

Christchurch City Council's response to "Serious Complaints regarding Te Kaha stadium decision" document dated 20 September 2022 received from Mr Wiremu Thomson

Mr. Thomson's Statement	Comment
	Ground 1: Not a fair representation of matters
1.	The sections referred to are not relevant to the decision complained about. Section 83A (a) of the Local Government Act 2002 (LGA) only relates to a statement of proposal when a council is required to use or has chosen to follow a Special Consultative Procedure (SCP). Section 93 B (a) only relates to an SCP for a Long-Term Plan. The engagement undertaken by the Council was not an SCP.
2.	The Council was not required to undertake a SCP and did not undertake one.
3. to 6. & 8. to 11.	<p>These Statements are predicated on the complainant's view that Council had complete discretion as to how much of the \$300 million Global Settlement would go to the multi-use arena, should therefore be treated as CCC funding and consequently the financial analysis included in the Council papers and consultation should have been based on the whole project cost not just the impact on CCC/ratepayer funded portion. The following background rebuts the complaint based on the following background information:</p> <p>The source of the funding is the Crown's Canterbury Regeneration Acceleration Facility (CRAF) so by definition is a Crown contribution as distinct from Council/ratepayer funded expenditure. This treatment is consistent with all other cost sharing contributions received from the Crown for all rebuild projects and reflects consistent and correct accounting treatment.</p> <p>The published impact on ratepayers can only include costs that will be included on the rates invoices as a consequence of the Council decision. The information published is consistent with this.</p> <p>The amount of \$220 million allocated to the arena is consistent with the estimates of non-CCC funding in Schedule 5 of the original Crown Cost Sharing Agreement from June 2013.</p> <p>https://ccc.govt.nz/assets/Documents/The-Council/Plans-Strategies-Policies-Bylaws/Policies/Cost-Sharing/2013-Cost-Sharing-Agreement.pdf</p>

Schedule Five – Stadium

By 30th June 2016 the Crown will have completed a business case process to determine the most appropriate scope and delivery option. At this time it will advise whether:

- (a) the stadium will be built as per the CCRP with private sector funding and/or 50:50 Crown/CCC contribution for the balance. The CCC's contribution will be capped at \$253m.
- (b) the Crown will amend, if necessary, the CCRP to allow the CCC to build a 35,000 seat, rectangular, uncovered stadium on the site proposed under the CCRP. The Crown will contribute the land to the project with the CCC funding all other costs.

Should option (a) be chosen by the Crown the following is proposed to apply:

Project Cost:	Land =	\$36.106m
	Design and Construction =	\$470.000m
	Total Project cost =	\$506.106m
Project Funding:	Crown =	\$37.106m
	CCC =	\$253.000m
	To be determined =	\$216.000m

The funding allocated to the arena was further guided/committed to by section 11.b. of the Global Settlement Agreement – 23 September 2019. The allocation of the \$300m was confirmed by Council at its meeting on 8 August 2019.

<https://ccc.govt.nz/assets/Documents/The-Council/Plans-Strategies-Policies-Bylaws/Strategies/Global-Settlement/CCC-Release-Global-Settlement-Agreement-23-Septmeber-2019.pdf>

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.

It is interesting to note that the media links in footnotes 2 and 3 of the complaint document both clearly acknowledge the remaining issues in regard to rebuild commitments for the Ōtākaro Avon River Corridor and roading infrastructure rebuild deficits that required consideration when allocating the \$300 million. All three of these were subject to final investment cases that are also available on the Council website at <https://ccc.govt.nz/the-council/plans-strategies-policies-and-bylaws/strategies/christchurch-city-council-and-crown-earthquake-cost-sharing>

- 7.** The responses above support that the funds are specifically for the arena as initially intended in the original cost share agreement, the Central City Recovery Plan and with the commitment to deliver it reconfirmed in the Global Settlement Agreement. Furthermore, the Crown funding for the arena is being drawn down on a quarterly basis. Any alternative use of unspent funds would need to be renegotiated with the Crown. Council could not assume it had full discretion to reallocate these funds to other projects.

- 12. to 14.** These statements conclude the consultation material was deficient by not including the annual operating subsidy in the analysis. This is unfounded as the

material clearly stated there was no change anticipated as per the Q&A section snipped below. This confirms the financial impact is driven from the increased borrowing requirements.

How much will it cost to operate and maintain the arena?

There is an average of \$4.2 million a year of operating and capital expenditure support forecast to be required over the next 25 years. This will vary from year to year and will be further refined in detailed design as the asset management plan for the arena is developed.

The operating shortfall is associated with the asset management and maintenance of Te Kaha, along with the life cycle costs, and are in line with the Investment Case.

- 15.** It is not clear how one would double count the benefits as worded. The discussion on benefits is contained in the consultation material under the heading 'Pausing and re-evaluating the project' in the at <https://ccc.govt.nz/the-council/haveyoursay/show/514>. Per the extract below, the discussion clearly points to the benefits that might be lost if a smaller/cheaper option was pursued.

Would reducing the size of the stadium to 17,000 permanent seats plus 3,000 temporary seats impact the expected economic benefit to the region?

As per the (CMUA) Investment Case, Te Kaha is expected to deliver \$462.2m of economic benefit to the Canterbury region over 25 years. This includes (but is not limited to) \$10m of economic benefit per annum from three large scale concerts and \$3.6m from large sporting events including the All Blacks.

Venues Ōtautahi has advised that reducing permanent capacity to 17,000 (plus 3,000 temporary seats) and concert capacity to an estimated 27,000 would significantly compromise both the ability to attract large scale events including concerts and All Blacks matches. With revised assumptions reducing the number of large concerts to one per annum and no longer having the ability to attract All Blacks matches without a significant bidding incentive fee, the expected economic return to the region would reduce by around 45%.

Ground 2: Conflict of interest

- 16. to 18.** Decisions about conflicts of interest are a matter for individual councillors. The Mayor reminded the meeting at the beginning of the consideration about Te Kaha that it was a matter for each individual councillor to determine. I understand you are aware that the Auditor General has concluded the investigation into Councillor Gough and found he had no financial interest in the Council's decision. This means he did not breach the legislation. Consequently, the Council intends to take no further action.

Ground 3: Lack of a Benefit-Cost Ratio

- 19. to 27.** Ernst and Young were engaged by Venues Ōtautahi to validate their revised assumptions that underpinned the analysis on the financial model.
- There is more to the BCR than simply the impact of the increased capital cost.
- There are other elements of the landscape that will have changed since the time of doing the original investment case that may mean the BCR doesn't automatically become negatively affected to an equal scale.
- The extent of scope of this work would not have been able to be achieved in the time allowed for in this process.

Ground 4: Inconsistency of expert advice

**28. to
31.**

There is no inconsistency in the expert advice. Mr Bragg's comments in statements 29. & 30. related to potential scope gaps that might be discovered in the developed design. Mr Neven's comment in statement 31. related to any design delays, omissions or errors in the work included within BESIX Watpac's Design & Construct contract. They are two completely different things.

**32. &
33.**

Te Kaha Project Delivery Ltd (TKPDL) have met its obligations under the Letter of Expectation to recommend to Council the award of the design and construction contract to meet the key project deliverables. TKPDL also shared with the Council the external design review and external legal advice considered by the Board in making the recommendation to Council.

In providing its recommendations, TKPDL have undertaken its activities in accordance with all relevant regulatory and statutory requirements, policy and administrative requirements and in accordance with best practice governance and good industry practise. We do not believe meeting these requirements have biased our advice.

Mr Thomson appears to think the Letter of Expectations (LOE) imposes legal requirements, whereas it's an administrative tool.

Accountability settings in the LOE & Statement of Intent (SOI) require TKPDL to develop/construct an arena that meets its shareholder-endorsed strategic objectives and requirements that were set by the Council and Treasury/government ahead of TKPDL's establishment and which TKPDL has entrenched in its SOI.

Any material changes to the CCC/government approved arena (including financial) must as a priority address how it can be delivered, and it is up to the shareholders to determine a) whether the consequences are acceptable, and b) whether they have sufficient advice about the consequences of other viable options.

Section 58 of the Local Government Act states that the role of a director of a CCO is to assist the organisation to meet its objectives and any other requirements in its SOI. Furthermore, section 59 states that the principal objective of a CCO is to achieve the objectives of shareholders, both commercial and non-commercial as specified in the SOI.

The Companies Act 1993 (section 131) requires directors to act in the best interests of the company, which among other things is to deliver against its strategic objectives. The directors of TKPDL have no interest in delivering an arena that does not meet the strategic objectives, since to do so would be detrimental to the directors' reputations, among other things.

34.

Noted.

35.

The outgoing project director's report related to how the project was being governed in July 2021. The following statement from the Chair of TKPDL on the outgoing project director's report was made public:
"My first job when I was appointed as Chair of the Board in August 2021, was to conduct a thorough review of the project structure and governance arrangements. I undertook this review because the Council was seeking reassurance that the Board and the team it had appointed could successfully deliver the multi-use arena. At that point, the Council was still waiting on a Statement of Intent from the

company, which it required under the Local Government Act. My review identified a number of issues, which I and the other new Board members addressed by putting in place new processes and systems including:

- A new change management process
- Cost planning meetings
- A review of the risk register and development of a combined contractor/client risk management process
- A decision register
- Stakeholder engagement process
- An assurance process and the appointment of a Board Assurance advisor.

The new Board also completed the outstanding Statement of Intent for the Council. At the same time, the Council commissioned its own independent review of the project governance, including the processes used by the Board to report to the Council.

Following these parallel reviews, CMUA Project Delivery Limited – now known as Te Kaha Project Delivery Limited, the Council reconfirmed the company as the independent project governance entity for the multi-use arena.

With the Board’s agreement, the company’s constitution was amended and new delegations and authorities were put in place to ensure there was no confusion about roles and responsibilities moving forward.

I dispute many of the claims made by the former project director for CMUA Project Delivery Limited. Any valid issues have been addressed. I am confident we have the right governance structure, the right processes, and the right team in place to deliver this project...”

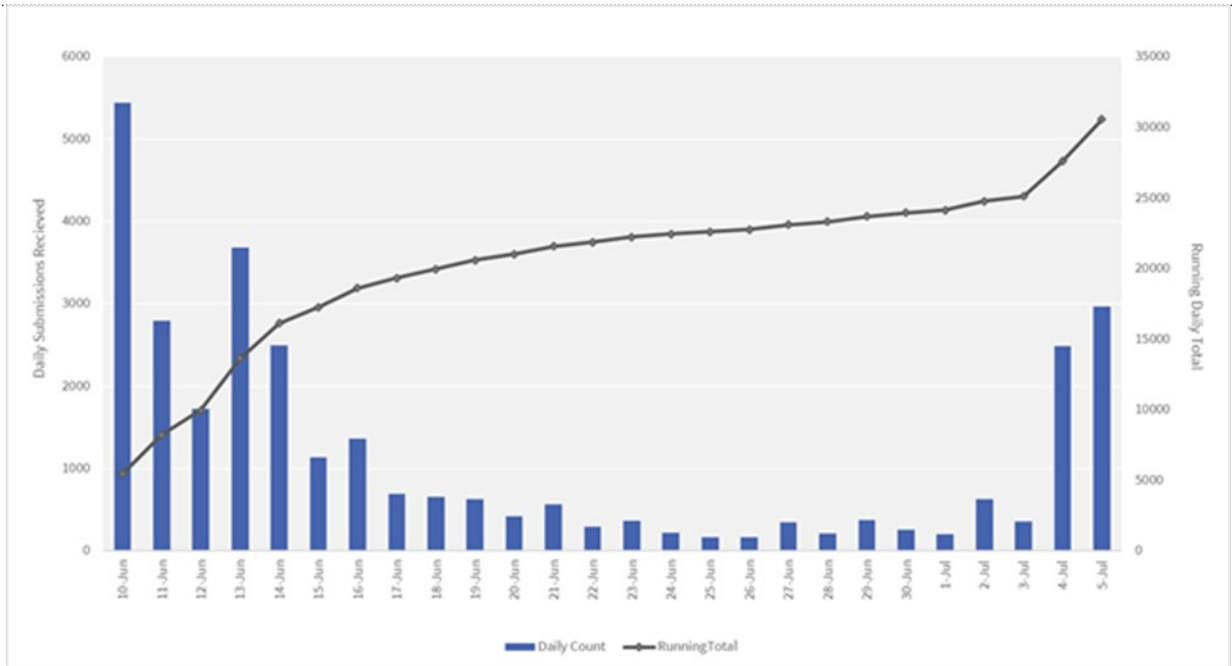
- 36.** As per the Funding Agreement, TKPDL has made available to Treasury all of the reports and recommendations presented to Council. Also, as per the Funding Agreement, Treasury confirmed the appointment of the independent risk assurance expert to undertake a stage-gate review of the project governance and processes. We believe this has ensured there has been no bias in the advice provided by TKPDL.

Ground 6: Inadequate time to consider submissions

- 37. to 43.** Consultation closed at 11:59pm on Tuesday 5 July.

Following consultation closing there was a significant amount of final cleaning and analysis that was required to get the submissions ready for elected members. This included removing any duplicate submissions to ensure that the final information and figures were fair and accurate, completing the theming of the comments, and undertaking final checks and balances to make sure elected members were being provided with accurate information that they could rely upon. Suburb information provided by submitters needed to be cleaned, enabling us to provide a summary of what submitters were saying from a citywide perspective alongside ward breakdowns to highlight any geographic differences.

You can see in the graph below that we received more than 5,000 submissions in the final two days of consultation. While we were processing and cleaning throughout the submission period, there were still a significant number of last minute submissions that needed to be worked through. Staff worked through the weekend and into the week of the decision to complete the cleaning, theming, analysis and checking of the submissions and submissions analysis.



A total of 501 submissions were removed through the cleaning process (where a submitter had made more than one submission) and 87 submissions were removed because they were invalid.

The turn-around between the close of consultation and the decision making meeting was tight due to the requirements of the Te Kaha project. All effort was made to provide councillors with the submission information as soon as it was available, but we were also conscious that the information needed to be accurate and reliable.

Once cleaned and check, the content was provided to the councillors in a way where they could filter submissions based on a submitters position on investing the additional money into the project.

The aim of the thematic analysis was to synthesise the viewpoints of the 30,575 submissions that we received. It was not to cover every point made by submitters, but to identify common themes and narratives. Where there were common ideas or comments within themes, examples were given.

The primary principle is that the views expressed in consultation should be given due consideration (section 82 (1) (e) LGA). This principal was not breached. Against the backdrop of the over-heated construction market and the specific recent history of price-escalation, there was clear justification for the urgency and the process undertaken for the consultation. This reality is recognised within the LGA (including at sections 82 (3) and 79). The elected members in the circumstances were able to give due consideration to the views and preferences presented.

Aside from my complaint

44. Comment noted.

Relief Sought

45. & 46. Taking into account the above comments, the Council does not believe that there is a need to revisit the consultation on Te Kaha, or the decision to appoint BESIX

	Watpac as the Design & Construct Contractor for the Te Kaha project. We do not believe that there is justification for the reliefs sought by Mr Thomson.
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