute) or Engineering New Zealand (in the case of a Dispute relating to construction matters);
 - ii. the referral to the Expert will require that the Expert acts in a timely and pragmatic manner and in particular that the Expert make a decision in respect of the Dispute within 20 Business Days from the date of the referral;
 - iii. each party shall provide all reasonable assistance to the Expert that may be required for the purposes of them making their determination;
 - iv. the parties will share equally the cost of the Expert;
 - v. the decision of the Expert will, in the absence of fraud or manifest error, be conclusive and binding on the parties, and
 - vi. in the event of a multi-disciplinary dispute, more than one Expert may be appointed

- d. This clause does not apply to the exercise of a statutory power or decision-making process by the parties.

18. Transition Planning in respect of Regenerate Christchurch

- a. The parties have agreed on arrangements for the transition back to local leadership for regeneration in Christchurch, including reducing the functions of Regenerate Christchurch. The parties further agree that the intention is for the majority of the functions of Regenerate Christchurch to have been transferred or delegated by 30 June 2020, with the transition of any remaining functions being completed by the time the GCRA is repealed.
- b. The parties acknowledge the valuable contribution Regenerate Christchurch has made to the regeneration of Christchurch and the strong working relationships that have been established as a result of the collaborative approach required by the GCRA. The parties acknowledge and agree it is vital that this approach continues as the Council assumes leadership of regeneration in the city.
- c. It is intended that Regenerate Christchurch will prepare a Transition Plan, in partnership with the Council, as soon as possible after the signing of this Agreement.
- d. Under the Transition Plan (among other things):
 - i. Regenerate Christchurch's regeneration leadership responsibilities and strategic functions will be either concluded or progressively transitioned with the majority of its work to be either concluded or transitioned by 30 June 2020.
 - ii. Regenerate Christchurch retains and continues to undertake its mandatory legislative and administrative functions up to the repeal of the GCRA at which time Regenerate Christchurch will be formally disestablished and none of its functions will continue.
 - iii. The Minister and the Council will continue to provide guidance to the Regenerate Christchurch board from time to time on the strategic direction and specific priorities sought by them through letters of expectation to the board.
- e. The Council will work closely with Regenerate Christchurch to support the smooth transition of roles and responsibilities relating to regeneration in Christchurch.

19. Transition Planning for Governance Arrangements for RRZ

- a. The parties agree that a phased approach will be taken to increasing community involvement in land use governance that reflects the current and proposed future residential red zone land ownership as follows:
 - i. Phase 1: The Council and LINZ will establish a consultative group comprising stakeholders and community representatives to advise the Council and LINZ on

transitional land use while land ownership remains with the Crown. The consultative group will have a strategic role in receiving and considering applications for transitional use of residential red zone land and make recommendations to LINZ as land owner and provide feedback, advice and suggestions. LINZ will retain ultimate responsibility for assessing and approving transitional use applications, for Crown-owned land, consistent with the obligations LINZ has as land owner under the GCRA and Health and Safety at Work Act, and considering the recommendations of the consultative group.

- ii. Phase 2: A community governance group/entity, with delegated decision-making powers, could be established once the Council owns all or a sufficiently substantive amount of residential red zone land.
- b. Subject to the above provisions, the parties agree that transitional land use may (amongst other things):
 - i. Support any Regeneration Plans or planning or more permanent uses of residential red zone land;
 - ii. Strengthen the connection between the residential red zone land and adjacent communities;
 - iii. Provide a range of recreational and other opportunities for Christchurch residents;
 - iv. Improve the environmental health of residential red zone land; and
 - v. Enable the testing of new and innovative ideas.
- c. The parties agree that the immediate next step is for Council and LINZ officials to work together to develop the role, functions and membership of a consultative group, including the parameters for a possible dedicated grants fund. Council and LINZ officials will also develop draft Terms of Reference and operating procedures for the consultative group and identify the grants fund quantum and criteria for funding applications. The parties expect this work to be completed by 31 December 2019.
- d. Council and LINZ officials will seek approval from the Council, the Crown and LINZ to establish the consultative group, including the funding and resourcing required.
- e. In Phase 2, the Council will assume decision-making powers in stages, as parcels of land are transferred from LINZ. The Council proposes establishing a community co-governance entity with the appropriate decision-making power to make decisions on the Council's behalf.
- f. The role of Te Rūnanga o Ngāi Tahu as Treaty partner is recognised, with the Council committing to include Ngāi Tahu representation alongside other community representatives within the consultative group and in longer-term governance arrangements.
- g. At the point that governance principles and/or processes are established, the Council agrees that it will take into account the principles of Te Tiriti o Waitangi/the Treaty of

Waitangi. For example, principles of partnership, rangatiratanga, active participation in decision-making, and active protection may apply in the circumstances at the time.

- h. The parties agree the following in relation to funding:
 - i. The Council agrees to provide sufficient resources to support the consultative group.
 - ii. The Crown agrees to meet all its own costs incurred in receiving and considering transitional use of Crown owned land and will not seek recovery of these costs from the consultative group.
 - iii. The Council will be responsible for all costs associated with the establishment and operation of the community governance entity (Phase 2).

20. General

- a. The parties acknowledge that they have statutory obligations, responsibilities, powers, functions and decision-making processes. Notwithstanding any other provision in this Agreement, the parties acknowledge that they are each required to carry out their statutory functions in accordance with the provisions of the relevant acts.
- b. Unless otherwise stated in this Agreement, the parties will bear their own costs and expenses in connection with the negotiation, preparation and implementation of this Agreement.
- c. If any provision of this Agreement is held to be invalid, illegal or unenforceable, such provision is to be severed and the remainder of the Agreement will remain in full force and effect.
- d. If there is any inconsistency between the documents which are part of, or incorporated into, this Agreement, the order of precedence will be as follows:
 - i. first, the Schedules; and
 - ii. second, the terms set out in the main body of this Agreement.
- e. This Agreement records the entire understanding of the parties relating to the matters dealt with in this Agreement. Unless expressly stated otherwise, this Agreement supersedes all previous understandings or agreements (whether written, oral or both) relating to such matters. In particular, it is agreed that this Agreement is the entire agreement between the parties relating to Bus Interchange, Performing Arts Precinct, Residential Red Zone Land, Central City Land, Margaret Mahy Playground, Avon River Precinct, Cathedral Square, Port Hills cost sharing arrangement, Te Pae and Transitional Planning in respect of Regenerate Christchurch and for Governance Arrangements for Residential Red Zone Land. Further, this Agreement records the position in relation to the Metro Sports Facility and the Canterbury Multi-Use Arena. It is agreed that the Cost Sharing Agreement (except, for the avoidance of doubt, Schedules 5 and 6) and the Agreement in Principle are now void and of no effect. For the avoidance of doubt, the

parties record that the Memorandum of Understanding is not affected by this Agreement and remains in full force and effect.

- f. Any waiver by a party of any of its rights or remedies under this Agreement will be effective only if it is recorded in writing and signed by that party. If the waiver relates to a breach of any provision of this Agreement, this will not (unless stated otherwise) operate as a waiver of any other breach of that provision. No waiver of any breach, or failure to enforce any provision, of this Agreement at any time by a party will in any way affect, limit or waive that party's right to subsequently require strict compliance with this Agreement.
- g. This Agreement may be signed in counterparts. All executed counterparts will together constitute one document.
- h. No amendment to this Agreement will be effective unless it is in writing and signed by both parties.
- i. This Agreement binds, and takes effect for the benefit of, the parties and their respective successors and permitted assigns.
- j. Save as expressly provided in this Agreement, neither party may assign, novate or otherwise transfer its interest in this Agreement without the prior written consent of the other parties.
- k. Covenants or other undertakings which are stated in this Agreement to be for the benefit of any person other than a party to this Agreement will be enforceable in accordance with Part 2, Subpart 1 of the Contract and Commercial Law Act 2017.
- l. This Agreement is governed by the laws of New Zealand. The parties submit to the exclusive jurisdiction of the New Zealand courts in respect of all matters relating to this Agreement.

Schedule 1
Bus Interchange

WORKING DRAFT

Schedule 1

BUS INTERCHANGE AGREEMENT

The Parties	Ōtākaro Limited (vendor); and Christchurch City Council (purchaser).
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It is agreed that the vendor sells and the purchaser purchases the property on the terms set out in this Schedule and otherwise in accordance with the standard terms of the Auckland District Law Society Agreement for Sale and Purchase of Real Estate Ninth Edition 2012 (8) (the "**ADLS Agreement**"). In the event of any conflict between this Schedule and the ADLS Agreement, this Schedule shall prevail.

EXECUTION

Executed as an agreement for and on behalf of the vendor, Ōtākaro Limited, by:

Authorised signatory

Executed as an agreement for and on behalf of the purchaser, Christchurch City Council, by:

Mary Richardson
Acting Chief Executive

The Property	Part of the block defined by Lichfield Street, Colombo Street, Tuam Street and Sol Square, Christchurch being an estate in fee simple as is more particularly described as: Lot 1 DP 495013 (record of title 850549 to issue) having an approximate area of 1.1582 hectares.
Purchase Price	\$22,933,000 plus GST (if any)
Settlement Date	30 September 2019
Amendments to General Terms of the ADLS Agreement	Clause 6.2 is deleted except for the following provision in clause 6.2(1): <i>"The purchaser is deemed to have accepted the vendor's title".</i> Clause 7.2(1) is amended to include the following words at the beginning of the subclause: <i>"except as disclosed by the vendor to the purchaser as part of the due diligence process,"</i>

Further Terms

19. SUBDIVISION

19.1 Prior to settlement and as soon as reasonably practicable after the date of this agreement the vendor will complete a subdivision of the Property from the balance of the vendor's land comprised in records of title CB5D/404 and 651880 (the "Subdivision") as set out in LT 495013 ("the LT Plan"). The vendor will, at the vendor's own cost, proceed with all speed to deposit the LT Plan with Land Information New Zealand to enable a new record of title for the Property to be issued with the title issuing subject to the easements in gross in favour of Orion New Zealand Limited as set out in the LT Plan.

20. TRANSFER OF ASSETS

20.1 In addition to transferring the Property, on the settlement date the vendor will transfer the assets owned by it and used for the purposes of the Bus Interchange ("the BI ") ("the Assets"), including (but not limited to) the following:

- (a) the BI plant, fixtures, fittings, furniture, equipment, and any other improvements, installations and additions;
- (b) subject to the agreement of Airtech NZ Limited, the contract for supply of mechanical HVAC maintenance services commencing 1 March 2019 and expiring 28 February 2020 between Ōtākaro and Airtech NZ Limited;
- (c) [the benefit of all warranties (or replacement warranties), where such warranties are capable of assignment, in relation to the construction of the BI which have not expired at the settlement date and that are in the possession of the vendor and noting that the vendor will use reasonable endeavours to provide the warranties to enable an assignment; and]

OR

[benefit of:

- (i) all warranties in relation to the construction of the BI which are in the possession of the vendor, have not expired at the settlement date and are capable of assignment; and
- (ii) all replacement warranties in relation to the construction of the BI which the purchaser has requested the vendor perfect prior to settlement, noting that the vendor will use its best endeavours to procure assignable, correctly executed replacement warranties (on the same terms as

	<p>were required by the BI construction contract) from the original warrantors.]</p> <p>(d) all other assets of the BI not specifically excluded below.</p> <p>20.2 As soon as reasonably practicable after the date of this agreement and up until the settlement date, the vendor agrees to provide all reasonable assistance (at no cost) to the purchaser to develop a facilities and asset management plan for the BI. Assistance will primarily be provided by Guy Baker, provided that the provision of such assistance does not unreasonably interfere with his day to day employment.</p> <p>20.3 For the avoidance of doubt, the Assets transferred under this agreement do not include the following:</p> <p>(a) all amounts owing by Ōtākaro to its creditors in respect of the BI for the period up until the settlement date;</p> <p>(b) any assets or liabilities of Ōtākaro not relating to the BI;</p> <p>(c) all other liabilities of the Crown or any of its related parties (including Ōtākaro) relating to the BI and the Assets, not expressly assumed in writing; and</p> <p>(d) all disputes and litigation relating to the BI and the Assets at the settlement date not expressly assumed in writing.</p> <p>21. PURCHASER CONFIRMATIONS</p> <p>21.1 The purchaser confirms that it has obtained all necessary consents and approvals from its Councillors and / or delegates to enter into and give effect to this agreement.</p> <p>22. REMEDIAL WORKS</p> <p>22.1 Prior to settlement the vendor will use reasonable endeavours to procure completion of (at no cost to the purchaser) the remedial work to the roof coating on the BI, the HVAC system and [door opening technology] (Remedial Works) to the reasonable satisfaction of the purchaser.</p> <p>22.2 The vendor will use all reasonable endeavours to obtain the provision of new warranties relating to the Remedial Works on terms acceptable to the purchaser (acting reasonably).</p> <p>22.3 The vendor will provide the purchaser reasonable rights of access to the Property to inspect the Remedial Works upon prior written notice of an intention to inspect.</p>
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23. RETENTION

23.1 In the event that the Remedial Works have not been completed by the settlement date, the vendor and the purchaser agree that a retention of the amount of \$2,293,300.00 being 10% of the Purchase Price (the "Retention Amount") will be held from the Purchase price on the following basis with the vendor to procure that an undertaking from the vendor's solicitor is given to the purchaser in relation to the same:

- (a) The Retention Amount is to be held in the vendor's solicitor's trust account on interest bearing deposit in the name of both the vendor and the purchaser pending completion of the Remedial Works by the vendor (at no cost to the purchaser) to the purchaser's reasonable satisfaction including within a reasonable period of time having regard to the particular circumstances.
- (b) Once the Remedial Works have been completed to the purchaser's reasonable satisfaction the Retention Amount (including all interest earned) will be released to the vendor's Solicitors for the vendor's account.

24. DISPUTE RESOLUTION

24.1 In the event of any disagreement between the parties in relation to whether or not the Remedial Works have been appropriately completed (including whether the Remedial Works have been completed within a reasonable period of time) then such disagreement shall be resolved as follows:

- (a) The disagreement will be referred to the Chief Executive of the purchaser (or his or her nominee) and the Chief Executive of the vendor (or his or her nominee) who will use their reasonable endeavours to resolve the disagreement within 10 working days of such referral;
- (b) In the event the Chief Executives (or their nominees) do not resolve the disagreement, then either party may refer the disagreement to an experienced engineer (the Expert) agreed upon by the purchaser and the vendor and if not so agreed, then nominated by the then President of Engineering New Zealand;
- (c) The referral to the Expert will require that the Expert acts in a timely and pragmatic manner and that in particular, the Expert make a determination in respect of the disagreement within 20

	<p>working days from the date of the referral;</p> <p>(d) The decision of the Expert could include requiring the release of part or all of the Retention to the purchaser to enable it to complete some or all of the Remedial Works;</p> <p>(e) Each party shall provide all reasonable assistance to the Expert that may be required for the purposes of him or her making their determination;</p> <p>(f) The purchaser and the vendor will share equally the cost of the Expert, and</p> <p>(g) The decision of the Expert will, in the absence of fraud or manifest error, be conclusive and binding on the parties.</p> <p>25. DOCUMENTATION</p> <p>25.1 The vendor will provide the following documents to the purchaser on the settlement date:</p> <p>(a) Confirmation from the vendor to the purchaser that it is not aware of any defects in relation to the BI (other than those previously disclosed to the purchaser).</p> <p>(b) All documentation required to be made available under the Construction Contract on Practical Completion and issue of the Final Completion Certificate that is in the possession of the vendor, including all warranties (as set out in clause 20.1(c)), relevant certificates, producer statements, final as-built drawings and operation and maintenance manuals.</p> <p>(c) The novation or assignment of the contract and warranties referred to in clauses 20.1(b) and 20.1(c).</p> <p>26. GENERAL</p> <p>26.1 Lowest price: For the purposes of the financial arrangements rules in the Income Tax Act 2007, the purchase price for the Property is the lowest price the parties would have agreed upon for the Property, on the date this agreement was entered into, if payment would have been required in full at the time the first right in the Property was transferred, and on that basis no income or expenditure arises in respect of the sale and purchase of the Property under those rules.</p> <p>26.2 Further assurance: Each party shall make all applications, execute all documents and do or procure all other acts and things reasonably required to implement and to carry out its obligations under, and the intention of, this agreement.</p>
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	<p>26.3 Default interest: the parties agree that the default interest payable under this agreement shall be 15% per annum.</p> <p>27. COSTS</p> <p>27.1 Each party will meet its own costs relating to this agreement.</p>
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WORKING DRAFT

Schedule 2
Performing Arts Precinct

WORKING DRAFT

Schedule 42

PERFORMING ARTS PRECINCT AGREEMENT

The Parties	Ōtākaro Limited (vendor); and Christchurch City Council (purchaser).
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It is agreed that the vendor sells and the purchaser purchases the property on the terms set out in this Schedule and otherwise in accordance with the standard terms of the Auckland District Law Society Agreement for Sale and Purchase of Real Estate Ninth Edition 2012 (8) (the "ADLS Agreement"). In the event of any conflict between this Schedule and the ADLS Agreement, this Schedule shall prevail.

EXECUTION

Executed as an agreement for and on behalf of the vendor, Ōtākaro Limited, by:

Authorised Signatory

Executed as an agreement for and on behalf of the purchaser, Christchurch City Council, by:

Mary Richardson
Acting Chief Executive

The Property	Part of the block defined by Colombo Street, Armagh Street, New Regent Street and Gloucester Street, Christchurch being an estate in fee simple as is more particularly described as the following records of title: CB27B/942, CB396/65, CB349/171, CB9A/221, CB366/35, CB21A/496, CB9B/720, CB11K/1202, CB23F/586, CB23F/587, CB347/227, CB23F/474, 687812 and CB20B/1490
Purchase Price	\$1.00 plus GST (if any)
Settlement Date	30 September 2019
Amendments to General Terms of the ADLS Agreement	Clause 6.2 is deleted except for the following provision in clause 6.2(1): *The purchaser is deemed to have accepted the vendor's title*.

Further Terms	
	<p>19. LICENCE TO OCCUPY</p> <p>19.1 By a licence dated 29 October 2018 a copy of which is attached at Schedule A (Licence) the vendor agreed to grant a temporary licence of that part of the property shown edged red in Schedule A to MC Christchurch Holdings Limited T/A Crowne Plaza (Crowne Plaza).</p> <p>19.2 The purchaser acknowledges and agrees that the property is sold subject to the Licence and the purchaser covenants with the vendor to enter into the deed of novation attached at Schedule B in relation to the Licence (Deed of Novation) taking on the obligations of the vendor pursuant to the terms of the Licence. The vendor warrants to the purchaser that to the best of its knowledge the provisions of the Licence have been performed up to the settlement date.</p> <p>19.3 If on or before the settlement date Crowne Plaza has not executed the Deed of Novation, the parties agree that the vendor will give notice to Crowne Plaza pursuant to clause 12 of the Licence terminating the Licence on the date being three (3) months after the date of the notice and the purchaser will allow Crowne Plaza to continue to occupy the Land until expiry of the termination notice. The vendor will account to the purchaser for any Rental received during any period between the settlement date and expiry of the termination notice.</p> <p>19.4 For the avoidance of doubt, any definitions used in the above clause 19 that are not defined in this agreement shall have the meanings given to them in the Licence.</p> <p>20. ADDITIONAL LAND</p> <p>20.1 The vendor also owns the land at 154 to 156 Armagh Street, Christchurch (as is more particularly described as Lot 1 Deposited Plan 480674, record of title 687811). The parties agree to communicate in relation to the possible transfer of this land (subject to the terms of existing lease) from the vendor to the purchaser or to the existing tenant of this land (The Piano: Centre for Music and the Arts) and will endeavour to reach an agreed position by 1 December 2019.</p> <p>20.2 The purchaser is also interested in possibly acquiring the land at 128 to 138 Armagh Street, Christchurch (as is more particularly described as Lot 1 Deposited Plan 69579, record of title CB40C/246), in the event the vendor acquires ownership of this</p>

land it will immediately transfer the same to the purchaser without cost.

21. PUBLIC REALM LAND / DECONTAMINATION

21.1 The vendor agrees to pay \$3,000,000 plus GST (if any) following receipt of a valid tax invoice to the purchaser on the Settlement date as a contribution in respect of public realm and decontamination works to be undertaken by the purchaser at its sole cost.

21.2 For the avoidance of doubt, neither the vendor nor the Crown shall have any further responsibility in relation to any public realm or decontamination works in the Performing Arts Precinct.

22. NO RELIANCE BY PURCHASER

22.1 The purchaser acknowledges and agrees that it has entered into this agreement in reliance solely upon its own judgment and in making such judgment as it considers appropriate (including after taking such independent advice as they consider appropriate in the circumstances) and not in reliance upon any representations, warranties, undertakings or statements made by or on behalf of the vendor or any of its officers, employees, agents or advisors. The purchaser acknowledges that the vendor gives not representations, warranties or undertakings in respect of the condition of the Property.

23. GENERAL

23.1 **Lowest price:** For the purposes of the financial arrangements rules in the Income Tax Act 2007, the purchase price for the Property is the lowest price the parties would have agreed upon for the Property, on the date this agreement was entered into, if payment would have been required in full at the time the first right in the Property was transferred, and on that basis no income or expenditure arises in respect of the sale and purchase of the Property under those rules.

23.2 **Further assurance:** Each party shall make all applications, execute all documents and do or procure all other acts and things reasonably required to implement and to carry out its obligations under, and the intention of, this agreement.

23.3 **Default interest:** The parties agree that the default interest payable under this agreement shall be 15% per annum.

23.4 **Costs:** Each party will meet its own costs relating to this agreement.

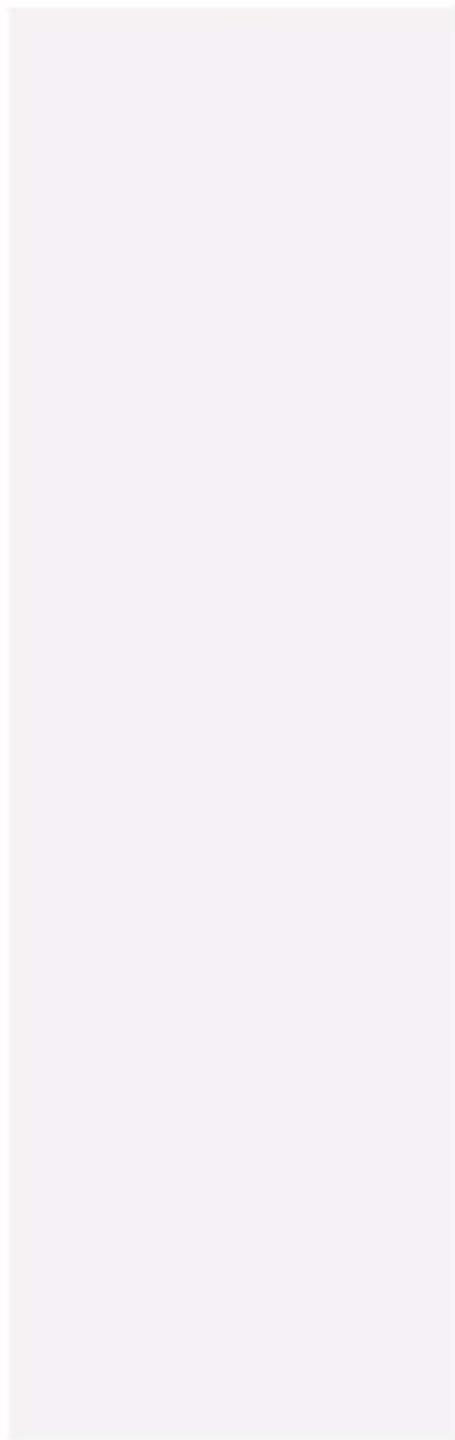
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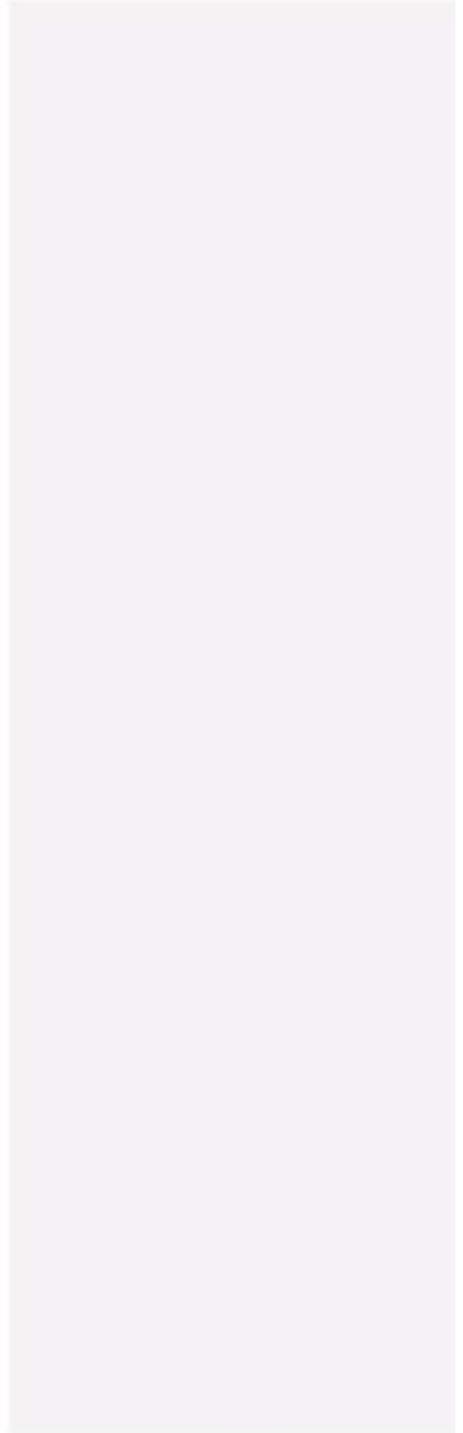
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Schedule A – Licence

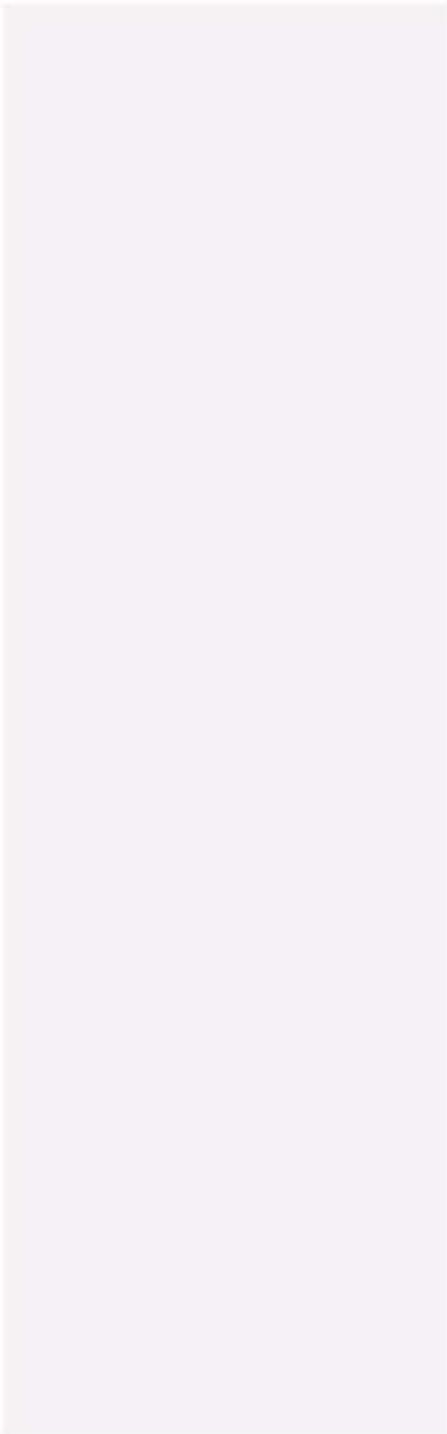
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Schedule B – Deed of Novation.

WORKING DRAFT

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Ōtākaro Limited

Deed of Novation

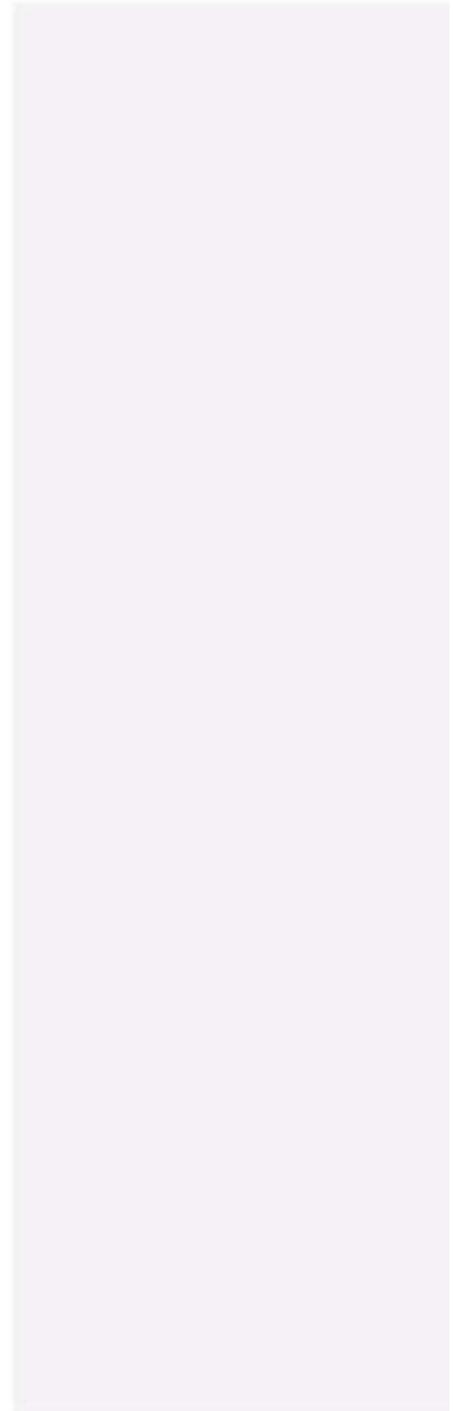
Car Park Licence – 738-750 Colombo
Street

Ōtākaro Limited (**Ōtākaro**)

MC Christchurch Holdings Limited T/A Crowne Plaza (**Crowne
Plaza**)

Christchurch City Council (**Council**)

WORKING DRAFT



Details

Date

Parties

Name Ōtākaro Limited
Short name Ōtākaro

Name MC Christchurch Holdings Limited T/A Crowne Plaza
Short name Crowne Plaza

Name Christchurch City Council
Short name Council

Background

- A. Pursuant to a licence dated 29 October 2018 (**Licence**) Ōtākaro has granted Crowne Plaza a licence to occupy the area shown edged red on the plan attached at Schedule 1 (**Land**).
- B. Ōtākaro and Council have entered into an agreement for sale and purchase of property including the Land (**Agreement**) with the result that:
- (i) Ōtākaro wishes to be discharged and released as licensor from the Licence;
 - (ii) Council wishes to be bound as licensor by the terms of the Licence; and
 - (iii) Crowne Plaza has agreed to discharge and release Ōtākaro with effect from and including the settlement date under the Agreement (**Settlement Date**) upon the undertakings of Council contained in this Deed to perform the obligations of Ōtākaro under the Licence.
- C. The parties agree to the novation of the Licence on the terms of this Deed.

Agreed terms

1. Novation, Acceptance, Consent and Release

- 1.1 Subject to the terms and conditions of this Deed, with effect on and from the Settlement Date Ōtākaro, Crowne Plaza and Council agree and acknowledge that:
- Ōtākaro novates to Council all obligations, liabilities, rights, title and interest of Ōtākaro in the Licence and Council accepts such novation;
 - Crowne Plaza consents to the novation of all obligations, liabilities, rights, title and interest of Ōtākaro in the Licence;
 - All the property, rights, powers and privileges of Ōtākaro together with all obligations and liabilities arising under or in respect of the Licence are vested absolutely in Council;
 - Ōtākaro ceases to be entitled to any of the rights, powers or privileges in respect of the Licence and is released and discharged from all obligations and liabilities under the Licence save in relation to any breaches of such obligations and liabilities which have been notified to it prior to the Settlement Date; and
 - Crowne Plaza and Ōtākaro are parties to a new agreement on the same terms as the Licence.
- 1.2 Notwithstanding anything in clause 1.1, Council shall have no obligations or liabilities for any matter in relation to the Licence arising prior to the Settlement Date.

2. General

- 2.1 **Costs**
Each party will meet its own costs relating to this Deed.
- 2.2 **Further assurance**
Each party is to promptly execute all documents and do all things that any other party from time to time reasonably requires of it to effect, perfect or complete the provisions of this Deed and any transaction contemplated by it.
- 2.3 **Counterparts**
This Deed may consist of a number of counterparts and if so the counterparts taken together constitute one and the same instrument.
- 2.4 **Effect of execution**
This Deed is binding on a party to it even if it is not executed by any other person named as a party.

Signing Page

EXECUTED as a deed

EXECUTED by
Dtākaro Limited

Signature of witness

Name of witness

Occupation of witness

City/town of residence

Signature of director/authorised person

Name of director/authorised person

Signature of director/authorised person

Name of director/authorised person

EXECUTED by
Christchurch City Council

Signature of witness

Name of witness

Occupation of witness

City/town of residence

Signature of councillor

Name of councillor

Signature of councillor

Name of councillor

EXECUTED by
MC Christchurch Holdings Limited T/A Crowne PPlaza

Signature of witness

Name of witness

Occupation of witness

City/town of residence

Signature of director/authorised person

Name of director/authorised person

Signature of director/authorised person

Name of director/authorised person

Schedule 3
Residential Red Zone Land

WORKING DRAFT

Schedule 3

RESIDENTIAL RED ZONE AGREEMENT

The Parties	Her Majesty the Queen acting by and through the Chief Executive of Land Information New Zealand (vendor); and Christchurch City Council (purchaser).
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It is agreed that the vendor sells and the purchaser purchases the property on the terms set out in this Schedule and otherwise in accordance with the standard terms of the Auckland District Law Society Agreement for Sale and Purchase of Real Estate Ninth Edition 2012 (8) (the "**ADLS Agreement**"). In the event of any conflict between this Schedule and the ADLS Agreement, this Schedule shall prevail.

EXECUTION

Executed as an agreement for and on behalf of the vendor, Her Majesty the Queen acting by and through the Chief Executive of Land Information New Zealand, by:

Lisa Barrett
Chief Executive

Executed as an agreement for and on behalf of the purchaser, Christchurch City Council, by:

Mary Richardson
Acting Chief Executive

The Property	As described in the letter dated 26 July <u>29 July</u> 2019 from the vendor to the purchaser.
Purchase Price	\$1.00 plus GST (if any) if demanded
Settlement Date	As set out in further term 25
Amendments to General Terms of the ADLS Agreement	Clauses 5.2 and 5.3 are deleted. Clauses 6.1 and 6.3 are deleted. Clause 6.2 is deleted except for the following provision in clause 6.2(1):

	<p>"The purchaser is deemed to have accepted the vendor's title".</p> <p>Clauses 7.1 is amended in the first line to read "The vendor warrants and undertakes that at the date of the agreement the vendor, to the best of its knowledge, has not;"</p> <p>Clause 7.1(2) is deleted.</p>
Further Terms	<p>19. INTERPRETATION</p> <p>19.1 "Balance Land" means those parcels of land outside the OARC that form part of the Property as set out in the letter dated 26/29 July 2019 from the vendor to the purchaser, and described as Southshore, Port Hills and Brooklands;</p> <p>19.2 "Balance Land (Port Hills)" means those parcels of land within the Balance Land that are described as Port Hills in the letter dated 26/29 July 2019 from the vendor to the purchaser;</p> <p>19.3 "Council OARC Land" means the stopped roads and other land owned by the purchaser required to give effect to the Ōtākaro Avon River Corridor reconfiguration and as agreed as per clause 22.2(a);</p> <p>19.4 "GCR Act" means the Greater Christchurch Regeneration Act 2016;</p> <p>19.5 "Minister" means the Minister for Greater Christchurch Regeneration; and</p> <p>19.6 "OARC" means those parcels of land forming part of the Property located within the Ōtākaro Avon River Corridor as set out in the letter dated 26/29 July 2019 from the vendor to the purchaser;</p> <p>19.7 "Reduced Survey Standard" means a survey prescription varying some of the requirements of the Rules for Cadastral Survey 2010, pursuant to section 47(5) of the Cadastral Survey Act 2002, to allow a reduced standard of accuracy, as considered appropriate by the Surveyor-General, for the definition of existing parcel boundaries where those boundaries are used as boundaries of the new lots being created to reconfigure the OARC.</p> <p>20. STATUTORY CLEARANCE</p> <p>20.1 The records of title set out in Schedule A are believed to be the subject of a right of first refusal under the Ngāi Tahu Claims</p>

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Settlement Act 1998 and / or subject to a right of offer back under the Public Works Act 1981 (PWA). The vendor will undertake all required actions to meet its statutory requirements in respect of these Acts. In the event Te Rūnanga o Ngāi Tahu or any PWA offeree accepts any offer made to them and purchases the record of title in question, then such record of title will be excluded from this Agreement. Except for the exclusion of any records of title pursuant to this clause, this Agreement shall continue with full force and effect.

21. REDUCED SURVEY STANDARD

21.1 As soon as reasonably practicable after the date of this agreement, the vendor will apply to the Surveyor-General to obtain the Reduced Survey Standard.

22. ŌTĀKARO AVON RIVER CORRIDOR RECONFIGURATION

22.1 Prior to settlement and subject to clauses 23.1 to ~~23-423.4~~, the vendor will (as set out in clauses 22.1 to ~~22-1022.1122-10~~) reconfigure the OARC and the Council OARC Land with such reconfiguration to be based on, with the exception of the creation any new roads, the high-level concept plans provided by the purchaser to the vendor on 3 May 2019 (**Concept Plans**) with individual records of title to issue. For the avoidance of doubt, no new roads will be created as part of the reconfiguration.

22.2 As soon as reasonably practicable after the date of this agreement, representatives of the vendor and the purchaser will establish a working group (**Working Group**) to provide further detail to the Concept Plans and, in particular, to determine:

- (a) Those parts (if any) of the Council-owned land (including any roads to be stopped) as shown in the Concept Plans that will be taken or set apart under section 32(4) of the GCR Act and included in the reconfiguration contemplated by clause 22.1;
- (b) The easements in gross in favour of the purchaser recorded on the existing records of title to the OARC, any consent notices, covenants and other interests, notices or memorials in favour of the purchaser to be cancelled or retained;
- (c) The mutual easements, covenants or other instruments between records of title in the OARC to be cancelled or

	<p>retained together with cancellation of any cross-lease titles included in those areas;</p> <ul style="list-style-type: none">(d) Any easements to be created in favour of utility providers for existing infrastructure within the roads to stop;(e) The approximate areas and dimensions of land to be included in each new individual record of title;(f) The priority of work to be undertaken; and(g) Any other matters considered relevant by the Working Group.
22.3	<p>The parties will use all reasonable endeavours to ensure the Working Group completes the work set out in clause 22.2 by 31 December 2019.</p>
22.4	<p>In the event the Working Group fails to reach agreement on any matter under its consideration on a timely basis then either party may refer such matter for determination in accordance with clause 31.303.</p>
22.5	<p>The vendor will provide the purchaser with scheme plan/s based on the Concept Plans and the determinations of the Working Group process. For the avoidance of doubt, scheme plans may be provided to the purchaser at different times.</p>
22.6	<p>Except as provided for as part of the Working Group process, the scheme plan/s will be prepared on the basis that any existing easements recorded on the existing records of title to the OARC for the benefit of the third parties or over or for the benefit of land owned by third parties will be retained.</p>
22.7	<p>The purchaser will advise the vendor in writing within twenty (20) working days of the date of receipt of any scheme plan (time being of the essence) whether it approves the scheme plan in the form provided to it (such approval not to be unreasonably withheld) or whether it requests for changes to be made to the scheme plan. If the purchaser does not respond to the vendor within twenty (20) working days such timeframe it shall be deemed to have approved the scheme plan. Any purchaser's notice requesting changes must specify how the scheme plan does not materially reflect the outcome of the Working Group process and the Working Group shall then proceed to determine whether or not the scheme plan should be amended. If the Working Group has not resolved whether or not the scheme plan should be amended within twenty (20) working days of the</p>

	<p>purchaser's notice, then the dispute will be referred for determination in accordance with clause 31.3031.</p> <p>22.8 As soon as reasonably practicable following the approval or determination of any scheme plan and provided the Surveyor-General has agreed to apply a Reduced Survey Standard in a timely manner, the vendor will procure the necessary survey work and the preparation of a subdivision plan (to become a Survey Office Plan or a Deposited Plan as the vendor may see fit) in accordance with such scheme plan (noting that such subdivision plan will capture the matters addressed in the Working Group process including the granting of any easements to utility providers). The vendor will use all reasonable endeavours to:</p> <ul style="list-style-type: none">(a) stop the roads as shown in the subdivision plan. The purchaser acknowledges that any road stopping will only take effect in the event the appropriate statutory decisions are made by the Chief Executive of Land Information New Zealand following consultation with the purchaser in its regulatory capacity.(b) utilise the amalgamation powers pursuant to sections 94 to 100 of the GCR Act to enable the amalgamation of the OARC (including any Council OARC Land) into individual surveyed records of title as shown in the subdivision plan together with the cancellation of all mutual interests (as set out in clause 22.2(c)). The purchaser acknowledges that the exercise of the above powers will only take effect in the event the appropriate statutory decisions are made by the Minister. <p>22.9 As soon as reasonably practicable following the approval or determination of any scheme plan in circumstances where the Surveyor-General has not agreed to apply a Reduced Survey Standard in a timely manner, the vendor without procuring any survey work and the preparation of any subdivision plan (other than in relation to any road stopping with a road stopping plan to be prepared and noting that any easements agreed to be granted to utility providers over stopped road as part of the Working Group process will be granted over the relevant whole section/s surveyed in the road stopping plan) will use reasonable endeavours to:</p> <ul style="list-style-type: none">(a) stop the roads as shown in the road stopping plan. The purchaser acknowledges that any road stopping will only
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	<p>take effect in the event the appropriate statutory decisions are made by the Chief Executive of Land Information New Zealand following consultation with the purchaser in its regulatory capacity.</p> <p>(b) utilise the amalgamation powers pursuant to sections 94 to 100 of the GCR Act to enable the amalgamation of the OARC (including any Council OARC Land) into individual records of title as shown in the scheme plan but utilising existing legal descriptions of the relevant parcels together with the cancellation of all mutual interests (as set out in clause 22.2(c)). The purchaser acknowledges that the exercise of the above powers will only take effect in the event the appropriate statutory decisions are made by the Minister.</p> <p>22.10 [If so required by the vendor and subject to the making of any required statutory decision, the purchaser will provide, at no cost to the vendor, all approvals under section 243 Resource Management Act 1991 necessary to surrender any easements and will also provide, at no cost to the vendor, all releases of any consent notices, covenants and other interests, notices or memorials in favour of the purchaser where the same are to be cancelled.]</p> <p>22.11 It is acknowledged that the Council OARC Land will remain beneficially owned by the purchaser at all times and that during any period of legal ownership by the vendor it is holding the Council OARC Land on trust for the purchaser.</p> <p>23. ALTERNATIVE ŌTĀKARO AVON RIVER CORRIDOR RECONFIGURATION</p> <p>23.1 In the event that the necessary statutory decisions required to undertake the reconfiguration contemplated in clauses 22.1 to 22-1022-1122-1022-10 are not made, or for any other reason the reconfiguration contemplated in clauses 22.1 to 22-1022-1122-1022-10 is not completed (in whole or in part), by 30 April 2021, then the provisions of clause 23.2 shall apply.</p> <p>23.2 If the necessary statutory powers in the GCR Act (the Powers) are extended by Parliament for a period of time, then the vendor's obligations under clauses 22.1 to 22-1022-1122-1022-10 shall continue to apply for that period of time. If the Powers are not extended by Parliament or, if at the end of any period of extension described in 23.1 above, the</p>
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	<p>reconfiguration contemplated in clauses 22.1 to 22.1022.1122.1222.13 is not completed (in whole or in part), then the vendor may either:</p> <p>(a) use all reasonable endeavours to reconfigure the land generally in accordance with clauses 22.1 to 22.1022.1122.1222.13 (noting that the Powers will be replaced with the closest legislative alternative) in so far as is reasonably practicable; or</p> <p>(b) transfer the OARC to the purchaser in its then current configuration and the provisions of clause 23.3 shall apply.</p> <p>23.3 If the OARC is transferred to the purchaser in the circumstances contemplated by clause 23.2(b) then prior to 30 June 2025, the purchaser may carry out the outstanding reconfiguration as contemplated by the Concept Plans and Working Group process, and/or the scheme plans, to the extent such scheme plans have been produced / agreed, and on an open book basis with no charge for the purchaser's staff time, but with all third party costs incurred by the purchaser associated with the reconfiguration to be reimbursed to it by the vendor. The purchaser will submit its tax invoices for such costs on a quarterly basis supported by copies of the third parties' invoices and payment will then be made by the vendor. Should this clause 23.3 apply the vendor will have no further responsibility for any reconfiguration in the OARC other than, for the avoidance of doubt, the obligation to reimburse the purchaser as set out in this clause 23.3.</p> <p>23.4 [For the avoidance of doubt the provisions of clause 22.10 shall apply to any reconfiguration undertaken by the purchaser under clause 23.3 such that no cost shall be recovered by the purchaser from the vendor in relation to the provision of any required approvals under section 243 Resource Management Act 1991; nor any releases of any consent notices, covenants or other interests, notices or memorials by the purchaser in its regulatory capacity.]</p> <p>24. BALANCE OF LAND RECONFIGURATION</p> <p>24.1 The parties agree that the Working Group will determine the extent of the road stopping in Brooklands and Southshore (such road stopping to be based on the Concept Plans) and the priority to be adopted in relation to such road stopping. Prior to</p>
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	<p>settlement and following the Working Group process as set out in clause 22.2 in relation to any roads to stop in Brooklands and Southshore, the vendor will stop any such roads. The purchaser acknowledges that the road stopping will only take effect in the event the appropriate statutory decisions are made by the Chief Executive of Land Information New Zealand following consultation with the purchaser in its regulatory capacity.</p> <p>24.2 In the event the Working Group fails to reach agreement on which roads in Brooklands and Southshore will be stopped and / or the priority to be adopted in relation to the same then either party may refer such matter for determination in accordance with clause 313031.</p> <p>24.3 The parties have agreed that the vendor shall pay \$1,000,000 plus GST (if any) to the purchaser for the purposes of the purchaser carrying out reconfiguration work on the Balance Land (the Reconfiguration Amount). Accordingly, on the earlier of the settlement date in clause 25.1(c) and the settlement date in clause 25.1(d) the vendor will pay the Reconfiguration Amount to the purchaser provided the purchaser has provided the vendor (or the vendor's solicitor) with a valid tax invoice in relation to the same.</p> <p>25. SETTLEMENT DATE</p> <p>25.1 The parties acknowledge and agree that settlement under this agreement shall be completed as follows:</p> <ul style="list-style-type: none">(a) OARC – Settlement date shall be 1 July 2020 or twenty (20) working days after the vendor has notified the purchaser that the vendor's obligations in relation to the required reconfiguration work have been met, whichever is later (in the event the parties fail to reach agreement on whether the vendor's obligations have been met then either party may refer such matter for determination in accordance with clause 313031). The land that has been reconfigured as contemplated by clauses 22 and / or 23.2(a) may be transferred to the purchaser in tranches as agreed;(b) Balance Land (Port Hills) – Settlement date shall be 31 May 2021;(c) Balance Land (Southshore) – Settlement date shall be 1 July 2020 or twenty (20) working days after the road stopping is completed or the decision is made by the
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	<p>Chief Executive of Land Information New Zealand not to stop the roads, whichever is later; and</p> <p>(d) Balance Land (Brooklands) - Settlement date shall be 1 July 2020 or twenty (20) working days after the road stopping is completed or the decision is made by the Chief Executive of Land Information New Zealand not to stop the roads, whichever is later,</p> <p>or on such other date/s as the parties may agree.</p> <p>25.2 The parties agree that if the logistics of the settlement transfers are such that they cannot be reasonably completed in the single day contemplated in clause 25.1 then such transfers will be given effect to as soon as practicable with transfers taking place over successive working days.</p> <p>25.3 The parties acknowledge that rates will continue to be payable by the vendor until transfer of the relevant parcel of land.</p> <p>26.</p> <p>26.1</p> <p>26.2</p> <p>26.3</p> <p>26.4</p> <p>27. If any dispute arises as to whether or not the Claim has been resolved or is without any merit then either party may refer such</p>
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redacted under s9(2)(k) OIA and s7(2)(j) LGOIMA

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matter for determination in accordance with clause ~~30~~; **TERMS OF TRANSFER**~~31~~;

28. TERMS OF TRANSFER

~~27.1~~28.1 The purchaser acknowledges that the vendor is transferring the Property to it subject to the following terms and accepts the transfer of the Property on this basis:

- (a) From settlement the purchaser will be responsible for all costs associated with the Property, including on-going management costs.
- (b) From settlement the purchaser will be responsible for, at its sole cost and determination, removal of any unnecessary horizontal infrastructure (including roads) or any reinstating of horizontal infrastructure (including roads).
- (c) ~~In recognition of the investment that has been made by the vendor (and the Crown) in acquiring the property, the purchaser and vendor agree that if the purchaser leases or transfers any of the property the purchaser will split share the net proceeds of transfer or lease (as the case may be) 50/50 with the vendor / Crown. The parties will discuss the appropriate mechanism (if any) to~~ To ensure that the vendor's / Crown's position in relation to the above is sufficiently protected, the parties agree that the Encumbrance attached as Schedule B will be registered on settlement of the acquisition of the Property by the purchaser.

~~28.29~~ 28.29 MAINTENANCE COSTS

~~28.1~~29.1 In respect of any part of the Property (but excluding the Balance Land (Port Hills), ~~The~~), ~~the~~ purchaser agrees that from 1 July 2020 it will be responsible for maintenance and operations associated with the land (including all associated cost).

~~28.2~~29.2 In respect of the Balance Land (Port Hills), the purchaser agrees that it will be responsible for maintenance and operations associated with the land (including all associated costs) from 31 May 2021.

~~29.30~~ 29.30 RISK AND INSURANCE

	<p>29.1<u>30.1</u> The purchaser acknowledges and accepts that the vendor does not hold insurance for the Property.</p> <p>29.2<u>30.2</u> For the avoidance of doubt, the vendor will not be assigning to the purchaser the benefit of any Earthquake Commission or private insurance claims it may hold in respect of the Property.</p> <p>30.31 DISPUTE RESOLUTION</p> <p>30.4<u>31.1</u> In the event of any disagreement between the vendor and the purchaser as contemplated by clauses 22.4, 22.7, 24.2, 25.1(a) and 27.19-127 then such disagreement shall be resolved as follows:</p> <ul style="list-style-type: none">(a) The disagreement will be referred to the Chief Executive of the purchaser (or his or her nominee) and the Chief Executive of the vendor (or his or her nominee) who will use their reasonable endeavours to resolve the disagreement within 10 working days of such referral;(b) In the event the Chief Executives (or their nominees) do not resolve the disagreement, then either party may refer the disagreement to an experienced property lawyer (the Expert) agreed upon by the vendor and the purchaser and if not so agreed, then nominated by the then President of the New Zealand Law Society;(c) The referral to the Expert will require that the Expert acts in a timely and pragmatic manner and that in particular, the Expert make a determination in respect of the disagreement within 20 working days from the date of the referral;(d) Each party shall provide all reasonable assistance to the Expert that may be required for the purposes of him or her making their determination;(e) The vendor and the purchaser will share equally the cost of the Expert, and(f) The decision of the Expert will, in the absence of fraud or manifest error, be conclusive and binding on the parties. <p>31.32 EXERCISE OF STATUTORY RIGHTS, POWERS AND DUTIES</p> <p>31.1<u>32.1</u> The vendor and purchaser acknowledge and agree that they respectively have statutory rights, powers and duties.</p>
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	<p>31.2<u>32.2</u> Nothing in this agreement prevents, restricts or derogates the vendor (or any other arm of the Crown) or the purchaser exercising any statutory rights, powers or duties.</p> <p>31.3<u>32.3</u> if anything in this agreement is inconsistent with any of the parties' statutory rights, powers or duties then those statutory rights, powers or duties shall prevail, and this agreement shall be construed accordingly.</p> <p>32.33 NO RELIANCE BY PURCHASER</p> <p>32.4<u>33.1</u> The purchaser acknowledges and agrees that it has entered into this agreement in reliance solely upon its own judgment and in making such judgment as it considers appropriate (including after taking such independent advice as they consider appropriate in the circumstances) and not in reliance upon any representations, warranties, undertakings or statements made by or on behalf of the vendor or any of its officers, employees, agents or advisors. The purchaser acknowledges that the vendor gives no representations, warranties or undertakings in respect of the condition of the Property.</p> <p>33.34 MINERALS</p> <p>33.4<u>34.1</u> For the avoidance of doubt, on settlement the Property will be subject to Part IVA of the Conservation Act 1987 and section 11 of the Crown Minerals Act 1991 with the effect that every mineral existing in its natural condition in the Property is reserved to the Crown.</p> <p>33.2<u>34.2</u> Prior to, or as part of the e-dealing giving effect to the transfer of the Property, the Crown shall register notations against the records of title for the Property reserving such interests.</p> <p>34.35 GENERAL</p> <p>34.4<u>35.1</u> Lowest price: For the purposes of the financial arrangements rules in the Income Tax Act 2007, the Purchase price for the Property is the lowest price the parties would have agreed upon for the Property, on the date this agreement was entered into, if payment would have been required in full at the time the first right in the Property was transferred, and on that basis no income or expenditure arises in respect of the sale and purchase of the Property under those rules.</p>
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	<p>34.2<u>35.2</u> Further assurance: Each party shall make all applications, execute all documents and do or procure all other acts and things reasonably required to implement and to carry out its obligations under, and the intention of, this agreement.</p> <p>34.3<u>35.3</u> Default interest: The parties agree that the default interest payable under this agreement shall be 15% per annum.</p> <p>34.4<u>35.4</u> Costs: except as otherwise stated in this agreement, each party shall be responsible for their own costs of and incidental to entering and transacting this agreement.</p> <p>34.5<u>35.5</u> Notices: Any notice permitted or required to be given under this agreement must be in writing.</p> <p>34.6<u>35.6</u> Non-Merger: Notwithstanding any rule of law to the contrary, the agreements, obligations and warranties of the parties in this agreement it will not merge with the transfer of title to the Property or with the delivery of the title to the Property. Further, all other operational agreements between the parties (including but not limited to the agreements relating to Lucas Lane, Deans Head and the Mass Land Movement Remediation Project) will continue to have full force and effect until terminated in accordance with their respective provisions.</p>
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redacted under s9(2)(a) OIA and s7(2)(a) LGOIMA

SCHEDULE B

Form 18

Encumbrance instrument

(Section 100 Land Transfer Act 2017)

Land registration district	BARCODE
CANTERBURY	

Record of Title (unique identifier)	All/part	Area/description of part
[TBC]	ALL	

Encumbrancer *Surname(s) must be underlined.*

CHRISTCHURCH CITY COUNCIL (the "Council")

Encumbrancee *Surname(s) must be underlined.*

HER MAJESTY THE QUEEN (the "Crown")

Estate or interest to be encumbered *Insert, eg, fee simple, leasehold in lease number, etc.*

Fee Simple

Encumbrance memorandum number

N/A

Nature of security *State whether sum of money, annuity, or rentcharge, and amount.*

Annual Rent Charge of \$1.00 (inclusive of goods and services tax, if any)

Operative clause *Delete words in [], as appropriate.*

The Encumbrancer encumbers for the benefit of the Encumbrancee the land in the above record of title(s) with the above sum of money, annuity, or rent charge to be raised and paid in accordance with the terms set out in the [above-encumbrance-memorandum]-[Annexure Schedule(s)] and so as to incorporate in this encumbrance the terms and other provisions set out in the [above-encumbrance-memorandum]-[and]-[Annexure Schedule(s)] for the better securing to the Encumbrancee the payment(s) secured by this encumbrance, and compliance by the Encumbrancer with the terms of this encumbrance.

SCHEDULE B

Terms

- 1 Length of term: **520 years commencing on the date of this encumbrance**
- 2 Payment date(s): **1st day of January in each year, if demanded**
- 3 Rate(s) of interest: **0%**
- 4 Event(s) in which the sum, annuity or rentcharge becomes payable: **If demanded by the Encumbrancee by the Payment Dates**
- 5 Event(s) in which the sum, annuity or rentcharge ceases to be payable: **In accordance with Annexure Schedule 1**

Covenants and conditions

Continue in Annexure Schedule(s), if required

In accordance with Annexure Schedule 1

Modification of statutory provisions

Continue in Annexure Schedule(s), if required

Sections 23, 289, 301 and 302 of the Property Law Act 2007 and all other provisions of that Act and the Land Transfer Act 2017 relating to encumbrances shall apply to this encumbrance, except that the Crown shall have no power of sale.

The Crown hereby consents pursuant to the Land Transfer Act 2017 to the registration of the following instruments in respect of the land subject to this encumbrance:

- (a) the creation, variation or surrender of an easement;
 - (b) the registration of mortgage, variation of a mortgage instrument or priority of mortgages,
- and this consent shall be deemed to be the consent of the Crown to the registration of a particular instrument specified.

Insert instrument type

Encumbrance

Continue in additional Annexure Schedule, if required

ANNEXURE SCHEDULE 1

CIRCUMSTANCES

The Property has been transferred by the Crown to the Council subject to the requirement that the Council comply with the covenants set out in this encumbrance.

COVENANTS

1. **Transfer or Lease of the Property:** In circumstances where the Council transfers or grants a Lease of the Property (or any part thereof) the Council covenants with the Crown:
 - (a) to advise the Crown of any such transfer or Lease; and
 - (b) to pay to the Crown (within 20 working days of demand being made by the Crown) 50% of the Net Proceeds of Divestment actually received by the Council on such transfer or Lease, provided that this clause 1(b) shall only apply when the Net Proceeds of Divestment in relation to any transfer or Lease exceed \$50,000 (and in the case of a Lease, the \$50,000 threshold applies to the annual rental payable under the Lease and not the aggregate rental payable over the term of the Lease).
2. **Partial discharge of this encumbrance:** Provided the Council has complied with its covenants in clause 1, on the transfer of part of the Property (the "Relevant Part") the Crown shall execute and provide a partial discharge of this encumbrance instrument to the Council in respect of the Relevant Part.
3. **Discharge of this encumbrance:** Upon application in writing by the Council, the Crown will execute and provide to the Council a discharge of this encumbrance where the Crown is satisfied (in its sole and absolute discretion) that the covenants of this encumbrance have become obsolete. For the avoidance of doubt, under no circumstances shall payment of the rent charge be sufficient to obtain a discharge of this encumbrance.
4. **Injunctive relief:** The Council acknowledges that the Crown shall be entitled to an injunction or other equitable relief for any threatened or actual breach of clause 1 as (without prejudice to any rights or remedies of the Crown) damages alone would not be an adequate remedy.
5. **Non-waiver:** No failure or delay by the Crown to enforce this encumbrance shall constitute a waiver or restrict any further enforcement. Nothing in this encumbrance shall compel the Crown to enforce or maintain this encumbrance.

Insert instrument type

Encumbrance

Continue in additional Annexure Schedule, if required

6. **Costs:** The Council shall pay all the Crown's legal costs (on a solicitor/client basis) directly attributable to the enforcement of this encumbrance.
7. **Exercise of powers:** Nothing in this encumbrance shall be construed so as to remove or limit any rights, powers or remedies vested in the Crown by law, or to compel the Crown to exercise all or any rights, powers or remedies granted by this encumbrance.
8. **Disputes:** The Parties agree that any disputes about the meaning or application of this Encumbrance will be resolved through cooperation, but any dispute that cannot be resolved by staff from the Crown and the Council shall be:
- (a) First escalated to the Chief Executive of the Council and the Deputy Chief Executive of the department responsible at that time for managing the obligations set out in this Encumbrance, whose joint decision shall be complied with; but
 - (b) If they cannot agree, the dispute will be escalated to the Mayor of the Council and the Minister responsible at that time for managing the obligations set out in this Encumbrance, who shall jointly direct how this Encumbrance is to be interpreted and applied.
9. **Definitions:** For the purposes of this encumbrance:
- (a) **"Encumbrancee"** means the Crown and vice versa;
 - (b) **"Encumbrancer"** means the Council and vice versa;
 - (c) **"Lease"** means a lease of land that is for a period of five (5) years or more (including any rights of renewal) and for which more than a nominal rental is received by the Council (as landlord); and
 - (d) **"Net Proceeds of Divestment"** means the amount received from the transfer or Lease together with any holding income that may have been accrued to the Council less the following costs (if appropriate) incurred by the Council in respect of [or for the benefit of the](#) land being transferred or leased, namely:
 - professional fees and disbursements in respect of the transfer or Lease;
 - real estate commission and associated disbursements;
 - GST (if any) or any other applicable tax liability;
 - management costs;
 - maintenance costs;
 - holding costs (which for the avoidance of doubt shall include annual rates payable to any local authority); and
 - land remediation [or development](#) costs

Annexure Schedule

Page 5 of 5 Pages

Insert instrument type

Encumbrance

Continue in additional Annexure Schedule, if required

WORKING DRAFT

Schedule 4
Central City Land

WORKING DRAFT

SCHEDULE 4

[TO BE REPRODUCED ON ŌTĀKARO LIMITED LETTERHEAD]

[] July 2019

Mary Richardson
Acting Chief Executive
Christchurch City Council
Christchurch

By Email

Dear Mary

Central City Land

1. This letter records the agreement between Ōtākaro Limited (Ōtākaro) and Christchurch City Council (the Council) in relation to certain land owned by Ōtākaro in the Christchurch Central City.
2. If the Council within 20 Business Days of the date of the Global Settlement Agreement entered into between the Crown and the Council, notifies Ōtākaro that it is interested in purchasing any of the Central City Land as set out in the Schedule attached, then without creating any obligation on Ōtākaro or the Council to necessarily reach agreement, the Council and Ōtākaro will engage in discussions to ascertain if an Agreement for Sale and Purchase can be entered on such terms as may be agreed.
3. From time to time, Ōtākaro will advise the Council of any other land that it owns and which Ōtākaro (acting reasonably) considers can be made available for sale to the Council. If the Council within 20 Business Days of the date of such advice notifies Ōtākaro that it is interested in purchasing such land, then without creating any obligation on Ōtākaro or the Council to necessarily reach agreement, the Council and Ōtākaro will engage in discussions to ascertain if an Agreement for Sale and Purchase can be entered on such terms as may be agreed.
4. For the avoidance of doubt, if the Council does not issue a notice under either Paragraph 2 or Paragraph 3 above, or if the Council issues such a notice and an Agreement for Sale and Purchase is not agreed between the Council and Ōtākaro in respect of the land in question within 20 Business Days after the issue of that notice, then Ōtākaro may thereafter deal with the land in question as it sees fit. Further, please note that no land can be considered as being available for sale to the Council if it is the subject of a pre-existing disposal process.
5. Can you please countersign and return this letter to confirm the Council's agreement to its contents.

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Yours faithfully

John Bridgman
Chief Executive

Mary Richardson - Chief Executive

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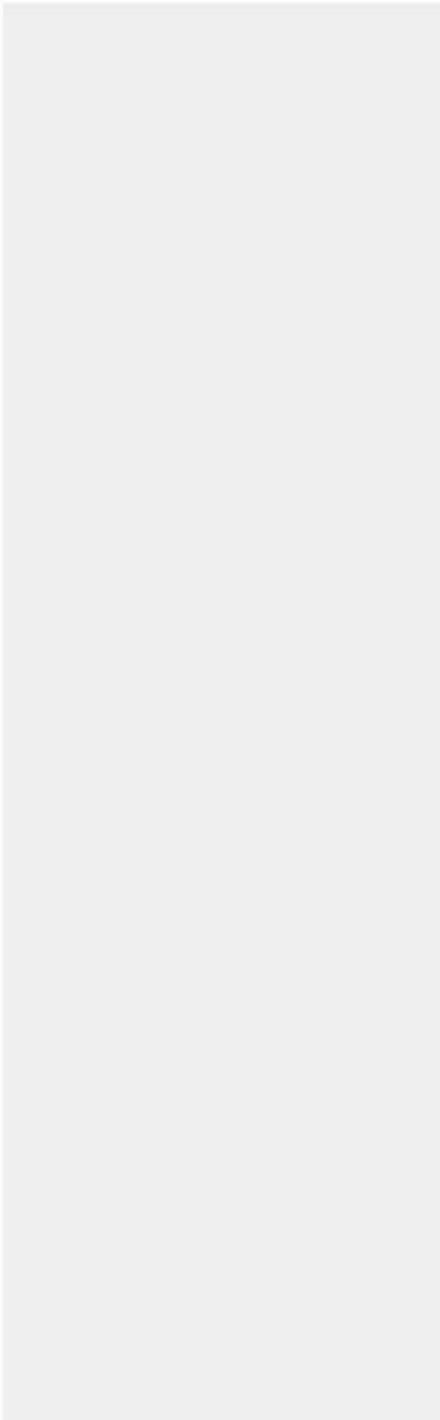
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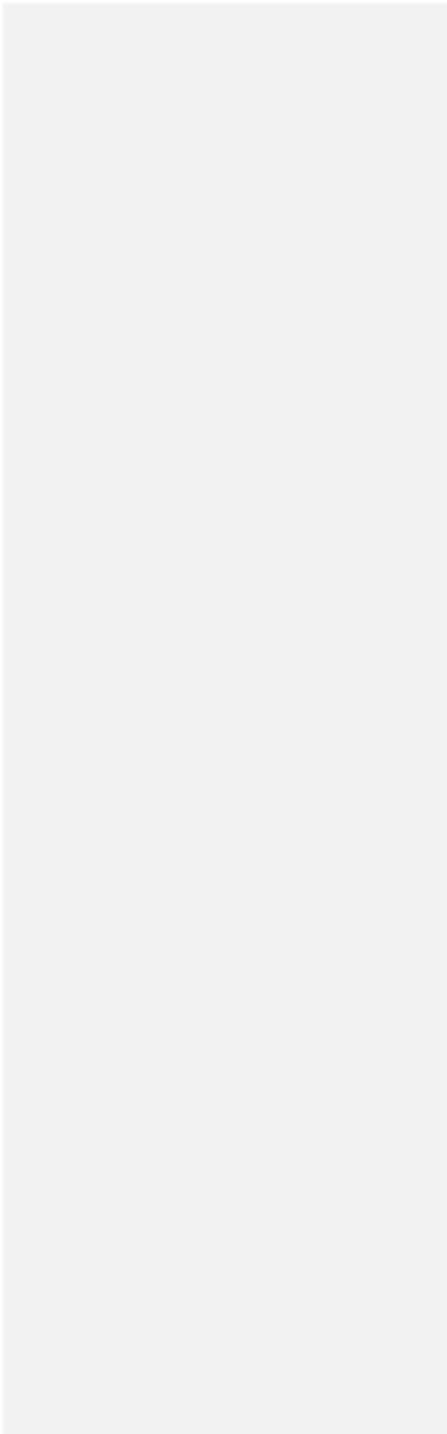
Schedule of Central City Land

Description of Assets (Assets)	
	<ul style="list-style-type: none">• RT CB449/106 (911m²) and RT 731614 (118m²) being 142-144 Tuam St)• RT 703793 (278m² being 210 Tuam St)• RTs CB638/66, CB638/65 & CB638/70 (764m² being 117-125 Manchester St)• Part RT CB11K/109 (300m² being 614 Colombo St)• RT 703794 (562m² being 214 Tuam St)

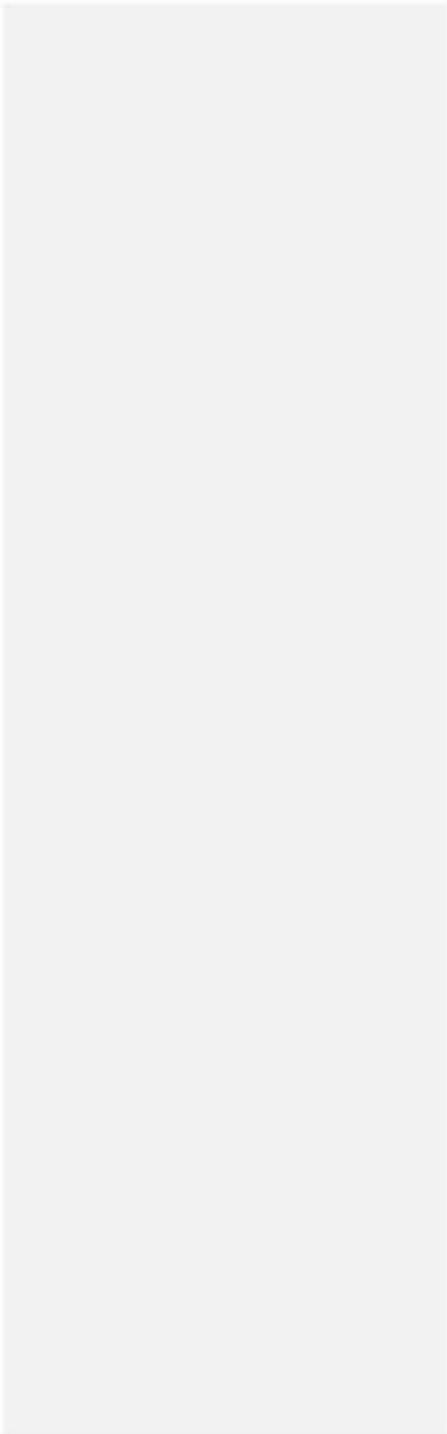
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Schedule 5
PAP Encumbrance

WORKING DRAFT

SCHEDULE 75

Form 18

Encumbrance instrument

(Section 100 Land Transfer Act 2017)

Land registration district	BARCODE
CANTERBURY	

Record of Title (unique identifier)	All/part	Area/description of part
[TBC]	ALL	

Encumbrancer *Surname(s) must be underlined.*

CHRISTCHURCH CITY COUNCIL (the "Council")

Encumbrancee *Surname(s) must be underlined.*

HER MAJESTY THE QUEEN (the "Crown")

Estate or interest to be encumbered *Insert, eg, fee simple, leasehold in lease number, etc.*

Fee Simple

Encumbrance memorandum number

N/A

Nature of security *State whether sum of money, annuity, or rentcharge, and amount.*

Annual Rent Charge of \$1.00 (inclusive of goods and services tax, if any)

Operative clause *Delete words in [], as appropriate.*

The Encumbrancer encumbers for the benefit of the Encumbrancee the land in the above record of title(s) with the above sum of money, annuity, or rent charge to be raised and paid in accordance with the terms set out in the [above-encumbrance-memorandum]-[Annexure Schedule(s)] and so as to incorporate in this encumbrance the terms and other provisions set out in the [above-encumbrance-memorandum]-[and]-[Annexure Schedule(s)] for the better securing to the Encumbrancee the payment(s) secured by this encumbrance, and compliance by the Encumbrancer with the terms of this encumbrance.

SCHEDULE 75

Terms

- 1 Length of term: **999 years commencing on the date of this encumbrance**
- 2 Payment date(s): **1st day of January in each year, if demanded**
- 3 Rate(s) of interest: **0%**
- 4 Event(s) in which the sum, annuity or rentcharge becomes payable: **If demanded by the Encumbrancee by the Payment Dates**
- 5 Event(s) in which the sum, annuity or rentcharge ceases to be payable: **In accordance with Annexure Schedule 1**

Covenants and conditions

Continue in Annexure Schedule(s), if required

In accordance with Annexure Schedule 1

Modification of statutory provisions

Continue in Annexure Schedule(s), if required

Sections 23, 289, 301 and 302 of the Property Law Act 2007 and all other provisions of that Act and the Land Transfer Act 2017 relating to encumbrances shall apply to this encumbrance, except that the [Council Crown](#) shall have no power of sale.

The [Council Crown](#) hereby consents pursuant to the Land Transfer Act 2017 to the registration of the following instruments in respect of the land subject to this encumbrance:

- (a) the creation, variation or surrender of an easement;
 - (b) the registration of -mortgage, variation of a mortgage instrument or priority of mortgages,
- and this consent shall be deemed to be the consent of the Crown to the registration of a particular instrument specified.

Insert instrument type

Encumbrance

Continue in additional Annexure Schedule, if required

ANNEXURE SCHEDULE 1

CIRCUMSTANCES

The land subject to this encumbrance (the "**Property**") is part of the land being regenerated as the Performing Arts Precinct under the Christchurch Central Recovery Plan.

The Property has been transferred to the Council subject to the requirement that the Council comply with the covenants set out in this encumbrance.

COVENANTS

1. **Transfer or Lease of the Property:** In circumstances where the Council transfers or grants a Lease of the Property (or any part thereof) for a purpose not associated with the Performing Arts Precinct, the Council covenants with the Crown:
 - (a) to seek to maximise net financial return received from such transfer or Lease transaction (where possible and appropriate);
 - (b) to advise the Crown of any such transfer or Lease; and
 - (c) to pay to the Crown (within 20 working days of demand being made by the Crown) 50% of the Net Proceeds of Divestment actually received by the Council on such transfer or Lease.
2. For the avoidance of doubt:
 - (a) the transfer or Lease of the Property (or any part of it) by the Council for the purposes of the Performing Arts Precinct (including a transfer or Lease related to the use or development of the Property or any part of it for car-parking) shall not be subject to the obligations in clause 1.
 - (b) The use or development of the Property (or any part of it) for car-parking shall be deemed to be a use for the purposes of the Performing Arts Precinct and shall not be subject to the obligations in clause 1.
3. **Partial discharge of this encumbrance:** Provided the Council has complied with its covenants in clause 1, on the transfer of part of the Property (the "**Relevant Part**") the Crown shall execute and provide a partial discharge of this encumbrance instrument to the Council in respect of the Relevant Part.
4. **Discharge of this encumbrance:** Upon application in writing by the Council, the Crown will execute

Insert instrument type

Encumbrance

Continue in additional Annexure Schedule, if required

and provide to the Council a discharge of this encumbrance where the Crown is satisfied (in its sole and absolute discretion) that the covenants of this encumbrance have become obsolete. For the avoidance of doubt, under no circumstances shall payment of the rent charge be sufficient to obtain a discharge of this encumbrance.

5. **Injunctive relief:** The Council acknowledges that the Crown shall be entitled to an injunction or other equitable relief for any threatened or actual breach of clause 1 as (without prejudice to any rights or remedies of the Crown) damages alone would not be an adequate remedy.
6. **Non-waiver:** No failure or delay by the Crown to enforce this encumbrance shall constitute a waiver or restrict any further enforcement. Nothing in this encumbrance shall compel the Crown to enforce or maintain this encumbrance.
7. **Costs:** The Council shall pay all the Crown's legal costs (on a solicitor/client basis) directly attributable to the enforcement of this encumbrance.
8. **Exercise of powers:** Nothing in this encumbrance shall be construed so as to remove or limit any rights, powers or remedies vested in the Crown by law, or to compel the Crown to exercise all or any rights, powers or remedies granted by this encumbrance.
9. **Disputes:** The Parties agree that any disputes about the meaning or application of this Encumbrance will be resolved through cooperation, but any dispute that cannot be resolved by staff from the Crown and the Council shall be:
 - (a) First escalated to the Chief Executive of the Council and the Deputy Chief Executive of the department responsible at that time for managing the obligations set out in this Encumbrance, whose joint decision shall be complied with; but
 - (b) If they cannot agree, the dispute will be escalated to the Mayor of the Council and the Minister responsible at that time for managing the obligations set out in this Encumbrance, who shall jointly direct how this Encumbrance is to be interpreted and applied.
10. **Definitions:** For the purposes of this encumbrance:
 - (a) **"Encumbrancee"** means the Crown and vice versa;
 - (b) **"Encumbrancer"** means the Council and vice versa;
 - (a)(c) **"Lease"** means a lease of land that is for a period of five (5) years or more (including any rights of renewal) and for which more than a nominal rental is received by the Council (as landlord); and

Insert instrument type

Encumbrance

Continue in additional Annexure Schedule, if required

- (b)(d) **"Net Proceeds of Divestment "** means the amount received from the transfer or Lease together with any holding income that may have been accrued to the Council less the following costs (if appropriate) incurred by the Council in respect of the land being transferred or leased, namely:
- professional fees and disbursements in respect of the transfer or Lease;
 - real estate commission and associated disbursements;
 - GST (if any) or any other applicable tax liability;
 - management costs;
 - maintenance costs;
 - holding costs (which for the avoidance of doubt shall include annual rates payable to any local authority); and
 - land remediation costs (excluding any amounts contributed by the Crown and/or Ōtākaro Limited to the Council for the same).

Executed on behalf of Christchurch City Council:

Her Worship Lianne Dalziel, Mayor of Christchurch City

Executed on behalf of the Her Majesty the Queen in Right of New Zealand acting by and through the Minister of Finance and the Minister for Greater Christchurch Regeneration:

Hon Grant Robertson, Minister of Finance

Hon Dr Megan Woods, Minister for Greater Christchurch
Regeneration

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