

## EMBARGOED UNTIL 4pm WEDNESDAY 27 JANUARY 2016

### Agenda

Date        **Wednesday 27 January 2016**  
Time        4.00pm  
Venue       Council Chamber, Matariki

Refer to  
Page No.

1. APOLOGIES: Malcolm Peterson Scott
2. CONFLICTS OF INTEREST  
*Every Member has an obligation to declare any material interests relevant to any University of Canterbury activities and to ensure that any conflict arising from the material interests is noted and managed appropriately*
3. MINUTES (25 November 2015) 1-7
4. MATTERS ARISING  

**PART ONE: REPORTS**
5. FROM THE CHANCELLOR
  - 5.1 Chancellor's Meetings 9
  - 5.2 2016 Council Work Plan 11-12
  - 5.3 Governance Workshops
  - 5.4 Arts Centre Trust Board 13-14
  - 5.5 Memorandum of Understanding, University of Canterbury Foundation 15-20
6. FROM THE VICE-CHANCELLOR
  - 6.1 Monthly Report
  - 6.2 Confirmation of 2016 Investment Plan funding 21-24
  - 6.3 Draft Education Legislation Bill Submission 25-33
7. FROM THE FINANCE PLANNING AND RESOURCES COMMITTEE 35
  - 7.1 Statement of Investment Policy Objectives Amendment 37
  - 7.2 CCC Proposed Replacement District Plan Hearings
    - 7.2.1 CCC Replacement District Plan Process 39-41
    - 7.2.2 District Plan Chapter 9 – Heritage 43-45

8. **PUBLIC EXCLUDED MEETING**

Motion by the Chancellor for Resolution to Exclude the Public Pursuant to s48 of the Local Government Official Information and Meetings Act 1987:

**I move that the public be excluded from the following parts of the proceedings of this meeting, namely:**

<b>Item on Public Excluded Agenda</b>	<b>General Subject Matter</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Grounds under section 48(1) for the passing of this resolution</b>
6	From the Chancellor	To enable the free and frank expression of opinions by or between or to members or officers or employees of the University.	7(f)(i)
7	From the Vice-Chancellor	To enable the University to carry out, without prejudice or disadvantage, commercial activities.	7(h)
8. 8.1 8.1.1 8.1.2 8.1.3 8.2 8.3	From the Finance, Planning and Resources Committee UC Futures - UC Futures Summary - Exercise of delegated authority (NEB) - Exercise of delegated authority (RSIC) Quake CoRE Contract ICT Grad School Update	To enable the University to carry out, without prejudice or disadvantage, commercial activities. To enable the University to carry out, without prejudice or disadvantage, commercial activities. To enable the University to carry out, without prejudice or disadvantage, commercial activities. To enable the University to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). To enable the University to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).	7(h) 7(h) 7(h) 7(i) 7(i)
9 9.1 9.1.1 9.1.2 9.2 9.3 9.4 9.5	Other Business Governance Oversight Group - Terms of Reference for EFTS Review - GOG agenda High Country Leases Student Management System Update Recreation Centre Fees Airport Noise Contour Issues	To enable the free and frank expression of opinions by or between or to members or officers or employees of the University. To enable the free and frank expression of opinions by or between or to members or officers or employees of the University. To protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment. To enable the free and frank expression of opinions by or between or to members or officers or employees of the University. To enable the University to carry out, without prejudice or disadvantage, commercial activities. To enable the University to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). To enable the free and frank expression of opinions by or between or to members or officers or employees of the University. To enable the free and frank expression of opinions by or between or to members or officers or employees of the University.	7(f)(i) 7(f)(i) 7(c) 7(f)(i) 7(h) 7(i) 7(f)(i) 7(f)(i)

**I also move that the Deputy Registrar, UC Directors and the University Council Co-ordinator be permitted to remain at this meeting because of their knowledge of the various matters being discussed. This knowledge will be of assistance in relation to the matters discussed, and is relevant because of their involvement in the development of the reports to Council on these matters.**

10. REPORT FROM THE PUBLIC EXCLUDED SESSION
11. GENERAL BUSINESS
12. NEXT MEETING –Wednesday 24 February 2016



# COUNCIL

## Minutes

Date	<b>Wednesday 25 November 2015</b>
Time	3.00 pm
Venue	Council Chamber, Level 6 Matariki
Present	Dr John Wood (Chancellor), Ms Sue McCormack (Pro-Chancellor), Dr Rod Carr (Vice-Chancellor), Mr James Addington, Mr Peter Ballantyne, Ms Catherine Drayton, Mr Bruce Gemmell, Professor Roger Nokes, Mr Warren Poh, Mr Malcolm Peterson Scott.
Apologies	Mr Tony Hall.
In Attendance	Mr Jeff Field, Registrar and AVC Dr Hamish Cochrane, Deputy Vice-Chancellor (Academic) Dr Andrew Bainbridge-Smith, Head of Academic Services Mr Adrian Hayes, Financial Controller Ms Alex Hanlon, Director, Learning Resources Mr Keith Longden, Chief Financial Officer Ms Sarah Platt, UCSA President Dr Ewan Mason, UC Staff Ms Raewyn Crowther, University Council Co-ordinator

**MEETING OPENING** The Chancellor reminded Council members of their responsibility to make decisions for the good of the University as a whole, and not to hold a fixed view on the basis of any constituency group. He emphasised the need for members to bring an open mind and listen to all points of view before deciding on matters up for discussion, rather than declaring a position prior to that discussion taking place in Council.

**CONFLICTS OF INTEREST** The following conflicts of interest in terms of matters on the public agenda were disclosed:

- James Addington – UCSA, 2016 President-elect
- Malcolm Scott – Staff member
- Roger Nokes – Staff member, Parking Permit holder, holds a private office
- Rod Carr and John Wood noted they hold free car parks.

**MINUTES**

The minutes of the meeting held on 28 October 2015 were approved.

**MATTERS ARISING****Public Excluded**

The agenda for the meeting now listed specific reasons under the Local Government Official Information and Meetings Act, as to why the public should be excluded from each individual item.

**FROM THE  
CHANCELLOR**

The Chancellor noted that the date on hold for an extra Council meeting (9 December) would not be required, but there was a possibility that if FPRC met on 14 December a Council meeting could follow that. Members were therefore asked to hold 14 December in their diaries. The Chair of FPRC (Ms Drayton) would make a determination on the need for an FPRC meeting.

**Chancellor's Meetings**

The schedule of meetings was noted.

**Council Workshops 2016**

The proposed workshop schedule for 2016 had been expanded to include a schedule of PVC presentations to Council. It was suggested that a workshop following the outcome of the recruitment round would be valuable and that the Chairman of the Productivity Commission be invited to discuss how the University would participate in the enquiry into Tertiary Education. A date would be confirmed with TEC for a visit from the CE and Chair and further suggestions for workshops were invited.

**Governance Working Group (GWG) Report**

This item was taken out of order to accommodate the availability of Dr Robin Mann and Professor John Burrows, who were welcomed to the meeting. The Terms of Reference for an Honours and Appointments Committee was considered.

Moved

***THAT: Council adopt the Terms of Reference for the Honours and Appointments Committee.***

Carried

**Chancellor and Pro-Chancellor elections**

Nominations for the positions of Chancellor and Pro-Chancellor, for two-year terms of office, closed on 11 November. Mr Field, Returning Officer, reported that as only one nomination had been received for each of the positions, Dr John Wood and Sue McCormack were duly declared elected to the positions of Chancellor and Pro-Chancellor respectively, with a term of office to 31 December 2017. The announcement was greeted with acclamation.

Professor Burrows and Dr Mann left the meeting.

### **University of Canterbury Club delegation**

Dr Stuart Lansley, Dr Chris Fitchett and Professor Ursula Cheer joined the meeting as a delegation from the University of Canterbury Club. While this was not a matter for Council decision Council appreciated being kept informed of progress with the Club and invited further feedback on how the Licence to Occupy met the needs of the Club.

### **Governance Training**

The Chancellor advised that Jane Huria would be providing a Governance Training session for Council on 15 February at 10am. TEC would also be conducting an induction session towards the end of February.

### **FROM THE VICE- CHANCELLOR**

#### **Monthly Report**

Dr Carr took his report as read and provided a number of updates to the report:

- Professor David Schiel had been awarded the Science Communicator Medal by the New Zealand Association of Scientists. Council would send a letter of congratulation.
- Applications for enrolment were 18% ahead of the same time last year
- UC was 2.4% short of its 2015 EFTS target in the Funding Agreement.
- The staff Collective Agreement had been settled.
- The ICT Graduate School contract would come to Council for approval.
- There would be expenditure on professional fees for RSIC Stage 2 development work
- Christchurch City Council (CCC) had consented to the conversion of St Nicholas Hospital for student accommodation.
- He and the Registrar had met with the Chief Archivist who conceded that they had used an inappropriate audit process. All points raised by UC were agreed and corrections would be co-bound to the report.
- NEB plans were now in lock down in preparation for the tender process, which in turn would inform the final Business Case.

In questioning further points were raised:

- UC's Marsden Fund result was slightly disappointing
- UC's forecasting accuracy was noted
- Ms Platt (UCSA President) noted that the demolition of the UCSA building would not conclude until April 2016.

Moved

**That: The Vice Chancellor's Report be noted.**

Carried

**FROM THE FINANCE,  
PLANNING AND  
RESOURCES  
COMMITTEE**

The Chair of the Finance, Planning and Resources Committee, Ms Drayton, drew the Council's attention to the draft minutes of the FPRC meeting of 16 November, which had been circulated.

**Parking Fees**

The recommendation from FPRC had been modified following discussion at that meeting. Part 6 of the draft recommendation was further amended from 2017 to 2016.

Council members were invited to contribute to the discussion and in the process it was noted:

- Concern at the possible impact of parking fees on student recruitment was not borne out in data
- Neighbours' concern at the pressure on on-street parking
- The need to minimise losses on the long-term asset (the parking lots)
- The need to keep apace with fee increases
- The money spent on the parking subsidy could be better spent in teaching and learning improvements
- The application of the subsidy was uneven across the student population.

Moved

**That: Council approve:**

- i) the development of a long term parking strategy as part of an Integrated Campus Transport Plan, to address forecast requirements from 2017 to 2027*
- ii) an increase in annual parking permits of 15% in 2016*
- iii) an increase of 50c per day in Day Parking vouchers in 2016*
- iv) an increase of 50c per hour in Pay and Display rates in 2016*
- v) provision of a limited number (150) of annual permits for contractors to park in contractor only car parks, at a cost of staff rate plus 15% in 2016*
- vi) to retain free summer parking to 1 February 2016.*

Carried

**Naming Rights Policy**

It was noted that in the application of this policy Council would be involved at an early stage in any major naming proposals.

Moved

**That: Council approve the Naming Rights Policy.**

Carried

**UC/UCSA Memorandum of Understanding**

The documents presented provided structure around the relationship between UC and UCSA. Two changes to the documents had been made following the discussion at FPRC. It was noted that a Memorandum of Understanding was non-binding whereas a Memorandum of Agreement bound both parties. The



Chancellor asked that papers provided to Council include clear definitions and direction for Council.

Moved

***That: Council note the UC/UCSA Memorandum of Understanding.***

Carried

### **CAPEX Quarterly Report to September 2015**

The report was taken as read and there were no questions.

Moved

***That: Council note the CAPEX Quarterly Report to September 2015.***

Carried

### **FROM THE ACADEMIC BOARD**

Dr Hamish Cochrane presented the report on behalf of the Chair, Professor Steve Weaver. In elaborating on the report Dr Cochrane noted:

- 9 recommendations had come out of the PhD review.
- The Academic Administration Committee had engaged in the Quality Assurance process.
- A new committee had been set up to consider Space Allocation requirements that included members of the Research and Teaching and Learning Committees.
- The plans for the relocated College of Education, Health and Human Development and the inclusion of Business and Law in the building were discussed fully by the Board and a number of resolutions passed.
- Further discussion on the merger of Faculties and Colleges would be held in February/March and would come to Council for decision.

In the discussion that followed it was noted that:

- Individual space allocation issues were management matters.
- Legal advice and advice from the Academic Board suggested that there was an academic impact from space allocation decisions, which would be a matter for Council consideration.
- Council was reminded that while it was legally bound to consider advice from the Academic Board it was not bound to accept that advice.
- Decisions made had reflected the current practice and were compliant with the space allocation policy.
- The need to do things differently to use space most efficiently was noted.

It was agreed that Council would receive further advice from the Academic Board on academic matters involved. The Vice-Chancellor noted that the plans for the NEB were frozen and that any further delay would have considerable impact on cost and the

ability to meet targets, which would have a flow on effect on other areas of the university.

Moved

***That: the Council note the Academic Board Report.***

Carried

**PUBLIC EXCLUDED  
MEETING**

Moved

***That: the public be excluded from the following parts of the proceedings of this meeting, namely:***

<b>Item on Public Excluded Agenda</b>	<b>General Subject Matter</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Grounds under section 48(1) for the passing of this resolution</b>
6 6.1	From the Chancellor - Regional Science and Innovation Centre	To enable the free and frank expression of opinions by or between or to members or officers or employees of the University. To enable the University to carry out, without prejudice or disadvantage, commercial activities. To enable the University to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).	7(f)(i) 7(h) 7(i)
6.2	- Arts Centre Trust Board	To protect the privacy of natural persons.	7(2)(a)
7 7.1	From the Vice-Chancellor - Risk Report	To enable the University to carry out, without prejudice or disadvantage, commercial activities. To enable the free and frank expression of opinions by or between or to members or officers or employees of the University.	7(h) 7(f)(i)
7.2	- Cycleway Easement	To avoid prejudice to measures protecting the health or safety of members of the public. To enable the University to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).	7(d) 7(i)
8. 8.1 8.1.1 8.1.2 8.1.3 8.2 8.3 8.4 8.5 8.6	From the Finance, Planning and Resources Committee - UC Futures - UC Futures Summary - Country Plans IQA - New Education Building Update - 2016 Budget and Capital Projects - 10 Year Model - Financial Forecast Report to October 2015 - Strategic Risk Register - High Country Leases	To enable the University to carry out, without prejudice or disadvantage, commercial activities. To enable the University to carry out, without prejudice or disadvantage, commercial activities. To enable the University to carry out, without prejudice or disadvantage, commercial activities. To enable the University to carry out, without prejudice or disadvantage, commercial activities. To enable the University to carry out, without prejudice or disadvantage, commercial activities. To enable the University to carry out, without prejudice or disadvantage, commercial activities. To enable the free and frank expression of opinions by or between or to members or officers or employees of the University. To protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment.	7(h) 7(h) 7(h) 7(h) 7(h) 7(h) 7(h) 7(h) 7(f)(i) 7(c)

***and that UC Directors, the UCSA President and the University Council Co-ordinator be permitted to remain at this meeting because of their knowledge of the various matters being discussed. This knowledge would be of assistance in relation to the matters discussed, and was***

*relevant because of their involvement in the development of the reports to Council on these matters.*

Carried

**RETURN TO PUBLIC MEETING**

Members returned to public meeting at 5.40pm and confirmed discussion of items 9.1 – 9.8.6.

**2016 Budget**

The resolution of Council passed in the Public Excluded section of the meeting was affirmed:

*Moved*

**That: Council approve the budget for 2016.**

Carried

**GENERAL BUSINESS**

The President of UCSA, Ms Sarah Platt, invited Council members to attend a UCSA Building Demolition Ceremony on 10 December at 10am.

The meeting closed at 5.42pm.

**NEXT MEETING**

It was agreed that there would be no meeting of Council on 9 December but members were asked to hold 14 December for a possible meeting if the FPRC meeting went ahead on that day. The first scheduled meeting in 2016 is at 4.00pm on Wednesday 27 January 2016.

SIGNED AS A CORRECT RECORD:

\_\_\_\_\_

DATE:

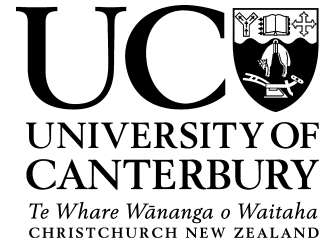
\_\_\_\_\_



# Memorandum

## Vice-Chancellor's Office

Email: [chancellor@canterbury.ac.nz](mailto:chancellor@canterbury.ac.nz)



<b>To:</b>	Council Members
<b>From:</b>	Dr John Wood, Chancellor
<b>Date:</b>	20 January 2016
<b>Subject:</b>	<b>CHANCELLOR'S MEETINGS</b>

I outline for you the key events I have attended on behalf of UC since the last Council meeting:

- Attended Lincoln University's Telford Graduation ceremony
- Attended Mihi Whakatau for Dr Charlotte Severne, Lincoln University
- Opened the Mana of the Magna Carta Exhibition
- Attended New Zealand History Association Conference
- Briefing for Rotorua Graduation ceremony
- Addressed History Department Awards Ceremony
- Lincoln University Council (final meeting)
- Officiated at the Rotorua Graduation
- UCSA complex farewell function
- Lincoln University – first meeting of new Council, 14 December 2015
- Meeting of the Finance, Planning and resources Committee
- Briefing for the Christchurch Graduation ceremonies
- Officiated at three Graduation ceremonies
- Addressed the rededication of the Memorial Window, Arts Centre and with the registrar, laid a wreath.
- Attended the Pasifika Graduation ceremony
- Graduation Dinner
- Lincoln University Council meeting, January 15
- Executive Committee meeting with the Vice-Chancellor
- Lincoln University Council 26 January
- Lunch with Austin Mitchell, Canterbury Visiting Fellow and former UK MP.

A handwritten signature in black ink that reads 'L.J. Wood'. The signature is written in a cursive, flowing style.

Dr John Wood  
**Chancellor**



# Memorandum

Vice-Chancellor's Office

Email: [jeff.field@canterbury.ac.nz](mailto:jeff.field@canterbury.ac.nz)



<b>To:</b>	Council Members
<b>From:</b>	Jeff Field, University Registrar, AVC
<b>Date:</b>	
<b>Subject:</b>	<b>2016 COUNCIL WORKSHOP and PVC/DIRECTOR REPORTING SCHEDULE</b>

Workshops are conducted at 3.00pm prior to the monthly Council meetings at 4.00pm unless otherwise advised.

When workshops are scheduled for 5.00pm or later, the Council meeting will commence at 3.00pm on that day.

Reports from the PVCs and Directors are included on the Council agendas in 2016.

The proposed workshop and PVC/Director reporting schedule for 2016 is:

<b>Date</b>	<b>Workshop start time</b>	<b>Workshop</b>	<b>PVC/Director Reporting (in Council meeting)</b>
27 January	-	No Workshop	None
24 February	3.00pm	Graduate Attributes	Business and Law
30 March	3.00pm	2016 Enrolments and Consequences	Science
27 April	3.00pm	10 Year Financial Model	Engineering
25 May	3.00pm	Capital Priorities from 10 Year Plan	Education
29 June			Arts
27 July			Service Unit - Learning and Teaching
31 August	3.00pm	CMP – Landscaping Strategy	Service Unit – Student Services
28 September	3.00pm	Integrated Transport Management Strategy and	Service Unit – Learning Resources
26 October	3.00pm	2017 Budget	Service Unit – Human Resources
30 November	5.30pm	Emeritus Professors' function	
12 December (if needed)	-	No Workshop	None

Guests to be invited at 5.45pm for the last part of the meeting and to socialise with Council afterwards:

- Chairman Productivity Commission
- TEC Chairman and Chief Executive (date to be secured)
- Lincoln University Council
- Arts Centre Trust Board

To be done outside the usual meeting structure:

- Health and Safety – Warren Poh to arrange site visits



*Jeff Fry*

The Arts Centre  
of CHRISTCHURCH



Registry Additions, 301 Montreal Street, Christchurch 8013  
PO Box 845, Christchurch 8140, New Zealand  
t +64 3 364 9720 • e info@artscentre.org.nz • w www.artscentre.org.nz

University of Canterbury  
Private Bag 4800  
Christchurch 8140

For the attention of Dr Rod Carr, Vice Chancellor

18 December 2015

Dear Dr Carr

**The Arts Centre of Christchurch  
Appointment of Arts Centre Trustees**

In August of this year we invited your organisation to nominate a candidate for consideration by the Arts Centre Trust Board appointments committee.

The Trust Board, as a result of this process, has appointed the following people to the Trust Board and their terms will take effect from January 2016: Erin Jackson, Felicity Price, Grant Dean, Jen Crawford, Mark Todd, Michael Rondel, Olivia Egerton and Puamiria Parata-Goodall. Trustee biographies can be found on our website. Jen Crawford will remain as Chair until the Trust Board's 2016 Annual General Meeting.

We thank you for your organisation's participation in the process and look forward to continuing to work together in the future

Yours sincerely

André Lovatt  
Chief Executive



### Jen Crawford

A resource management law specialist and a Partner at Anderson Lloyd Lawyers, Jen Crawford was appointed to the Trust Board in May 2010 and holds the position of Board Chair.

She has 20 years experience in project consenting and also holds a First Class Honours Bachelor of Arts (History). Jen is a Chartered Member of the Institute of Directors, a member of Heritage New Zealand Pouhere Taonga and the Resource Management Law Association, as well as being a past trustee of the University of Canterbury Foundation.

She regards the Arts Centre as an absolute treasure that deserves to be respected and cared for. Her hope is that, in years to come, people will feel that a revitalised Arts Centre has anchored them back to Christchurch.



### Grant Dean

An accomplished Executive Producer and Digital Production Director, Grant Dean has more than 20 years of international expertise in television and the development and publication of successful mobile, online and game console content.

Although he spent more than two decades in London, Grant regards Christchurch as home. His time in the UK included working for companies such as the BBC, The Walt Disney Company and Atari, developing some of the world's best-loved shows, such as Top Gear, Doctor Who and Disney Channel, into digital entertainment that engages global audiences.

In addition to his career, Grant is a long-time member and former Trustee of BAFTA (British Academy of Film & Television Arts).



### Felicity Price

Strategic communications advisor Felicity Price is a board member of the Creative New Zealand Arts Council and former Chair of the Court Theatre, the Christchurch Symphony Orchestra and the Christchurch Writers' Festival.

With her husband Chris Rennie, Felicity managed communications consultancy Price Rennie PR for many years, and was a director of the Canterbury Employers' Chamber of Commerce.

In 2000, she received the Officer of the New Zealand Order of Merit (ONZM) for services to the arts and business. She is a Fellow of the Institute of Directors and of the Public Relations Institute of New Zealand.

In her spare time, Felicity has authored eight novels and three works of non-fiction, including the biography of John Britten, inventor of the world-record-setting Britten motorcycle.



### Mark Todd

With a career in senior leadership roles in both the private and public sectors, Mark Todd spent many years working for outdoor clothing and equipment brand Kathmandu. As well as his executive roles as Chief Operating Officer and Chief Financial Officer, Mark was a Director of Kathmandu Holdings Ltd following the listing of the company on the ASX and NZX in 2009.

Mark now works as an independent consultant and Director, and is an Independent Director of Citycare Limited. He is a Chartered Accountant and a Chartered Member of the Institute of Directors.



### Olivia Egerton

Manager of Te Hono Movement, Christchurch-based Olivia Egerton has a background in professionally managing and delivering projects, partnerships and events.

Her previous roles include being Communications Manager for The New Zealand Merino Company and five years with Remarkables Park. Olivia has also been involved in several community development projects - Shaping our Future, Wakatipu Heritage Trust and the Queenstown Festival of Colour.

Olivia holds a Master of Cultural Heritage from Deakin University, Melbourne, and a Bachelor of Fine Arts from the University of Auckland.



### Puamiria Parata-Goodall

Puamiria Parata-Goodall has a blend of talents including event management, cultural expertise, museum know-how and a passion for Māori performing arts. She works with organisations to develop and deliver outstanding projects and events and is excited to be sharing this experience with the Arts Centre.

Puamiria describes the Arts Centre rebuild and redevelopment as an amazing opportunity to reinvigorate Christchurch's taonga and breathe life back into its cultural heart.

As the Director of Te Pākura Ltd, Puamiria managed Christchurch's 2015 Te Matatini kapa haka competition, plus the Māori component of the Cricket World Cup.

In addition she has been closely involved in the establishment of Te Pā o Rākahautū, a new special character school in Christchurch. A self-confessed kapa haka freak, Puamiria performs, tutors and leads several kapa haka teams and initiatives.



### Michael Rondel

A born and bred Cantabrian, Michael Rondel has been an Arts Centre Trustee since 2011. He is committed to Christchurch's rebuild and the preservation of its cultural heritage such as the Arts Centre which he sees as the most significant collection of heritage buildings in New Zealand.

Michael is a Chartered Accountant who has spent more than 20 years providing professional services to medium- to large-sized corporate entities in both New Zealand and overseas. His career has included a number of statutory appointment roles at schools on behalf of the Ministry of Education.

In addition, Michael works with a large number of not-for-profit and public sector organisations, including Christchurch City Council, Harewood Golf Club, the International Track & Field Trust and Chartered Accountants Australia and New Zealand.



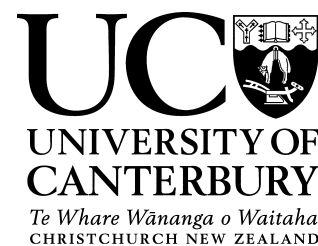
### Erin Victoria Jackson

Erin Victoria Jackson is firmly dedicated to "the new Christchurch," having made a conscious decision following the earthquakes to remain in the city and contribute to its exciting future.

A UC graduate (LLB/BA), Erin was President of the University of Canterbury Students' Association for two years and now holds five board positions and is a member of the Institute of Directors and Rotary Christchurch. She also runs her own campaign management agency, Narrative.

Erin sits on a number of charitable and not-for-profit trusts, including the Committee for Canterbury, the Student Volunteer Army Foundation and the Winston Churchill Memorial Trust Board. She has also founded the Connection Collective - a grassroots initiative aimed at supporting career options for Canterbury high school students.

# Memo



To:	UC Council
From:	Lynn McClelland Director, Student Services and Communications
Date:	19 January 2016
Subject:	MOU between UC and UC Foundation
Purpose:	For approval to sign

The UC Foundation is the charitable trust established by UC to help support and resource the University. The Chancellor, Vice-Chancellor and Warren Poh are members of the Foundation Board.

An MOU has been established to define the relative responsibilities of UC and the Foundation, the most recent version having been agreed in August 2013.

An updated version of the MOU is attached, the main changes being a clearer structure, better phrasing and the addition of clauses 22-24. This has been agreed by the UC Foundation Board. It is now presented to Council for information prior to signing.

**Recommendation:** That UC Council approves for signing the revised MOU with the UC Foundation.

**Lynn McClelland**  
**Director, Student Services and Communications**

# **Memorandum of Understanding**

Between

**University of Canterbury Foundation**

and

**University of Canterbury**

Effective from

2016

## **Purpose and Objectives of the Memorandum**

1. The purpose of this Memorandum of Understanding ("MOU") is to formalise and provide guidance on the relationship between the University of Canterbury Foundation ("UCF") and the University of Canterbury ("the University").
2. The objectives of this MOU between UCF and the University are
  - 2.1. to provide a framework for any current and future developments,
  - 2.2. to aid in the development of closer ties between the two parties while ensuring the independence of UCF,
  - 2.3. to define the relationship between UCF and the University, and
  - 2.4. to provide for clear communication between the two organisations.

## **Nature and Purpose of the Foundation**

3. UCF is a charitable trust established to help support and resource the University. Its mission is: *"To support the University in its quest for excellence and international reputation in education and research by creating mutually beneficial partnerships and opportunities for giving"*.
4. Governed by a Board of Trustees ("UCF Trustees"), all of whom are alumni of the University and volunteers, UCF is a separate entity and operates independently from the University.

## **Communication and Planning Processes**

5. For policy and strategic planning, UCF will liaise with the University's Vice-Chancellor or his nominee.
6. Representatives of the UCF Trustees and the Chair of UCF will meet with representatives of the University's Senior Management Team ("SMT") on a regular basis to discuss strategic planning, current issues and any proposed changes in policy.
7. For day-to-day issues, UCF's Executive Officer will represent UCF.

## **Responsibilities of the University**

8. The University will
  - 8.1. Facilitate the provision of the three UCF Trustees as stipulated in the UCF Trust Deed as ex-officio and appointed members; i.e.:
    - 8.1.1. the Chancellor of the University;
    - 8.1.2. the Vice-Chancellor of the University; and
    - 8.1.3. one person, being a member of the University Council, nominated by the University Council.
  - 8.2. Provide an executive officer ("UCF Executive Officer") and support staff from

within the University's Alumni and Fundraising Office. Support staff duties will include

- 8.2.1. administering the banking, receipting and acknowledging of donations;
  - 8.2.2. maintaining the database recording all support; and
  - 8.2.3. establishing a process with the University to ensure donors' wishes are met in the disbursement of funds.
- 8.3. Provide development consultants to fundraise for UCF, whose duties will include identifying, researching and developing relationships with prospects and donors.
  - 8.4. Fund UCF's operations, with the exception of costs to be met directly by UCF as specified under section 9.7 below.
  - 8.5. Provide accounting support and a treasurer for UCF who will have access to the UCF bank account to set up payments, but no authority to approve transactions.
  - 8.6. Provide access to, and support for, the donor and alumni database.
  - 8.7. Provide relevant information and facilitate co-operation between the University and UCF for UCF projects.

### **Responsibilities of UCF**

9. UCF will
  - 9.1. appoint UCF Trustees who will be advocates for the University;
  - 9.2. accept donations which enable it to meet its objectives;
  - 9.3. ensure appropriate stewardship of donations, including responsibility for donor relationships, honouring gifts and investment of donations;
  - 9.4. raise funds for projects to support the University;
  - 9.5. provide an annual report and audited financial statements;
  - 9.6. ensure that appropriate policies are in place under which donations are handled to ensure financial accountability, donor stewardship and monitoring of use; and
  - 9.7. meet from its own revenue its own investment management (including investment fund management, advisory and consulting fees and costs), annual audit fees and costs, and banking and financial transaction fees.

### **Identifying and Confirming Fundraising Projects**

10. The UCF Trustees will regularly consult with the University on projects that require fundraising support, through meetings referred to in clause 6 above and/or through the UCF Executive Officer. This consultation will consider the University's case for such support and will take into account the University's Fundraising Activities Policy,

UCF's Fundraising Procedures Policy and also the strategic plans of the University, UCF and the University's Alumni and Fundraising Office. Regular meetings will be held between UCF, the University's SMT, and the University's Alumni and Fundraising Team to coordinate fundraising and donor strategies.

11. The University will recommend its preferred priorities for projects of strategic importance through an internal assessment process led by the Vice-Chancellor of the University.
12. The UCF Executive Officer will work closely with individual project co-ordinators and will report on progress to the University's SMT and the UCF Trustees. The UCF Executive Officer will ensure appropriate reporting is provided to the University Council.

### **Status of Donations**

13. Wherever possible, all donations intended to support the University are to be received and receipted by UCF as per the University's Fundraising Activities Policy and UCF's Fundraising Procedures Policy. UCF will provide the mechanism by which the University and its constituent parts shall manage all philanthropic funds including donations, grants, sponsorships and bequests.
14. Wherever possible, any funds received directly by the University as a philanthropic donation, grant, sponsorship or bequest, for either general or specified purposes, will be transferred to UCF as per the University's Fundraising Activities Policy and UCF's Fundraising Procedures Policy.
15. Any such transfers will endeavour to honour the terms under which the donor made the gift. If there is confusion over those terms, both parties will seek clarification from the donor or, if that is not possible, resolve the matter themselves on a best endeavours basis.
16. Once any funds have come under UCF's control, the University has no further authority over them, unless agreed by UCF, and no further claim on them, except as a beneficiary of UCF.

### **Principles Governing Disbursements by UCF to the University and Beneficiaries**

17. Subject to the wishes of donors, the University and UCF will agree, at the inception of each fund or area of support, the criteria by which UCF will disburse its funds to the University and beneficiaries. In requesting disbursements from UCF, the University assumes the responsibility for adhering to the agreed criteria in respect of the purposes, beneficiaries, amounts, timing and other criteria under which the disbursements are given by UCF.
18. The University will nominate in writing to UCF those officers who shall have delegated authority to request disbursements from UCF, and those delegations will be applied until further notice.

### **Investment and Audit Policy**

19. UCF Trustees will formulate an investment policy for UCF. Subject to specific instructions from donors, all funds under the control of the UCF Trustees should be managed according to that policy. UCF's investment policy will be a public document

and will be reviewed at least annually.

20. UCF is responsible for the prudent management of its own funds and investments according to UCF's approved investment policy.
21. UCF's finances will be subject to independent annual audit and the audited accounts will be publicly available.

### **Confidentiality**

22. Any and all written and oral information disclosed or provided by the University, its employees and/or agents to UCF, its officers, trustees, other volunteers and/or agents about alumni, donors, other constituents and supporters of the University is confidential information which is to be held in the strictest confidence and used only for the purposes of pursuing UCF's objectives and purposes directly related to the purpose in connection with which the information was obtained, in so far as the use and disclosure of such information complies with the *Privacy Act 1993*.
23. Any and all written and oral information disclosed or provided by UCF, its officers, trustees, other volunteers and/or agents to the University, its employees and/or agents about donors, other constituents and supporters of UCF is confidential information which is to be held in the strictest confidence and used only for the purposes of pursuing the University's objectives and purposes directly related to the purpose in connection with which the information was obtained, in so far as the use and disclosure of such information complies with the *Privacy Act 1993*.

### **Non-binding Effect of Memorandum**

24. The parties agree and acknowledge that this MOU, with the exception of clauses 22 and 23, is not intended to create, whether by acceptance or otherwise, legal relations or any legally binding obligations between the parties.

### **Date of Effect and Duration of Memorandum**

25. This MOU replaces that signed on 29 August 2013. It takes effect for both parties from the date of the last signature and will continue until terminated by the mutual agreement of both parties, or amended and replaced by a future agreed Memorandum.

### **Signed**

---

Dr John Wood  
Chancellor  
University of Canterbury

---

Mr Barry Ramsay  
Chairman  
University of Canterbury Foundation

---

2016  
Date

---

2016  
Date





17 December 2015

File Reference: 7005/03

Dr Rod Carr  
Vice-Chancellor  
University of Canterbury  
Private Bag 4800  
Christchurch Mail Centre  
CHRISTCHURCH 8140

Dear Rod

### **Confirmation of 2016 Investment Plan funding**

I am pleased to confirm the TEC's on-going funding for the programmes and activities described in University of Canterbury's 2015-2016 Investment Plan (Plan).

We wrote to you on 5 December 2014 approving funding for your Plan for 2015. We also provided your organisation with an indicative funding allocation for 2016. This letter confirms the amount of funding that the TEC has approved for 2016. It has four appendices:

- a) Appendix A sets out the schedule of approved funding for 2016;
- b) Appendix B contains fund allocation information and related conditions of funding;
- c) Appendix C sets out the funding conditions for your 2016 funding; and
- d) Appendix D sets out the differences between the 2015 and 2016 funding conditions, for your information only.

### **Working towards your next Investment Plan**

We have listened to your feedback that having information earlier is key to planning your future delivery. With this in mind, Plan Guidance for 2017-2019 is now available on the TEC's website so that we can work with you during 2016 on developing your next Plan.

Thank you for working with the TEC - we look forward to continuing to work with you throughout 2016 as we develop our investment approach. Together we can achieve positive outcomes for learners and the economy.

**Wellington Office**

Level 10, 44 The Terrace  
P O Box 27048  
Wellington 6141  
New Zealand

Phone +64-4-462 5200  
Fax +64-4-462 5400  
[www.tec.govt.nz](http://www.tec.govt.nz)

If you wish to discuss any aspect of this letter please contact your Investment Manager Simon Hall on 04 462 5339 or email [simon.hall@tec.govt.nz](mailto:simon.hall@tec.govt.nz), or contact Dr Dafydd Davies, Manager University Investment at [dafydd.davies@tec.govt.nz](mailto:dafydd.davies@tec.govt.nz).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Gerard Gilmore', with a long horizontal flourish extending to the right.

Gerard Gilmore  
Deputy Chief Executive, Operations

Cc: Dr John Wood

## Appendix A: Schedule of approved funding for 2016

The approved funding allocations specified in this schedule exclude GST. The TEC will pay your organisation the funding plus GST, if applicable.

It is important to understand that confirming the amount of funding for 2016 does not mean that the TEC:

- a) approves any funding other than that specified in this letter; or
- b) agrees with every statement in your organisation's Plan; or
- c) will continue to fund your organisation in the future.

The TEC will fund delivery of the programmes and activities of University of Canterbury's Plan as follows:

**Edumis: 7005**

**University of Canterbury**

<i>On Plan Funds</i>	<b>2016 Recommend Allocation</b>
<b>Student Achievement Component</b>	
<b>SAC L3+ Estimated EFTS</b>	<b>11,159</b>
Student Achievement Component Levels 3 and above	\$124,797,170
<b>Total SAC</b>	<b>\$124,797,170</b>

<i>Other On Plan Funds</i>	
Performance Based Research Fund	\$28,759,242
Equity Loading	\$680,701
<b>Total Other On Plan Funds</b>	<b>\$29,439,943</b>

<i>Off Plan Funds</i>	
Centres of Research Excellence	\$4,163,008
<b>Total Off Plan Funding</b>	<b>\$4,163,008</b>
<b>Total Funding</b>	<b>\$158,400,121</b>

## Appendix B: Fund allocation information

### 1. Student Achievement Component (SAC) at level 3 and above on the NZQF

SAC (at NZQF level 3 and above)	2016 Allocation
Funding amount	\$124,797,170

SAC funding for provision at level 3 and above is a government contribution to the costs of teaching and learning services for students enrolled in approved courses at level 3 or higher on the New Zealand Qualifications Framework (NZQF) at eligible tertiary education organisations.

From 2016, we will fund delivery up to 102% or 10 EFTS, whichever is greater, of an eligible TEO's approved SAC3+ funding under certain circumstances. This flexibility will help TEOs to respond more quickly to student demand without the need for significant amendments to Plans. For more details, including criteria for eligibility, see SAC3+032 and SAC3+033.

### 2. Performance-Based Research Fund (PBRF)

Measure	% of funding allocated via this measure	Total indicative PBRF funding (excl. GST) for 2016
Quality Evaluation (QE)	9.7422%	\$16,074,667
Research Degree Completions (RDC)	11.3803%	\$8,535,225
External Research Income (ERI)	6.9156%	\$4,149,350
<b>Total</b>		<b>\$28,759,242</b>

The primary purpose of the PBRF is to increase the quality of research by rewarding and encouraging research excellence. The indicative PBRF funding for your organisation in 2016 is set out in the table above. Final funding will be confirmed following the April 2017 Single Data Return (SDR).

### 3. Equity funding

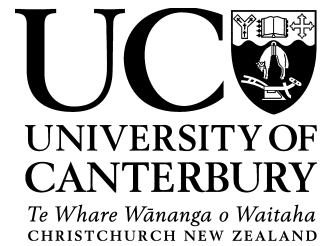
Equity Funding	2016 Allocation
<i>Equity Funding for Māori learners</i>	\$275,507
<i>Equity Funding for Pasifika learners</i>	\$86,055
<i>Equity Funding for Students with disabilities</i>	\$319,139
<b>Total Equity Funding amount</b>	<b>\$680,701</b>

Equity funding is a government contribution to improve equity of access and achievement for Māori and Pasifika students, and students with disabilities.

# Memorandum

## Office of the Vice-Chancellor

Phone: 03 364 2495  
Email: [rod.carr@canterbury.ac.nz](mailto:rod.carr@canterbury.ac.nz)



To:	Council
From:	Dr Rod Carr, Vice-Chancellor
Date:	January 20, 2016
Subject:	Draft Education Bill Submission

The Education Legislation Bill is currently with the Select Committee and submissions are invited by 19 February.

The University of Canterbury intends to make a submission and a draft is attached. The submission relates to investments by universities of trust funds through a common fund as the 1989 Education Act removed the common fund provisions provided for in the University of Canterbury Act 1961.

Once the outcome of the Education Legislation is known, the University intends seeking, through the courts, a variation to the Erskine Fund to allow greater flexibility in the use of the funds.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rod Carr', written in a cursive style.

Dr Rod Carr  
Vice-Chancellor/ Te Tumu Whakarae

**SUBMISSIONS IN SUPPORT OF PROPOSAL FOR AMENDMENTS TO EDUCATION ACT 1989  
THROUGH INCLUSION IN THE EDUCATION LEGISLATION BILL  
RELATING TO INVESTMENTS BY UNIVERSITIES OF TRUST FUNDS THROUGH A COMMON FUND**

**SUMMARY**

Prior to 1990, the University of Canterbury (UC) operated a common fund for its various trusts in accordance with the provisions of section 44 of the University of Canterbury Act 1961. All trust funds administered by UC were invested through and in the name of the University of Canterbury Common Fund. The practice of investing through a common fund has continued to the present day and has never been questioned by the University auditors.

Section 44 of the University of Canterbury Act 1961 was repealed by the Education Amendment Act 1990 and the Education Act 1989 does not contain any similar authority or provision.

UC has received legal advice to the effect that the practice of investment of funds belonging to separate individual trusts in a common fund, otherwise referred to as pooling of trust funds, may not be in accordance with current New Zealand Law.

UC seeks amendment to the Education Act 1989 to reinstate the previous common fund provisions.

**UNIVERSITY OF CANTERBURY TRUSTS**

The University of Canterbury (UC) is the trustee of (Number?) Trusts ranging in size from \$XXX to \$XXX, the income from which is applied in accordance with the requirements of the individual trust documents and which largely support scholarships and research.

**UNIVERSITY OF CANTERBURY ACT 1961**

The University of Canterbury Act 1961 contained the following provision:

**“44. PROVISION FOR COMMON FUND INVESTMENT –**

- (1) *The Council may at any time, if it thinks fit, establish the following funds and account:*
  - (a) *A Common Fund to be known as the University of Canterbury Common Fund:*
  - (b) *A Reserve Fund to be known as the University of Canterbury Common Fund Reserve Fund:*
  - (c) *A Common Fund Income Account to be known as the University of Canterbury Common Fund Income Account.*
- (2) *Subject to the provisions of this section, if the Council has established the said funds and account, it may invest any trust funds in its possession, whether at the time in a state of investment or not, whether they came into its possession before or after the*

*commencement of this Act, and whether they comprise the whole or part of the trust estate to which they belong, either—*

- (a) On a separate account in respect of the trust estate to which the funds belong;  
or*
  - (b) If the funds are not directed to be invested in some other specified manner, and investment in the said Common Fund is not inconsistent with the terms of the trust instrument (if any) governing the funds, as part of the said Common Fund.*
- (3) All funds forming part of the said Common Fund shall be invested in the manner required by section 43 of this Act.*
  - (4) Where any funds of a trust estate are in the possession of the Council and are lawfully invested in any investment in which the said Common Fund may be invested as aforesaid, then, if in accordance with paragraph (b) of subsection (2) of this section the funds could be invested as part of the said Common Fund, the Council may transfer that investment to the said Common Fund and give credit in that Fund to the trust estate for such amount as it considers proper, having regard to its duty to be fair to all those interested in the said Common Fund and to those beneficially interested in the capital and income of the trust estate to which the investment belongs. Upon any investment being so transferred it shall cease to form part of the trust estate to which it formerly belonged.*
  - (5) Investments made from funds forming part of the said Common Fund shall not be made on account of or belong to any particular trust estate, but the Council shall cause to be kept an account showing at all times the entitlement of each trust estate in the said Common Fund.*
  - (6) All income derived from the said Common Fund and from the investments and money included therein shall be paid into the said Common Fund Income Account.*
  - (7) In each year interest on the amount of the entitlement of each trust estate in the said Common Fund shall be transferred from the said Common Fund Income Account and credited to that trust estate at such uniform rate as may from time to time be determined by the Council:  
  
Provided that in no case shall the rate so determined be lower than one-half percent below the rate which would be so paid if all the income paid into the said Common Fund Income Account in that year was so transferred.*
  - (8) The Council shall also each year pay into the said Reserve Fund—*

- (a) *All income in the said Common Fund Income Account which is not transferred to any trust estate in that year in accordance with subsection (7) of this section:*
- (b) *All capital gains arising in connection with the said Common Fund.*
- (9) *The funds forming part of the said Reserve Fund shall be kept separate from all other trust funds, and shall be invested in the manner authorised by section 43 of this Act.*
- (10) *All income paid into the said Reserve Fund as aforesaid, and all income derived from the said Reserve Fund and from the investments and money included therein shall be applied as the Council thinks fit in any one or more of the following ways:*
  - (a) *Towards augmenting the capital of the said Reserve Fund:*
  - (b) *Towards stabilising or increasing the income of the said Common Fund:*
  - (c) *Towards reinstating any losses of capital in the said Common Fund.*
- (11) *The capital of the said Reserve Fund may, if the Council thinks fit, be applied in reinstating any losses of capital in the said Common Fund.*
- (12) *The Council may at its discretion at any time withdraw from the said Common Fund any amount for the time being to the credit of any trust estate in the said Common Fund; and where any amount is being so withdrawn,—*
  - (a) *If the capital of the said Reserve Fund has increased while the said amount was in the said Common Fund, the Council shall pay out of the said Reserve Fund and add to the amount so withdrawn, as capital, such amount (if any) as it considers equitable having regard to the length of the period during which the amount was in the said Common Fund and to the proportion which the said amount bears to the average amount of the total assets of the said Common Fund during that period:*
  - (b) *If losses of capital in the said Common Fund have occurred during the said period, then, so far as those losses have not been reinstated and cannot be reinstated from the amounts in the said Reserve Fund at the time of the withdrawal, that amount shall bear its proportion of those losses, as determined by the Council, and the amount being so withdrawn shall abate accordingly.*

The University of Auckland, Waikato University, Victoria University, Otago University and Massey University all had the benefit of similar statutory provisions.

#### **REPEAL BY EDUCATION AMENDMENT ACT 1990**

Section 44 of the University of Canterbury Act was one of many provisions repealed by the Education Amendment Act 1990 but no similar provisions were incorporated into the Education Act 1989. The similar provisions in the Statutes relating to the other Universities mentioned above were also repealed.



Notwithstanding the repeal, UC has continued to invest its trust funds through one entity known as University of Canterbury Trust Funds in the interests of efficiency and to obtain the best return.

In anticipation of a possible application to the High Court under the Charitable Trusts Act for approval of a scheme in respect of one of its Trusts (known as the Erskine Trust) UC sought legal advice. A question arose as to the legitimacy of continuing the practice of pooling the funds from all its trusts into one vehicle for investment purposes.

### **TRUSTEE ACT POWERS OF INVESTMENT AND PRUDENT MAN TEST**

Prior to 1988, trustees investment powers were limited and provided for in the Trustee Act 1956 but those powers were reviewed in 1988 and the following provisions were inserted into that Act;

#### **"13A POWER TO INVEST**

- (1) *A trustee may invest any trust funds, whether at the time in a state of investment or not, in any property.*
- (2) *Any such investment may be varied from time to time.*

#### **13B DUTY OF TRUSTEE TO INVEST PRUDENTLY**

*Subject to sections 13C and 13D of this Act, the trustee exercising any power of investment shall exercise the care, diligence, and skill that a prudent person of business would exercise in managing the affairs of others.*

#### **13C DUTY OF PERSONS TO EXERCISE SPECIAL SKILL**

*Subject to section 13D of this Act, where a trustee's profession, employment, or business includes acting as a trustee or investing money on behalf of others, the trustee, in exercising any power of investment, shall exercise the care, diligence, and skill that a prudent person engaged in that profession, employment, or business would exercise in managing the affairs of others.*

#### **13D PROVISIONS IN TRUST INSTRUMENT RELATING TO DUTY OF INVESTING TRUSTEES**

- (1) *The duty imposed on a trustee by section 13B or section 13C of this Act shall apply to a trustee if and so far only as a contrary intention is not expressed in the instrument, if any, creating the trust or any Act, and shall have effect subject to the terms of that instrument or act.*
- (2) *Any rules and principles of law relating to any provision of an instrument that purports to exempt or limit the liability of a trustee in respect of any breach of trust, or to indemnify a trustee in respect of any breach of trust, shall remain in force and apply in respect of*

*any provision in a trust instrument that expresses a contrary intention for the purposes of subsection (1) of this section."*

It may be observed that the prudent man test was introduced a year prior to the repeal of s44, University of Canterbury Act. Although it is not explicit in any of the contemporaneous documents that we have seen, it appears to have been assumed that the specific authorisation provided by s44 became unnecessary as a result of the introduction of the prudent man test.

## **CURRENT LAW UNCLEAR**

High level legal advice, while considering whether the "prudent man" provisions might be interpreted to allow pooling of investment, concluded the law was not sufficiently clear for such an interpretation to be given with confidence.

Ultimately the University sought advice from the Solicitor-General who, in a letter dated 26 November 2007, reached the following conclusion:

*"The Trustee Act 1956 was reformed in 1988 and a new provision was incorporated into the Trustee Act which has become known as the "Prudent Man" test. Previously the nature of investments which could be made by trustees was specified in the Trustee Act but those provisions were replaced by the Prudent Man test which did not specify the nature of investments which could be made and the investment powers of trustees are now set out in the following sections of the Trustee Act 1956:*

*"In summary, although I agree that it seems arguable, on the basis of the Working Party Report that pooling of Trust funds could be possible under the Prudent Person Approach. In my view that is not the current position under New Zealand law. I cannot conclude that the Prudent Person Test enables the University to administer the Trusts in the manner it presently does."*

The matter was taken up with the New Zealand Vice-Chancellors Committee which obtained comment from the Ministry of Education. The letter dated 17 April 2008 concluded:

*"It would be difficult to generalise on the significance of the prudent person rule to the operation of common funds from a practical compliance point of view. The universities would presumably wish to obtain specific legal advice on their own common fund investments in this regard. However, the Ministry would be surprised if the prudent person rule was an inevitable bar to common fund investment, provided that the underlying investments met the prudential criteria, and complied with the terms of trust contained in the relevant trust instrument."*

Following receipt of the opinions from the Solicitor-General and the Ministry of Education in relation to whether there was a real need to deal with and resolve the issue, possible means of dealing with the issue was still under consideration when the Christchurch earthquakes intervened. This took the focus at UC away from both the possible application to the High Court and what action might be taken to

deal with the pooling issue. Now that focus has returned and, based on advice from Mr T C Weston QC, UC wishes to take steps to ensure it operates within the law in the administration of its trusts funds.

## **POSSIBLE SOLUTIONS**

One solution would be to separate all the trust funds for investment purposes but that would be an inefficient and expensive process possibly requiring separate accounting and audit functions and could substantially reduce the income from some of the smaller trusts.

Another possible solution would be to apply to the High Court under the Charitable Trusts Act for a declaration that the practice was in order or, if it were not the case, to seek variation of all the University Trusts to permit pooling. Such an application would be hugely expensive because of the number of trusts and would deplete trust capital. It could only affect existing trusts and future trusts could still face the problem.

The third and preferred solution would be to see the provisions previously incorporated in the University of Canterbury Act and other University Statutes, incorporated into the Education Act 1989.

Section 195 of the Education Act 1989 provides as follows:

### **"195 TRUST PROPERTY**

Notwithstanding anything contained in this Act or any other enactment relating to the Institution, any real or personal property held by an Institution upon trust shall be dealt with in accordance with the powers and duties of the Institution as trustee."

## **REINSTATEMENT OF PROVISIONS OF SECTION 44 UNIVERSITY OF CANTERBURY ACT**

The repealed provisions of the University of Canterbury Act set out previously herein could simply be inserted as sections 195A as follows;

### **195. PROVISION FOR COMMON FUND INVESTMENT**

- (1) *The Council may at any time, if it thinks fit, establish the following funds and account:*
  - (a) *A Common Fund to be known as the University of Canterbury Common Fund:*
  - (b) *A Reserve Fund to be known as the University of Canterbury Common Fund Reserve Fund:*
  - (c) *A Common Fund Income Account to be known as the University of Canterbury Common Fund Income Account.*
- (2) *Subject to the provisions of this section, if the Council has established the said funds and account, it may invest any trust funds in its possession, whether at the time in a state of investment or not, whether they came into its possession before or after the*

*commencement of this Act, and whether they comprise the whole or part of the trust estate to which they belong, either—*

- (a) On a separate account in respect of the trust estate to which the funds belong;  
or*
  - (b) If the funds are not directed to be invested in some other specified manner, and investment in the said Common Fund is not inconsistent with the terms of the trust instrument (if any) governing the funds, as part of the said Common Fund.*
- (3) All funds forming part of the said Common Fund shall be invested in the manner required by section 43 of this Act.*
  - (4) Where any funds of a trust estate are in the possession of the Council and are lawfully invested in any investment in which the said Common Fund may be invested as aforesaid, then, if in accordance with paragraph (b) of subsection (2) of this section the funds could be invested as part of the said Common Fund, the Council may transfer that investment to the said Common Fund and give credit in that Fund to the trust estate for such amount as it considers proper, having regard to its duty to be fair to all those interested in the said Common Fund and to those beneficially interested in the capital and income of the trust estate to which the investment belongs. Upon any investment being so transferred it shall cease to form part of the trust estate to which it formerly belonged.*
  - (5) Investments made from funds forming part of the said Common Fund shall not be made on account of or belong to any particular trust estate, but the Council shall cause to be kept an account showing at all times the entitlement of each trust estate in the said Common Fund.*
  - (6) All income derived from the said Common Fund and from the investments and money included therein shall be paid into the said Common Fund Income Account.*
  - (7) In each year interest on the amount of the entitlement of each trust estate in the said Common Fund shall be transferred from the said Common Fund Income Account and credited to that trust estate at such uniform rate as may from time to time be determined by the Council:  
  
Provided that in no case shall the rate so determined be lower than one-half percent below the rate which would be so paid if all the income paid into the said Common Fund Income Account in that year was so transferred.*
  - (8) The Council shall also each year pay into the said Reserve Fund—*

- (a) All income in the said Common Fund Income Account which is not transferred to any trust estate in that year in accordance with subsection (7) of this section:
  - (b) All capital gains arising in connection with the said Common Fund.
- (9) The funds forming part of the said Reserve Fund shall be kept separate from all other trust funds, and shall be invested in the manner authorised by section 43 of this Act.
- (10) All income paid into the said Reserve Fund as aforesaid, and all income derived from the said Reserve Fund and from the investments and money included therein shall be applied as the Council thinks fit in any one or more of the following ways:
- (a) Towards augmenting the capital of the said Reserve Fund:
  - (b) Towards stabilising or increasing the income of the said Common Fund:
  - (c) Towards reinstating any losses of capital in the said Common Fund.
- (11) The capital of the said Reserve Fund may, if the Council thinks fit, be applied in reinstating any losses of capital in the said Common Fund.
- (12) The Council may at its discretion at any time withdraw from the said Common Fund any amount for the time being to the credit of any trust estate in the said Common Fund; and where any amount is being so withdrawn,—
- (a) If the capital of the said Reserve Fund has increased while the said amount was in the said Common Fund, the Council shall pay out of the said Reserve Fund and add to the amount so withdrawn, as capital, such amount (if any) as it considers equitable having regard to the length of the period during which the amount was in the said Common Fund and to the proportion which the said amount bears to the average amount of the total assets of the said Common Fund during that period:
  - (b) If losses of capital in the said Common Fund have occurred during the said period, then, so far as those losses have not been reinstated and cannot be reinstated from the amounts in the said Reserve Fund at the time of the withdrawal, that amount shall bear its proportion of those losses, as determined by the Council, and the amount being so withdrawn shall abate accordingly.

This solution would benefit all tertiary institutions in New Zealand.

University of Canterbury

December 2015

ADM-017112-519-19-V1

*by its solicitor*  


**A. D. McBeath**

Page 8



## Report to the Council from a meeting of the Finance, Planning and Resources Committee held on Monday 14 December 2015

The Committee recommends:

1. State of Investment Policy Objectives Amendment

***THAT: Council approve the Distribution Policy of the UC Trust Funds Statement of Investment Policy Objectives, amended to read: “Once the Revenue Reserve has reached an amount equal to two years average trust outgoings, the trustees may, at their discretion, provide additional distributions to the beneficiaries and/or transfer funds to the capital accounts of the individual trust from time to time”.***

2. Christchurch City Council Proposed Replacement District Plan Hearings

***THAT: Council note the report on the CCC Proposed Replacement District Plan hearings.***

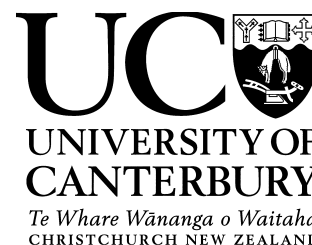
Ms Catherine Drayton  
**Chair**  
**Finance, Planning and Resources Committee**

20 January 2016





# Memorandum



To:	UC Council
From:	Jeff Field, University Registrar and Chair, UC Trust Funds Steering Group
Date:	20 January 2016
Subject:	UC Trust Funds Statement of Investment Policy Objectives (SIPO) Amendment
Purpose:	To seek agreement to an amendment of the SIPO

The Finance, Planning and Resources Committee considered this matter at its meeting on 14 December 2015 and an extract from the minutes of that meeting follows:

“University Registrar, Mr Field, noted the desirability of awarding as much scholarship funding as possible to attract and retain students but that the current wording of the Statement of Investment Policy Objectives was ambiguous on the use of surplus funds in this way. Ms Drayton sought clarification that donors were in agreement with the proposed change.

Moved

***That: the Distribution Policy of the UC Trust Funds Statement of Investment Policy Objectives be amended to read: “Once the Revenue Reserve has reached an amount equal to two years average trust outgoings, the trustees may, at their discretion, provide additional distributions to the beneficiaries and/or transfer funds to the capital accounts of the individual trust from time to time,” and refer it to Council for approval in the Public section of the meeting.***

Carried”

The UC Trust Funds are managed within three accounts: operating, capital base and revenue reserve. Annually, a 4.5% return goes into the operating account, the CPI % rate goes into the capital base account to maintain the purchasing power of the fund, and any remaining funds go into the revenue reserve account to help offset market fluctuations in annual returns.

The current UC Trust Fund Statement of Investment Policy Objectives is ambiguous on extraordinary disbursements when the revenue reserve fund exceeds twice the annual distribution. Historically, once reserves have built up to more than two times the amount of the annual distribution, any remainder could be distributed to the operating account and disbursed as per normal operating account guidelines.

Management and the donors favour the option of distributing the maximum amount possible, while maintaining the base earning power. To make the SIPO clear on this point it is proposed to amend the relevant clause in the Distribution Policy.

## **Recommended:**

That the Distribution Policy of the UC Trust Funds Statement of Investment Policy Objectives be amended to read: “Once the Revenue Reserve has reached an amount equal to two years average trust outgoings, the trustees may, at their discretion, provide additional distributions to the beneficiaries and/or transfer funds to the capital accounts of the individual trust from time to time.”

Jeff Field  
University Registrar  
Chair, UC Trust Funds Steering Group



# Memorandum

## Learning Resources



To:	UC Council
From:	Alex Hanlon
Date:	20 January 2016
Subject:	Christchurch Replacement District Plan Process
Purpose:	To provide information

### Background

An Order in Council (OIC) was passed by the NZ Government on the 7<sup>th</sup> July 2014, which sets out the process for the establishment of the Christchurch Replacement District Plan (the Plan) and established the Independent Hearings Panel (IHP) who presides over the process.

(Available here: <http://www.chchplan.ihp.govt.nz/wp-content/uploads/2015/03/Canterbury-20Earthquake-20Christchurch-20Replacement-20District-20Plan-20Order-2020141.pdf>)

The OIC sets out a process for notification of the draft, original and further submission and hearing processes. The IHP is chaired by Sir John Hansen (former High Court Judge) and comprises a range of experts including John Hassan (current Environment Court Judge), Dr Phil Mitchell and Ms Sarah Dawson (planning practitioners), and industry and Ngai Tahu representatives such as Ms Jane Huria and Mr Martin Udale.

The hearing process established by the IHP is more reflective of an Environment Court or Board of Enquiry process, when compared to a more traditional City Council hearing process. Within this context the procedure, following the closure of the submission periods, leading up to the commencement of each hearing is as follows:

- Pre-hearing meeting – an opportunity for the parties to indicate to the IHP the issues in contention and the witnesses that are likely to be called
- Expert conferencing – Conferencing requires the expert witnesses in various disciplines to identify issues and solutions where possible.
- Mediation – a less formal process whereby submitters and their advisors meet to determine if submission issues can be resolved. Attendees at Mediation are required to make decisions on their submission interests during the mediation sessions
- Filing of Council expert evidence, submitter evidence and rebuttal evidence (where relevant) prior to the commencement of the hearing.

At each hearing:

- Counsel present opening and closing legal submissions
- Expert witness are sworn in (or take an affirmation), can be cross examined and are questioned by the IHP
- The IHP may request further assessment, evidence or information

A recorded transcript of each of the hearings completed to date is available on the IHP website.

The Christchurch City Council has notified the various chapters of the Plan in Stages, and the IHP has generally developed a hearing schedule that reflects the staged notification approach. As set out in the OIC the Christchurch City Council notified on 27<sup>th</sup> August 2014 that the Stage One of the Replacement District Plan was available for review and submission were open for 30 days, with the following process dates noted at the time:

- Notification and submissions open 27 August 2014
- Submissions close 8 October 2014
- Further submission period opens 22 October 2014
- Further submission period closes 6 November 2014
- Further submissions published 20 November 2014
- Hearing process begins November 2014
- Panel deliberation Jan-March 2015

Stage 2 was subsequently notified on the 2<sup>nd</sup> May 2015, with the notification that a new Stage 3 was also to be created and was subsequently notified on the 27<sup>th</sup> June 2015. Hearing processes are currently continuing and are expected to be completed in late March of this year.

The process as set out in the OIC is much quicker than a standard district plan review. As a consequence of this the IHP has established a demanding timetable with short turn around periods and response times. This has required a high level of resourcing to keep up with the flow of information required to satisfy the process and ensure that a submitter is heard.

### **UC Approach**

Our objective throughout all three stages of the process has been to defend existing rights that UC holds under the current planning provision and to gain or maintain the greatest flexibility for the University of Canterbury to determine the use of its estate.

The list of chapters and an outline of the submissions made was included in the December memo to FPRC.

The nature of the process has required expert input from a number of supporting professional advisors, including:

- Resource Management Group – Resource and Environmental Management Consultants, RMG have provided lead planning advice during the process, and have been responsible for the review of notified sections and the consultation with UC staff to confirm areas for submission.
- Duncan Cotterill – Ewan Chapman, a partner at Duncan Cotterill has acted as UC Counsel in the hearings in Stage 2 and 3.
- Traffic Expert - Melanie Muirson of Aurecon, who represented UC in the expert conferencing and mediation relating to the Transport Chapter.
- Urban Design - Edward Jolly of Jasmax, who represented UC in the expert conferencing relating to the Specific Purpose Zone (Tertiary Education).
- Heritage Expert – Clare Kelly provided Heritage Architecture advise on the Heritage Items and Settings notified, and attended expert conferencing and mediation in the Heritage Chapter.

The cost to date for this has been covered by Capital Works Operating Consultants budget, and sits at \$130,000 since August 2014. Further costs have been included in the 2016

Operating budget. The current estimate is that it will cost between \$40,000 and \$60,000 depending on the outcome of negotiations with Christchurch Airport<sup>1</sup>.

Council can access the full text of UC submissions and transcripts of hearings at which UC representatives were heard after close of business 22 January on the Council Sharepoint website.

### Future process

Stage 1 submissions and hearings are all now complete, as are Stage 2 (although some have been rolled over into the Stage 3 hearings), though the final decisions have not been received for all Stage 2 sections, most notable for UC the Chapter 21 Specific Purpose Tertiary Education Zone which replaces the current Culture 4 zone rules.

The following sets out the timeline and progress on the Stage 3 Chapters, with the block colouring indicating that activity is completed:

Chapter	Submission	Further Submissions	Expert Conference	Mediation	Evidence Due	Hearing
2. Definitions				15 Feb	3 Mar	26 Mar
5. Natural Hazards					2 Feb	24-26 Feb
6. General Rules				21-22 Jan	17 Feb	11, 14-16 & 18 March
9. Heritage						18-22 Jan & 2-3 Feb

### Recommendation

1. For information.

Alex Hanlon  
**Director, Learning Resources**

---

<sup>1</sup> See separate Memo regarding Impact of Airport noise contour lines on University of Canterbury.



# Memorandum

## Learning Resources



To:	UC Council
From:	Alex Hanlon
Date:	20 January 2016
Subject:	Chapter 9 - Heritage
Purpose:	To provide information

### Issue

Changes to heritage boundaries at University of Canterbury

### Background

As part of the Proposed Replacement District Plan, Christchurch City Council notified *Chapter 9 - Natural and Cultural Heritage* in Stage 3. This chapter sets out the rules relating to Heritage Items and their Settings, and included appendices with a list of all Heritage Items and planning maps to show their relevant Heritage Setting.

Under section 86B(3)(e) of the RMA, a rule in a proposed plan has immediate legal effect if the rule protects historic heritage. On that basis the notified Chapter 9 and the implications on the University operations came into immediate effect on the 27<sup>th</sup> July 2015 and what is described in this memorandum as 'proposed' is already in effect.

Under both the now superseded operative and proposed district plans the University has a number of Heritage Items on our land, specifically these are:

- Item 300 - Former Dwelling Okeover – 90 Ilam Road
- Item 301 - Former Dwelling Ilam Homestead – 129 Ilam Road
- Item 302 – Ilam Gardens – 129 Ilam Road
- Item 535 - Former Fendalton Open Air School Classroom – 129 Waimairi Road

College House also includes a number of Heritage items, though as these are not owned directly by the University they have been ignored for the purposes of this memo.

Whilst no additional Heritage Items on University land were notified, the planning maps showing the relevant boundaries of the settings were all new, and vary considerably from those under the superseded operative plan. Included in this memo are maps for your reference:

Each map is composite of

- *Map One – Superseded*: the superseded operative plan showing the associated setting for Ilam Homestead, Okeover and College House;
- *Map set Two – Notified*: the maps from the proposed Replacement District Plan showing the outline of each of Heritage item in black, and the outline of their corresponding setting in white dashed line.
- *Map set Three – Proposed*: The replacement setting plans for Ilam Homestead, Ilam Gardens and Okeover house determined by Christchurch City Council following expert conferencing

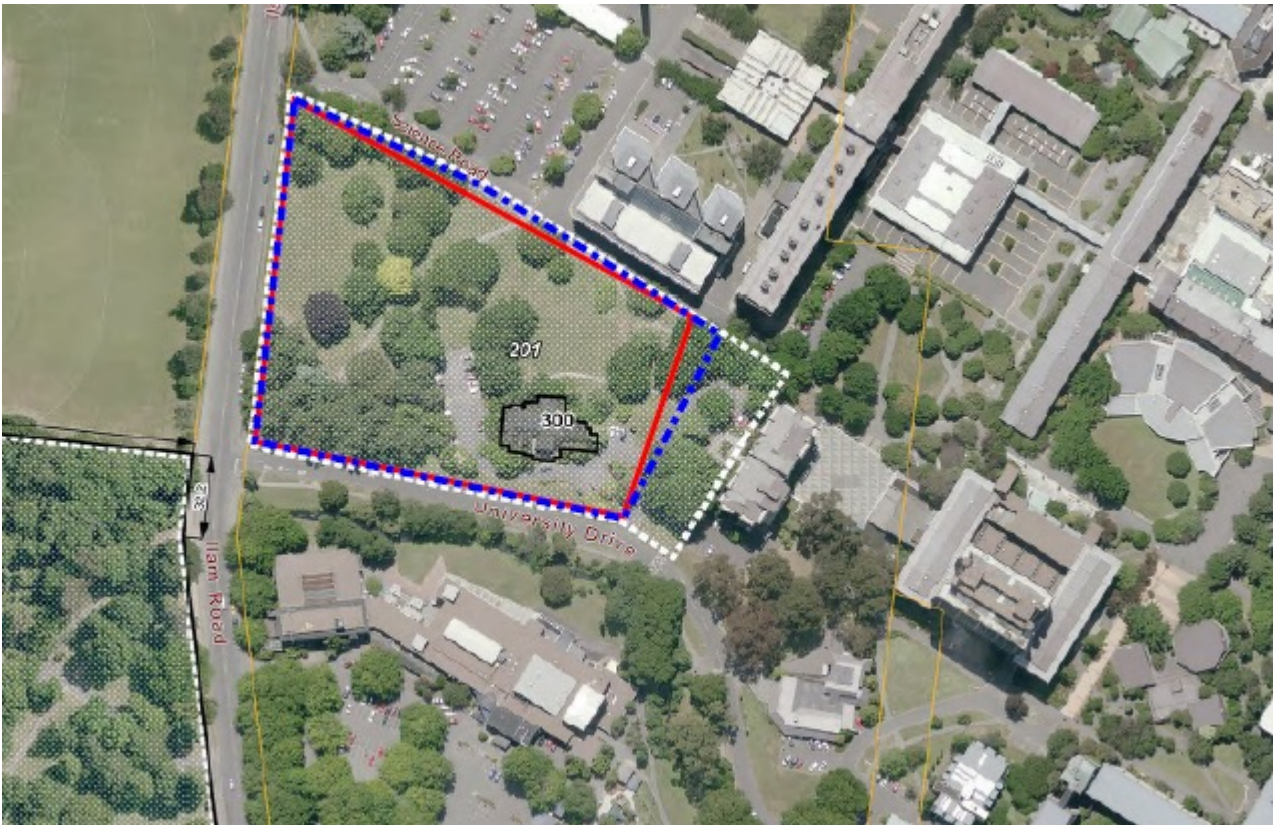
and mediation, which have been included in their evidence to the Independent Hearing Panel. The setting shown on these plans is a red hatched area with a blue outline for the Ilam Gardens which is also a Heritage item.

The following image is a compilation of all of these maps plotted onto a single aerial photograph and shows that whilst the area now determined is reduced from that notified in order to allow the University flexibility with the grounds depot area and buildings, it is in fact significantly increased from the area which was included in the superseded plan.



*Image 1 – Showing boundaries of superseded, notified and proposed Heritage settings for the Ilam Homestead and Gardens overlaid on a single aerial photograph.*





*Image 2 – Showing boundaries of superseded, notified and proposed Heritage settings for Okeover House overlaid on a single aerial.*

**Image Key:**

Superseded – Solid Line (Red)      Notified - Dashed Line (white)      Proposed – Dash-dot Line (Blue)

The second focus of our submissions on Chapter 9, were on the signage rules which were seen to be highly restrictive to the ongoing use of the campus surrounding Okeover House, and to the ability to inform and educate with regard to the Ilam Homestead and Gardens. Through expert conferencing and mediation we, and the other interested submitters, have agreed revised rules which allows a more considered approach to signage in such spaces.

**Outcome**

The outcomes of the submission, and consequent expert conferencing and mediation are:

- A planning approach which is consistent with our Campus Master Plan (CMP);
- Retained flexibility to operate the grounds area without Resource Consent, or to consider it for development in line with the CMP;
- Permitted activity which is consistent with the operation of a University Campus surrounding a Heritage Item;

**Recommendation**

1. That Council note that the Vice-Chancellor has been kept informed of the heritage boundary issue and instructed that representations be made to maintain the heritage obligations while retaining the maximum flexibility for the University.

Alex Hanlon  
**Director, Learning Resources**

