I hereby give notice that an ordinary meeting of the Finance and Performance Committee will be held on:

Date: Tuesday, 19 March 2019
Time: 9.30am
Meeting Room: Reception Lounge
Venue: Auckland Town Hall
301-305 Queen Street
Auckland

Komiti ā Pūtea, ā Mahi Hoki / Finance and Performance Committee

OPEN ADDENDUM AGENDA

MEMBERSHIP

Chairperson
Cr Ross Clow
Cr Desley Simpson, JP

Deputy Chairperson
Cr Josephine Bartley
Cr Dr Cathy Casey

Members
Deputy Mayor Cr Bill Cashmore
Cr Fa’anana Efeso Collins
Cr Linda Cooper, JP
Cr Chris Darby
Cr Alf Filipaina
Cr Hon Christine Fletcher, QSO
Mayor Hon Phil Goff, CNZM, JP
Cr Richard Hills
IMSB Member Terence Hohneck

(Quorum 11 members)

Sandra Gordon
Senior Governance Advisor

15 March 2019

Contact Telephone: (09) 890 8150
Email: sandra.gordon@aucklandcouncil.govt.nz
Website: www.aucklandcouncil.govt.nz

Note: The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted. Should Members require further information relating to any reports, please contact the relevant manager, Chairperson or Deputy Chairperson.
<table>
<thead>
<tr>
<th>ITEM</th>
<th>TABLE OF CONTENTS</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td>Eden Park Trust loan guarantee</td>
<td>5</td>
</tr>
</tbody>
</table>
Te take mō te pūrongo
Purpose of the report
1. To provide an update on the 15 May 2018 Finance and Performance Committee resolution for Auckland Council to take over the $40 million loan from ASB to Eden Park Trust and consider providing funding to the Eden Park Trust for a capital renewal programme.

Whakarāpopototanga matua
Executive summary
2. On 15 May 2018 the Finance and Performance Committee considered the matter of the Eden Park Trust loan guarantee. This report updates the resolutions of 15 May 2018.
3. Eden Park Trust has made requests to Auckland Council to take over the $40 million loan from ASB Bank which expires on 30 September 2019, and to provide funding for a capital renewal programme of $6.4 million per year for ten years.
4. Auckland Council will have no option but to pay out on the guarantee or take over the $40 million loan in due course, under the terms of the loan guarantee. Provision has already been made in council's budget, based on the 15 May 2018 resolution. However, Eden Park Trust has other loan facilities with ASB Bank and a direct loan from Auckland Council.
5. Taking over all loan facilities and consolidating them with the existing Auckland Council loan into one facility provides the advantage of simplifying both the loan structure, security and other terms and it would be simpler to administer. The amount of the loan facility would be up to $53.5 million.
6. In respect of the funding request, four options were considered:
   1) Eden Park Trust's request of $6.4 million per year for ten years;
   2) the 15 May 2018 resolution of $3.2 million per year for ten years;
   3) a three-year basic capital renewal programme of $9.8 million over three years; or
   4) one-year interim funding of $3.2 million.
7. The funding options have been considered taking into account factors such as:
   - Auckland Council’s plans and policies
   - funding arrangements in place with other organisations
   - the broader context of Eden Park Trust’s plans to expand its activities
   - operational efficiency savings that may be achieved through partnering with the council group.
8. On balance, noting also Eden Park Trust’s objective of being administered on a prudent commercial basis, option three is recommended. Although less than the $6.4 million per year requested, this option provides a limited amount of medium-term funding that maintains an incentive for Eden Park Trust to continue to improve its financial performance. The form of funding proposed is a limited recourse loan, on which there is no interest payable and repayment only occurs in the event of any significant disposal of Eden Park Trust assets or from any surplus funds.
Ngā tūtohunga
Recommendation/s

That the Finance and Performance Committee:

a) authorise and delegate all necessary powers to the chief executive to:
   i) reach an agreement with Eden Park Trust and ASB Bank for Auckland Council to take over the $40 million loan from ASB Bank to Eden Park Trust together with other facilities provided by ASB Bank to Eden Park Trust before 30 September 2019
   ii) reach an agreement with Eden Park Trust to consolidate the loans acquired from ASB Bank and Auckland Council loans into one or more new facilities on commercial terms including:
       A) first-ranking security over Eden Park Trust's assets
       B) a term of up to ten years
       C) an interest rate set at council's cost of funds plus a margin

b) authorise and delegate all necessary powers to the chief executive to agree a limited recourse loan to fund capital expenditure of up to $9.8 million over a three-year period from 1 July 2019 under the following terms:
   i) a Development Funding Agreement to be prepared documenting details of the funding to Eden Park Trust
   ii) all funding to be repayable in the event of any significant disposal of Eden Park Trust assets or from any surplus funds
   iii) continued security over Eden Park Trust's assets
   iv) no interest payable

c) agree that the chief executives of Auckland Council, Eden Park Trust and Regional Facilities Auckland jointly prepare an operational partnering proposal to be completed by March 2020.

Horopaki Context

9. On 15 May 2018 the Finance and Performance Committee considered the matter of the Eden Park Trust loan guarantee as a confidential item. Refer to attachment A. The grounds of confidentiality no longer exist because the majority of the information has been made public through media and there is also agreement between the parties that these matters can be addressed in public.

10. At the meeting on 15 May 2018 the Finance and Performance Committee resolved as follows (Resolution number FIN/2018/1):

   That the Finance and Performance Committee:

   a) authorise the Chief Executive Officer to:
      i) enter into formal discussions and reach agreement with the EPTB and the ASB to purchase the $40 million loan and negotiate a new combined loan and cost sharing contribution where the terms shall:
         1) be fully commercial, including first ranking security, provision for charging interest (at a margin) and principal repayment;
         2) be for a period of up to 10 years; and
         3) include a non-cumulative cost sharing contribution for no more than $3.2 million per year.
ii) agree to purchase the $40 million debt of the EPTB for no more than $40 million.
iii) complete detailed due diligence on the EPTB financial projections.
iv) provide in the Annual Budget 2018/19 for the raising of a further debt funding to enable the purchase of the ASB loan and providing up to $3.2 million a year for cost sharing contributions.

Restatement

b) agree that the report, attachments and decisions remain confidential, until reasons for confidentiality no longer exist.  

CARRIED

11. It is noted resolution a) i) is a package of items, including both the loan acquisition and a funding arrangement. As the funding arrangement was not able to be satisfied, the resolution could not be executed.

12. The current status of the matters resolved on 15 May 2018 is as follows:
   • a) i) 1) and a) i) 2) have been progressed and are consistent with the recommendation put forward in this report
   • a) i) 3) the Minister of Sport wrote to Mayor Goff in November 2018 declining to provide any funding to the Eden Park Trust.
   • a) ii) this has been incorporated into the recommendation put forward in this report
   • a) iii) completed – due diligence was completed by EY and the report was provided to committee members at a workshop on 5 December 2018.
   • a) iv) consistent with the full provision for the loan guarantee, the 2019/2020 budget was amended to reflect a repayment of the loan at the date of expiry of the guarantee (30 September 2019). No amount for cost sharing contributions are recorded in council’s budget.

13. This report updates the resolutions of 15 May 2018.

14. On 12 December 2018 the chief executive received a letter from the chair of the Eden Park Trust Board setting out a request to take over the $40 million ASB Bank loan. Refer to attachment B.

15. On 13 February 2019 the Eden Park Trust Board and senior management presented to a Finance and Performance Committee workshop. The Eden Park Trust representatives confirmed their request for Auckland Council to take over the loan and made a further request for grant funding of $6.4 million per year for ten years (total $64 million) to fund a capital renewal programme.

Tātaritanga me ngā tohutohu
Analysis and advice

Loan guarantee

16. Auckland Council’s guarantee of the $40 million loan from ASB Bank to Eden Park Trust arose from arrangements entered into to support the redevelopment of Eden Park for the 2011 Rugby World Cup. Auckland City Council entered into the guarantee in 2010, which subsequently came across to Auckland Council on amalgamation.

17. The attached report of 15 May 2018 (attachment A) considers options in relation to Auckland Council’s guarantee of the $40 million loan from ASB Bank to Eden Park Trust due to expire on 30 September 2019. Consistent with the resolutions of 15 May 2018, Auckland Council advised Eden Park Trust in September 2018 that it was not its intention to extend the loan guarantee. As a result, ASB Bank did not extend the loan facility and it is due to expire on 30 September 2019. This situation is described in Eden Park Trust’s annual report for the year ended 31 October 2018, where it is noted that the future of the loan is uncertain.
18. Auckland Council will have no option but to pay out on the guarantee or take over the loan in due course, under the terms of the loan guarantee.

19. If the loan were not taken over by council in an orderly manner, there is high likelihood of the guarantee being called and council needing to try and recover the amount owed through its guarantee security, likely to be a long and expensive exercise.

20. Consistent with the 15 May 2018 resolution, it is therefore recommended that Auckland Council acts to proactively take over the $40 million loan facility.

21. Auckland Council fully provided for the $40m guarantee in its 2017 financial statements and has made provision for increasing borrowings in the annual budget.

22. Eden Park Trust has other facilities with ASB Bank, including a $7 million working capital facility and a $500k overdraft facility. Auckland Council also has a direct loan to Eden Park Trust of $6.5 million, dating back to July 1999.

23. Eden Park Trust, in its letter of 12 December 2018, requested that the $40 million loan be assigned to Auckland Council from ASB Bank.

24. On assignment of the $40 million loan, there would be a lack of clarity on the status of the other ASB Bank facilities and the security arrangements of each party. There is a risk that ASB Bank would no longer be willing to provide the $7 million working capital facility. Therefore, it is further proposed that Auckland Council also take over the $7 million working capital facility and consolidate it, with the council’s $6.5 million loan, into one loan facility.

25. Taking over all facilities and consolidating them with the existing Auckland Council loan into one facility provides the advantages of simplifying both the loan structure, security and other terms. It provides more funding certainty for Eden Park Trust and would be simpler to administer on an ongoing basis. The amount of the facility would be up to $53.5 million.

26. The key terms of the facility to be considered are the security, the length of the term and the interest rate:
   - As the main lender, Auckland Council should expect to have first-ranking security over the assets of Eden Park Trust.
   - Eden Park Trust has requested that the $40 million loan facility be for a term of ten years in order to provide certainty to the Trust and its stakeholders for the medium term. Consistent with typical loan facility arrangements, the lender would have rights to terminate the loan early if certain conditions were not complied with, such as financial and non-financial covenants.
   - The interest rate applied to the loan facility would be based on council’s cost of funds plus a margin to be negotiated with Eden Park Trust. A margin on top of council’s cost of funds would enable council to recover the costs of providing and managing the facility and take into account the underlying risk profile.

27. The $500,000 overdraft facility will be part of the negotiations.

**Funding request**

28. The resolution of 15 May 2018 included the provision of grant funding of up to $3.2 million per year for ten years on a non-cumulative cost-sharing basis with the government. This was subject to completion of detailed due diligence on Eden Park Trust’s financial projections.

29. An independent financial review was completed by EY and the full report was provided to committee members at a workshop on 5 December 2018.
30. The key findings of this review, which confirm Eden Park Trust’s financial situation as unsustainable, are as follows:

- Eden Park Trust’s current capital structure is very materially challenged as it does not allow for necessary capital expenditure obligations nor meaningful debt repayment. The current ability of the Trust to meet its obligations is only possible based on current financing arrangements with both ASB Bank and Auckland Council.
- Eden Park continues to pay interest only on current debts and only minimal debt repayment.
- Forecast performance in the year ending 31 October 2019 will worsen based on fewer fixtures.
- Cashflow forecasts are not expected to improve.
- Net deficits (financial results including interest and depreciation) continue and have been occurring since at least 2013.
- The 10-year maintenance capital expenditure plan of $62.8 million has no funding.
- Regulatory settings and the operating environment are hampering opportunities to improve Eden Park Trust’s performance.

31. Regarding the cost-sharing resolution, officers had informal discussions with various central government officials, however no agreement was able to be reached. On 29 October 2018 the Mayor wrote to the Minister of Sport and Recreation advising of the resolution made by council in May 2018 and noting the intention of council not to extend the loan guarantee.

32. On 5 November 2018 a response was received from the Minister of Sport and Recreation, noting that current Crown policy arrangements do not provide for funding support for regional stadium costs and his view that this would be a matter for council to resolve.

33. Eden Park Trust made a funding request at the Finance and Performance Committee workshop on 13 February 2019 for an annual $6.4 million grant to fund capital renewals over the next ten years (total $64 million) to enable the park to keep operating at current service levels.

34. In considering the overall funding request there are three key aspects: council’s role in providing funding, how much to fund and what type of funding. Each one of these aspects are considered below. The recommendation is to provide a capital expenditure funding arrangement of up to $9.8 million over a three-year period.

**Council’s role in providing funding**

35. Eden Park Trust’s Trust Deed states:

> “The Objects for which the Trust is continued are:

(a) To promote, operate and develop Eden Park as a high quality multi-purpose stadium for the use and benefit of rugby and cricket (including under the organisations of ARU and ACA respectively pursuant to their rights under this deed) as well as other sporting codes and other recreational, musical, and cultural events for the benefit of the public of the Region; and

(b) To administer Eden Park and the Trust Assets on a prudent commercial basis so that Eden Park is a successful financially autonomous community asset.”

36. Auckland Council has no legal obligation to provide funding to Eden Park Trust, however the stadium is a significant asset to Auckland which generates substantial economic benefit for the region and contributes to Aucklanders’ quality of life through the events and facilities offered. As a charitable trust which exists to provide facilities for sporting, recreational and cultural events for the benefit of the public, it is similar to other organisations that council funds.
37. While Eden Park Trust has an objective of being administered on a prudent commercial basis, the trustees are given wide powers to achieve this. Eden Park Trust has a need for additional funding in order to continue to operate and there are very limited alternative sources of funding. Eden Park Trust also intends to apply to central government for funding related to specific national events and may also apply for charitable grant funding.

38. While there is no single council policy that covers this particular situation, there are a number of relevant Auckland Council plans and policies. These include:

- the Auckland Plan – which sets the Belonging and Participation Outcome specifically recognising “the value of arts, culture, sports and recreation to quality of life”
- the Draft Sports Investment Plan 2019-2039 currently being consulted on – it has the aim of increasing participation in community sport and proposes an approach to planning and prioritising council’s investment in sports and sports facilities, including the use of the $120 million fund set up in the 10-year Budget 2018-2028.
- Parks and Open Spaces Strategic Action Plan 2013 – recognises the importance of open space not owned by Auckland Council and has an action relating to partnership opportunities with schools, infrastructure providers and private sports facilities.
- Facility Partnerships Policy adopted in December 2018 – applies where “council invests in community facilities owned or operated by others, so Aucklanders can access more of the quality facilities they need, faster and more cost-effectively”.
- Auckland Sport and Recreation Strategic Action Plan 2014-2024, refreshed in 2017 – aims to get Aucklanders more active, more often and has a priority area of excellence in recreation and sport including “fit for purpose stadia and national venues”.
- Auckland Sport Sector: Facility Priorities Plan 2017 – recommends each sport develops a facility and code plan for the region.
- Auckland Tourism, Events and Economic Development’s (ATEED’s) Auckland Major Events Plan – the blueprint for Auckland Council’s initiatives to attract world-class major events to the region – events which contribute tens of millions of dollars each year, and thousands of new visitor nights, to the regional economy. The strategy outlines the criteria by which events are selected for funding from the Major Events Portfolio.

39. Based on a review of the above plans, providing a form of funding to Eden Park Trust for essential capital renewals is consistent with the outcomes sought for the provision of sport and recreation facilities and major events in Auckland.

40. After taking over the loan, Auckland Council will be the primary provider of finance to Eden Park Trust. Given Eden Park Trust’s financial situation, providing a level of funding to support the infrastructure required for ongoing park operations is in council’s commercial and regional interests.

Amount of funding

41. Eden Park Trust requested $6.4 million per year for ten years to fund a capital maintenance and renewal programme required to maintain the current standard of the stadium. The EY report identified that the ten-year capital plan contained some business-critical items such as turf replacement, LED advertising screens and field light replacement.

42. The resolution of this committee on 15 May 2018 was to fund $3.2 million per year for ten years, being half of the $6.4 million noted above. This was on the basis of a cost-sharing arrangement with the government.
43. To assist in decision-making, Eden Park Trust has subsequently provided further detail on the minimum capital programme for the next three years. Note that this excludes other planned, non-essential items that may improve visitor experience or create new revenue streams. It also excludes improvements that the Eden Park Trust will have the opportunity to apply to the government for funding support, such as to support events of national significance like the Women’s Rugby World Cup in 2021. Such items may include video replay screens, replacement of field lighting, CCTV upgrades and upgrades to player changing rooms.

<table>
<thead>
<tr>
<th>Eden Park Trust capital maintenance and renewals plan</th>
<th>$000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Turf replacement No.1 ground</td>
<td>1,500</td>
</tr>
<tr>
<td>Portafloor turf protection</td>
<td>200</td>
</tr>
<tr>
<td>Turf maintenance equipment</td>
<td>160</td>
</tr>
<tr>
<td>North Stand roof replacement works</td>
<td>850</td>
</tr>
<tr>
<td>Venue Operations Control Room monitoring equipment upgrades</td>
<td>500</td>
</tr>
<tr>
<td><strong>Total 2019/2020</strong></td>
<td><strong>3,210</strong></td>
</tr>
<tr>
<td>North Stand lift upgrades</td>
<td>2,000</td>
</tr>
<tr>
<td>Uninterrupted power supply upgrades and replacements</td>
<td>1,000</td>
</tr>
<tr>
<td>Turnstile and gate entry upgrades</td>
<td>450</td>
</tr>
<tr>
<td><strong>Total 2020/2021</strong></td>
<td><strong>3,450</strong></td>
</tr>
<tr>
<td>Kitchen upgrades and refurbishment</td>
<td>2,000</td>
</tr>
<tr>
<td>Upgrade in-bowl PA system</td>
<td>1,200</td>
</tr>
<tr>
<td><strong>Total 2021/2022</strong></td>
<td><strong>3,200</strong></td>
</tr>
<tr>
<td><strong>Total three years</strong></td>
<td><strong>9,860</strong></td>
</tr>
</tbody>
</table>

44. Another option considered is an interim funding arrangement of $3.2 million for only one year. This would provide council with the opportunity to re-consider funding as part of the Annual Budget 2020/2021, but would not provide much certainty to Eden Park Trust.

45. Four funding options have been considered:

<table>
<thead>
<tr>
<th>Funding options</th>
<th>Option 1 10 years $64m</th>
<th>Option 2 10 years $32m</th>
<th>Option 3 3 years $9.8m</th>
<th>Option 4 1 year $3.2m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fit with council policies</td>
<td>Low</td>
<td>Low</td>
<td>High</td>
<td>High</td>
</tr>
<tr>
<td>Consistency with funding arrangements of other organisations</td>
<td>Low</td>
<td>Low</td>
<td>High</td>
<td>High</td>
</tr>
<tr>
<td>Responsive to future changes</td>
<td>Low</td>
<td>Low</td>
<td>Moderate</td>
<td>High</td>
</tr>
<tr>
<td>Incentive for Eden Park to improve financial performance</td>
<td>Low</td>
<td>Moderate</td>
<td>High</td>
<td>High</td>
</tr>
<tr>
<td>Future certainty for Eden Park</td>
<td>High</td>
<td>High</td>
<td>Moderate</td>
<td>Low</td>
</tr>
</tbody>
</table>

Recommended
46. A balance is needed between providing sufficient funding certainty to Eden Park Trust to ensure effective operations, and incentives to operate efficiently and to continue to seek other funding sources.

47. In considering the term and amount of funding, it is relevant to note that Eden Park Trust has indicated that it will seek a resource consent to enable six concerts per year as a permitted activity. Additional events are expected to significantly improve the financial performance of Eden Park Trust within a three-year period (based on the time needed to obtain the consent and schedule in a programme of concerts or other events). Eden Park Trust has indicated the additional operating profit could be around $2-3 million per annum from 2021.

48. Additionally, there is an opportunity for closer cooperation or partnership between Eden Park Trust, Auckland Council and Regional Facilities Auckland (RFA). This may include coordination of operations such as shared procurement to benefit from economies of scale, shared staffing to provide operational efficiency and better opportunities for employees. The potential cost savings are difficult to estimate. This report recommends that a partnering proposal be developed by the chief executives of Eden Park Trust, Auckland Council and RFA which investigates such an arrangement. It is expected that this would take around a year to develop.

49. The potential for significant improvement in Eden Park Trust's financial performance means that the Trust may generate sufficient cash flow to fund its own capital renewal programme in the future. A funding period of not more than three years would provide council with the opportunity to reconsider Eden Park Trust’s financial performance and funding needs at an appropriate future time.

Type of funding

50. The Facility Partnerships Policy sets out the following ways that council typically invests in facility partnerships:

![Diagram showing how the council and partners can invest in facility partnerships]

- **How the council can invest in facility partnerships**
  - Funding for operating costs
  - Funding for capital development
  - Use of a public building
  - Use of public land
  - Maintenance and renewals
  - Staff support and technical expertise
  - Funding Capex and Opex
    - One-off or ongoing grants, contracts and operating subsidies
  - Use of assets
    - Lease
    - Building leases/licenses to occupy
    - Foregoing revenue earned from use of council assets
  - Support and expertise
    - Maintenance and renewals programme
    - Wide range of expert support staff
    - Contracted specialists/technical advice
    - Brokering

- **How our partners can invest in facility partnerships**
  - Funding for operating costs
  - Funding for capital development
  - Use of land or a building
  - Pro bono expertise
  - Volunteer time
  - Management and programme expertise
  - Community insight and networks
  - Funding and Assets
    - Partners’ own financial contributions, including revenue from other activities (e.g., social enterprises)
    - Grants and finance from other funders/lenders
    - Use of partners’ land and buildings
  - Voluntary contributions
    - Fundraising in the community
    - Pro bono professional services
    - Unpaid governors (e.g., Board of Trustees)
    - Volunteer labour (e.g., working bees)
    - Donated or discounted materials

![Contact us for a large print version of this page]
51. Further consideration has been given to how council provides funding and support to other community organisations. Since the formation of Auckland Council there has primarily been grant funding for operational and capital expenditure, and a limited number of loans and loan guarantees. Examples of other funding arrangements include:

- MOTAT – per statute for operational funding and a community loan in 2003 secured by way of mortgage (now held by RFA)
- ASB Tennis Arena – grant for capital expenditure
- Bruce Pulman Park – grants for operational and capital expenditure and an interest-bearing loan for five years
- Harbour Marine Sports Centre – grant for capital expenditure
- Trusts Stadium (Waitakere City Stadium Trust) – annual grant funding from RFA and in-principle agreement for one-off capital expenditure grant of $2 million for roof renovations
- Maritime Museum – previously operational funding through the Regional Amenities Funding Board, with a loan and capital expenditure funding from RFA; now forms part of RFA’s operating and capital funding from council
- Vodafone Events Centre – grant for capital expenditure for the whitewater rafting facility and annual grant funding from RFA
- ASB Waterfront Theatre – grant for capital expenditure in addition to operational funding through the Auckland Regional Amenities Funding Board
- Woodhill Sands Equestrian – loan guarantee
- North Shore Events Centre Trust – receives annual operating and capital grants from RFA

52. Such funding is often provided by council through a Development Funding Agreement which sets out what the funds are for and when the funds will be accessed by the community facility. Accountability is ensured by monitoring the use of funds, through regular reporting to council.

53. An alternative to grant funding is a commercial loan facility. A loan would provide Eden Park Trust with access to funds for capital renewals. Auckland Council would have the benefit of receiving interest payments and the loan being secured over the assets of Eden Park Trust. However, there is currently no prospect of the loan being repaid from operating revenue. The additional financial burden of interest payments on Eden Park Trust may encourage it to find other funding sources. Eden Park Trust is therefore not in favour of this option as it worsens its financial situation over time. Staff note it is not consistent with how other facilities are funded.

54. Eden Park’s size and significance to the region differentiates it from other organisations that receive council funding. Auckland Council often has ownership of the land on which funded facilities sit, whereas council has no control or other interest in Eden Park Trust. Eden Park Trust has an objective to be administered on a commercially prudent basis as set out in its trust deed, which also suggests it should seek to generate sufficient revenue to cover both its operational and capital renewal requirements. In addition, while the recommendations in this report provide some certainty to Eden Park continuing operations for the next ten years, there remains uncertainty about the long-term future of the stadium.
55. An alternative funding option to an outright grant or loan is a hybrid arrangement, such as a limited recourse loan. An example of this is the Wellington City Council and Greater Wellington Regional Council loan provided to the Wellington Regional Stadium Trust for the development of Westpac Stadium. This form of loan is typically only repayable under certain circumstances and no interest is payable. For example, the Westpac Stadium loan is repayable from surplus funds after meeting costs, liabilities, debt reductions, capital expenditure and transfers to reserves. A limited recourse loan has some similarities to a grant with conditions that would require repayment under certain circumstances.

56. The advantages of a limited recourse loan would be:
   - certainty of funding to Eden Park Trust
   - no interest payable so that any improvements in Eden Park Trust’s financial performance are not spent on increased interest costs
   - council will recoup the funding on certain future events, including any future redevelopment of parts of Eden Park

57. A limited recourse loan is recommended as a way to realise the benefits of both grant and loan funding. It provides the funding certainty that Eden Park Trust needs. With no interest payable it does not worsen the Trust’s financial position over time. However, given the long-term uncertainties and council’s lack of control, repayment of the funding under certain conditions protects council’s interests. It is proposed that the conditions of repayment are in the event of any significant disposal of Eden Park Trust assets, or from any surplus funds generated. Surplus funds generally refers to cash left over after all operating and capital expenditure, interest and debt repayments and any transfers to reserves.

**Conclusion**

58. Based on the analysis above, it is recommended that a maximum of $9.8 million is funded over a three-year period by way of a limited recourse loan.

59. Other external facility providers typically receive council funding subject to a Development Funding Agreement being signed. This type of agreement sets out the detailed terms of the funding arrangement, including what the funding is for, how it will be provided, any retentions, reporting requirements etc. It is recommended that a similar type of agreement be negotiated with Eden Park Trust to set out what is agreed to be funded and provide an accountability mechanism through the reporting requirements.

**Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera Council group impacts and views**

**Regional Facilities Auckland**

60. The key drivers of RFA’s Venue Strategy are to ensure Auckland has a fit-for-purpose, future-proofed, and financially sustainable network of stadiums. Until longer term decisions are made about the future of the stadiums network, we see the financial and operational sustainability of Eden Park as an essential element. We support the proposal and look forward to working with Auckland Council and Eden Park Trust on the operational partnering proposal.

**ATEED**

61. Our view is that it is important to have a world-class, large capacity stadium that enables Auckland to bid for significant global sporting events, including various rugby code matches and cricket games, which contribute substantially to regional GDP and provide a wider opportunity to showcase the region. Until such time as any decision is made on potential alternative options, ATEED supports Eden Park being retained and would welcome further consideration about its extended usage beyond current restrictions.
Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe
Local impacts and local board views

62. The Albert-Eden Local Board discussed the matter of Eden Park as an extraordinary item at its business meeting on 27 February 2019 and resolved as follows:

Resolution number AE/2019/28

MOVED by Chairperson P Haynes, seconded by Member J Rose:
That the Albert-Eden Local Board:

a) confirm its support for Eden Park continuing to operate over the next ten years.

b) call on the Governing Body to confirm that it will not allow Eden Park to cease operating.

c) request the Governing Body to respond positively to requests for funding required to keep Eden Park operating, but do so responsibly by carefully considering accountability, control and sustainability and balanced against the financial investment needed for publicly owned local assets.

CARRIED

Resolution number AE/2019/29

MOVED by Chairperson P Haynes, seconded by Member J Rose:

That the Albert-Eden Local Board:

d) support Eden Park in the process of becoming independently financially sustainable through the limited and reasonable use of Eden Park for public non-sporting events.

A division was called for, voting on which was as follows:

<table>
<thead>
<tr>
<th>For</th>
<th>Against</th>
<th>Abstained</th>
</tr>
</thead>
<tbody>
<tr>
<td>Member L Corrick</td>
<td>Deputy Chairperson G Fryer</td>
<td>Member M Watson</td>
</tr>
<tr>
<td>Member G Easte</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chairperson P Haynes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Member R Langton</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Member B Lee</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Member J Rose</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The motion was declared CARRIED by 6 votes to 2.

CARRIED

Tauākī whakaaweawe Māori
Māori impact statement

63. The financial decisions contained in this report do not have any particular impacts, either positive or negative for Māori.

Ngā ritenga ā-pūtea
Financial implications

64. Council’s debt will increase by $40 million on taking over the ASB Bank loan. This is already included in the 10-year Budget 2018-2028. The additional interest and administration costs will be covered by the interest income from Eden Park Trust. As the guarantee will no longer exist, the provision recorded in the accounts will be reversed.

65. The capital expenditure funding arrangement will be reflected in the Annual Budget 2019/2020.
Ngā raru tūpono me ngā whakamaurutanga
Risks and mitigations

66. There is a risk that the Eden Park Trust Board may not accept council’s proposed funding arrangement. To mitigate this risk, staff have worked with Eden Park Trust representatives to understand the Board’s views and find a workable proposal.

67. ASB Bank is a key stakeholder. To mitigate any risk of ASB Bank not agreeing to the proposed course of action regarding the loan facilities, staff have discussed the recommendation with ASB Bank representatives. ASB Bank has indicated they are supportive of the recommendations.

68. If the loan were not taken over by council in an orderly manner, there is high likelihood of the guarantee being called and council needing to try and recover the amount owed through its guarantee security, likely to be a long and expensive exercise.

Ngā koringa ā-muri
Next steps

69. If the recommendations are approved:

- Auckland Council’s legal and finance teams will work with Eden Park Trust and ASB Bank to finalise loan and funding arrangements.
- Auckland Council’s chief executive will commence a process to develop an operational partnering proposal with the chief executives of RFA and Eden Park Trust.

Ngā tāpirihanga
Attachments

<table>
<thead>
<tr>
<th>No.</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Report from Finance and Performance Committee, 15 May 2018</td>
<td>17</td>
</tr>
<tr>
<td>B</td>
<td>Letter from Eden Park Trust, dated 12 December 2018</td>
<td>27</td>
</tr>
</tbody>
</table>

Ngā kaihaina
Signatories

<table>
<thead>
<tr>
<th>Author</th>
<th>Nicola Berghaus - Executive Officer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authoriser</td>
<td>Matthew Walker - Group Chief Financial Officer</td>
</tr>
</tbody>
</table>
Matters relating to Council’s guarantee of ASB Loan to Eden Park Trust Board

File No.: CP2018/07658

Matataputanga / Confidentiality

<table>
<thead>
<tr>
<th>Reason:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Interests:</th>
</tr>
</thead>
<tbody>
<tr>
<td>s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</td>
</tr>
<tr>
<td>In particular, the report contains sensitive information, the disclosure of which may disadvantage Auckland Council’s position in future negotiations.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Grounds:</th>
</tr>
</thead>
<tbody>
<tr>
<td>s48(1)(a)</td>
</tr>
<tr>
<td>The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.</td>
</tr>
</tbody>
</table>

Te take mō te pūrongo / Purpose of the report

1. To consider the options relating to Council’s guarantee of the ASB Loan to Eden Park Trust Board (EPTB) and delegate responsibility for resolving the course of action for the preferred option.

Whakarāpopototanga matua / Executive summary

2. Council has a decision to make by 30 June 2018 on whether to extend the $40 million loan guarantee provided to the ASB or let the guarantee expire on 30 September 2019. The EPTB is not currently in a position to repay any or all of their $46.6 million of loans when they fall due.

3. Council has several alternative courses of action it could follow, but just extending the term of the guarantee does not solve the problems of EPTB and is no longer acceptable as a solution for securing its loans. Therefore, there are two viable options for Council:
   a) ‘do nothing’ and wait for the ASB to call its guarantee – with all of the associated difficulties, or
   b) ‘move early’ to improve the position of Council financially and Council’s influence over the Eden Park facilities.

Ngā tūtohunga / Recommendations

That the Finance and Performance Committee:
   a) authorise the Chief Executive Officer to:
      i) enter into formal discussions and reach agreement with the EPTB and the ASB to purchase the $40 million loan and negotiate a new combined loan and cost sharing contribution where the terms shall:
         1) be fully commercial, including first ranking security, provision for charging interest (at a margin) and principal repayment;
         2) be for a period of up to 10 years; and
         3) include a non-cumulative cost sharing contribution for no more than $3.2 million per year.
ii) agree to purchase the $40 million debt of the EPTB for no more than $40 million.

iii) complete detailed due diligence on the EPTB financial projections.

iv) provide in the Annual Budget 2018/19 for the raising of a further debt funding to enable the purchase of the ASB loan and providing up to $3.2 million a year for cost sharing contributions.

Horopaki / Context

4. In March 2016 the Finance and Performance Committee agreed to fully provide for the non-payment of the $40 million ASB and $6.6 million Council loans to EPTB. The purpose of this paper is to consider the options relating to Council's guarantee of the ASB Loan to EPTB and delegate responsibility for resolving the course of action for the preferred option.

5. Council has a decision to make by 30 June 2018 on whether to extend the guarantee provided to the ASB or let the guarantee expire on 30 September 2018. Both the ASB and Council loans are secured over the underlying assets of the EPTB. As at 31 March 2018, Council’s total financial exposure to EPTB is $46.6 million.

Tātaritanga me ngā tohutouhū / Analysis and advice

6. The EPTB is not currently in a position to repay any or all of the $46.6 million of loans when they fall due. While EPTB is profitable at the Earnings Before Interest and Tax (EBIT) level, it is projecting losses of $6.4 million (per annum) after accounting for depreciation over the medium term. It is currently unable to fund necessary renewal works.

7. Council has fully provided for the $46.6 million that is likely to result in a loss in the event that EPTB fails to repay its debts when they fall due.

8. Council has several alternative courses of action it could follow, but just extending the term of the guarantee does not solve the problems of EPTB and is no longer acceptable as a solution for securing its loans. The EPTB is unlikely to accept any proposal to extend the guarantee without resolving its medium term financial sustainability. Therefore, there are two viable options for Council:

   a) 'do nothing' and wait for the ASB to call its guarantee – with all of the associated difficulties, or

   b) 'move early' to improve the position of Council financially and Council's influence over the Eden Park facilities.

9. The 'do nothing' option would involve Council letting these loans run to their termination date and waiting for the ASB to call their $40 million guarantee. While Council has provided for the guarantee, Council would still be required to fund the $40 million. This would require raising $40 million of new debt and funding the interest cost of approximately $1.5 million per annum.

10. More importantly, with this option, Council would be left with the challenge of recovering the $46.6 million, with all of the political and optical challenges of collecting this debt. In all likelihood, Council could expect to be left in their position for at least 10 years, at which time there would be little prospect that Council could expect to recover the principal of either loans.

11. Under this option it is highly likely that Council will not only have written off the $46.6 million, but will also incur interest costs of another $15 million over the next 10 years. Overall Council could expect this scenario to cost Council a total of $61.6 million (including the previously provisioned bad debts expense), with an ongoing obligation to pay interest beyond the 10 years.
12. The second alternative (and recommended option) is to seek to resolve the guarantee and medium term financial viability issues of the EPTB while also improving Council’s influence over EPTB. In this alternative we would look to reset the Council’s $46.6 million exposure into owning a ‘performing loan’, while also earning $2 million of interest per annum (netted off against the $1.5 million interest cost incurred).

13. In this scenario, Council would seek an equal 50 percent cost sharing contribution from the Government for securing the medium term sustainability of EPTB to the EBIT level. The quantum of the total contribution has been determined to be up to $6.4 million per annum, Council’s share would be up to $3.2 million per annum. This contribution would be sought concurrently with the proposal to renegotiate the two loans into one.

14. The proposed contribution is intended to be a non-cumulative annual amount, capped at $3.2 million (Council’s share). In the event that EPTB’s financial performance improves the contribution would decrease commensurately.

15. Council would immediately seek to negotiate the loans into one performing loan, paying interest and repaying the principal (at the end of the term) on normal commercial terms. Council would be the first ranking security holder with terms for: interest, principal repayment, the provision of asset management and health & safety plans and the requirement for maintaining appropriate insurance covers. Interest is proposed to be charged at the Council’s marginal borrowing rate, plus an appropriate margin.

16. Negotiating this refinancing and cost sharing arrangements are linked and both require the approval of the EPTB. The EPTB is unlikely to accept any proposal to new terms without resolving its medium term financial sustainability.

17. The preferred option would involve Council seeking:
   a) To purchase the secured debt of the ASB, including all of their security rights, for no more than $40 million.
   b) To jointly contribute to the viability of the EPTB with the Government:
      i. capped to a maximum of $3.2 million per annum,
      ii. for a term of up to 10 years, and
      iii. matched by an equivalent 50% cost sharing contribution.
   c) To negotiate a new commercial loan agreement for both loans ($46.6 million) concurrently with (b).

18. Purchasing the ASB debt would enable Council to receive the full benefits of the ASB loan, including having $100 million preferential entitlement in the event the assets are sold or the EPTB is disestablished. This would provide a stronger position for entering into discussions with the Government and negotiating with the EPTB. In turn, the proposed option results in Council having a much closer (direct) relationship with EPTB.

19. Under the recommended option Council would be able to charge interest that would result in the full cost of funding being passed through to the EPTB. Providing a contribution would reflect Council’s on-going commitment to supporting this regionally significant facility.

20. Staff recommend that Council purchase the debt and provide financial support because:
   a) ASB will not approve an extension of their $40 million facility without a further guarantee from Council;
   b) The EPTB will not be able to refinance the facility elsewhere;
   c) ASB is highly likely to call-in the guarantee in the event of non-repayment;
   d) Cost sharing retains the operation of a regionally and nationally significant stadium;
   e) Major events at the stadium provide economic benefits to both the region and nationally; and
   f) Events at Eden Park provide a social, recreational and sporting benefit to Aucklanders.
It is recommended that Council ‘move early’ to improve the position of Council financially and seek to improve Council’s relationship and influence over these facilities.

Eden Park is a significant facility in the Albert-Eden Local Board area. The Local Board does not specifically mention Eden Park in its priorities under the Long Term Plan.

Local Board views have not been sought as the recommendations relate specifically to financial obligations of the Council and not the Local board.

There are no identifiable Māori impacts relating to the decision required.

Under the ‘do nothing’ option Council could expect to incur interest costs of $15 million over 10 years, in addition to the $46.6 million already provided for (written off) in the Statement of Comprehensive Revenue and Expenditure. All told, this alternative would require $55 million of new funding, with little prospect of any recovery at the end of the ten years. The interest cost would be on-going.

By comparison, the financial implications of the proposed course of action for Council are that it incurs a cost sharing contribution obligation of up to $3.2 million per annum, while borrowing costs are unchanged. However, Council benefits from $2 million of interest revenue annually and repayment of the principal at the end of the 10 year loan period.

Under the proposed option Council’s contribution may be less, depending on the performance of EPTB. Council will also have greater ability to influence EPTB under this alternative.

The recommended course of action Council would receive a total of $5 million of interest income above the associated interest cost. This reflects the small margin on borrowing and earning interest on the original Council loan.

All told, this option produces a net return to Council of $20.4 million, largely as a result of recovering the $46.6 million of principal repayment and net interest revenue. Furthermore, Council would be preserving the option of a reduced contribution and the opportunity of a more influential relationship with EPTB.

No funding is currently included in the FY2017/18 budget or the Long Term Plan for the payment of the guarantee or purchase of the loan from ASB. Nor is any provision included for providing the proposed cost sharing contribution. Provision is required in the 2017/18 budget process to either purchase the loan or pay the guarantee, and to provide for the cost sharing contribution.

10-years have been chosen as a reasonable timeframe over which to compare the options.

Council’s primary risk is that it may need to try and recover the debts owed by EPTB to Council and the ASB. This risk materialises if Council does nothing and no plan is in place for resolving EPTB’s financial position. This risk would be mitigated if Council follows the recommended course of action.

A second risk exists in the event that any unplanned or unforeseen significant negative events occur at Eden Park. This could have a negative impact on anticipated financial revenues and viability of EPTB. This risk would partly be mitigated by (i) the proposal of sharing risk with the Government and (ii) having a more comprehensive set of commercial loan documents in place.
Ngā koringa ā-muri / Next steps
34. We are seeking the following approvals for Councillors to authorise the Chief Executive Officer to:
   a) Enter into formal discussions and reach agreement with the EPTB and the ASB to purchase the $40 million loan and negotiate a new combined loan and cost sharing contribution where the terms shall:
      1) be fully commercial, including first ranking security, provision for charging interest (at a margin) and principal repayment;
      2) be for a period of up to 10 years; and
      3) include a cost sharing contribution for no more than $3.2 million per year.
   b) Agree to purchase the $40 million debt of the EPTB for no more than $40 million.
   c) Complete detailed due diligence on the EPTB financial projections.
   d) Provide in the Annual Budget 2018/19 for the raising of a further debt funding to enable the purchase of the ASB loan and providing up to $3.2 million a year for cost sharing contribution.

Ngā tāpirihanga / Attachments

<table>
<thead>
<tr>
<th>No.</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Auckland Council Guarantee of the ASB Loan presentation - CONFIDENTIAL</td>
<td>9</td>
</tr>
</tbody>
</table>

Ngā kaihaina / Signatories

<table>
<thead>
<tr>
<th>Authors</th>
<th>John Duncan, Executive Director, Auckland Investment Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reviewer</td>
<td>Francis Caetoano – Group Financial Controller</td>
</tr>
<tr>
<td>Authorisers</td>
<td>John Bishop - Treasurer and General Manager Financial Transactions</td>
</tr>
<tr>
<td></td>
<td>Matthew Walker - Acting Group Chief Financial Officer</td>
</tr>
</tbody>
</table>
Item 13

Attachment A

Auckland Council Guarantee of the ASB Loan
Presentation
Context

- Former Auckland City Council agreed to guarantee a $40 million ASB loan to Eden Park Trust Board (EPTB)
- Guarantee expiring in September 2019 after an extension by the Finance and Performance Committee in March 2016
- Decision on the way forward will be required by 30 June 2018
- Auckland Council also holds a $6.6 million community loan to EPTB
- EPTB currently running an operating deficit (depreciation unfunded) – has signaled funding required from Auckland Council
## Options

<table>
<thead>
<tr>
<th>Financing</th>
<th>Option A Do nothing</th>
<th>Option B Move early</th>
<th>Option C Extend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Partnered approach with EPTB</td>
<td>x</td>
<td>✓</td>
<td>x</td>
</tr>
<tr>
<td>Interest recovery</td>
<td>x</td>
<td>✓</td>
<td>x</td>
</tr>
<tr>
<td>ASB loan security ($40m)</td>
<td>✓</td>
<td>✗</td>
<td>✓</td>
</tr>
<tr>
<td>New AC loan security ($40m)</td>
<td>x</td>
<td>✓</td>
<td>✗</td>
</tr>
<tr>
<td>Community loan security ($6.6m)</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

| Operating                         |                     |                     |                 |
| AC and Crown operating gap sharing*| x                   | ✓                   | x               |
| Eden Park asset maintenance       | x                   | ✓                   | x               |
| Eden Park availability            | 1 years             | 10 years            | 2 years         |

*Non-cumulative commitment
Options

Commentary
Under Options A and C Auckland Council will have no direct control over the loan security or any associated influence as the loan is held by ASB, however the guarantee effectively means Auckland Council is liable for the loan. EPTB has signalled operating funding may be required from Auckland Council and under Options A and C we may be the sole funder.

Option B refinances the loan so that Auckland Council holds the security and has direct control of its covenants. Crown has also signalled willingness to co-fund the operating gap.
## Options – cash flow analysis

<table>
<thead>
<tr>
<th>Options</th>
<th>FY19</th>
<th>FY20</th>
<th>FY21</th>
<th>FY22</th>
<th>FY23</th>
<th>FY24</th>
<th>FY25</th>
<th>FY26</th>
<th>FY27</th>
<th>FY28</th>
<th>Net</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Option A - Expire</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Repayment of ASB loan</td>
<td>(40.0)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(40.0)</td>
</tr>
<tr>
<td>Interest paid</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(15.0)</td>
</tr>
<tr>
<td>Recovery of ASB loan</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Recovery will occur if and when Auckland Council decides to enact deed rights</td>
</tr>
<tr>
<td>Net</td>
<td>(41.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(55.0)</td>
</tr>
<tr>
<td><strong>Option B - Refinance &amp; fund</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Refinancing of ASB loan</td>
<td>(40.0)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(40.0)</td>
</tr>
<tr>
<td>Recovery of AC loan</td>
<td></td>
<td>40.0</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>40.0</td>
</tr>
<tr>
<td>Recovery of Community loan</td>
<td></td>
<td>4.6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4.6</td>
</tr>
<tr>
<td>Net interest</td>
<td>0.5</td>
<td>0.5</td>
<td>0.5</td>
<td>0.5</td>
<td>0.5</td>
<td>0.5</td>
<td>0.5</td>
<td>0.5</td>
<td>0.5</td>
<td>0.5</td>
<td>5.0</td>
</tr>
<tr>
<td>Share of operating funding gap</td>
<td>(3.2)</td>
<td>(3.2)</td>
<td>(3.2)</td>
<td>(3.2)</td>
<td>(3.2)</td>
<td>(3.2)</td>
<td>(3.2)</td>
<td>(3.2)</td>
<td>(3.2)</td>
<td>(3.2)</td>
<td>(32.0)</td>
</tr>
<tr>
<td>Net</td>
<td>(42.7)</td>
<td>(2.7)</td>
<td>(2.7)</td>
<td>(2.7)</td>
<td>(2.7)</td>
<td>(2.7)</td>
<td>(2.7)</td>
<td>(2.7)</td>
<td>(2.7)</td>
<td>(2.7)</td>
<td>(43.9)</td>
</tr>
<tr>
<td><strong>Option C - Extend</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Repayment of ASB loan</td>
<td>(40.0)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(40.0)</td>
</tr>
<tr>
<td>Interest paid</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(13.5)</td>
</tr>
<tr>
<td>Recovery of ASB loan</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Recovery will occur if and when Auckland Council decides to enact deed rights</td>
</tr>
<tr>
<td>Net</td>
<td>0.0</td>
<td>(41.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(1.5)</td>
<td>(53.5)</td>
</tr>
</tbody>
</table>
12 December 2018

The Chief Executive Officer
Auckland Council
Private Bag 92300
AUCKLAND, 1142

Attention: Mr Stephen Town

Dear Steven,

**RE: EDEN PARK $40,000,000 ASB LOAN, AS GUARANTEED BY AUCKLAND COUNCIL (the Loan)**

Thank you for your letter of 10 December 2018 in which you propose a workshop is arranged in the New Year between the Trustees of The Eden Park Trust (the Trust) and Councillors to discuss the long term future of the Loan and the Trust’s future funding requirements. You further proposed that you seek approval to extend the Council’s guarantee of the Loan for a further six months. You asked me how the Trust would like to proceed.

Having taken these proposals into consideration, the Trust would prefer not to make a further request to the ASB to extend the Loan facility as you have proposed. Instead the Trust would prefer that you seek authority from Councillors to request an assignment of the Loan from the ASB to Council, and thereby assume all rights and securities in relation to the Loan, in place of the ASB as lender. We make this request for the following reasons (following the chronology of events):

1. Councillors clearly demonstrated their support for Council acquiring the loan, on commercial terms, by passing Finance and Performance Committee resolution number FIN/2018/76 on 15 May 2018.
2. Pursuant to that resolution, in late September Council appointed the accounting firm EY to prepare an independent report into the finances of the Trust. The Trust’s CEO and CFO engaged and co-operated with EY in the understanding that the report was necessary to facilitate conclusion of the matters proposed in the resolution.
3. This intention was further demonstrated when Council CFO wrote to the ASB on 26 September 2018 advising that Council did not intend to offer an extension of its guarantee of the Loan beyond the facility’s 30 September 2019 expiry.
4. In response, the ASB wrote to the Trust on 28 September 2018 advising they would not grant the Trust’s prior request (on 22 June 2018, in accordance with the requirements of the facility) to extend the term of the facility for two years from 30 September 2019.
5. The Trust wrote to the Council CFO on 18 October 2018 seeking further clarification of the Council’s position with respect to the future of the Loan, as this was likely to be a matter of significance upon the annual audit of the Trust’s accounts by the OAG (through their agent, Messrs Grant Thornton), as at 31 October 2018.
6. As there was no resolution of the Loan by 31 October 2018, it will be classified as a Current Liability in the Trust’s annual report, regardless of any subsequent event in relation to it. This classification,
7. Your proposal to extend the guarantee does not resolve the inherent uncertainty over the future of the Loan. The Audit Opinion is therefore likely to include reference to the “Material Uncertainty” over the future of the Loan, as matters stand. It is likely to include a specific “Emphasis of Matter” paragraph concerning the Loan. As the ultimate responsibility for the audit rests with the OAG, Grant Thornton will raise this matter to their attention. They have an obligation to do so in accordance with the OAG’s stated “no surprises” policy.

8. Further to this trail of correspondence, there have been numerous conversations between myself as Chair, Councillors, the Mayor’s office, Council officers, Government officials, ASB Bank and others, clear in the view the intention of the parties is to for Council to transfer the Loan onto its books.

9. To summarise the above, the Councillors’ clear intention to acquire the Loan was demonstrated in May 2018 through the resolution. In preparation for that, they requested the cost of acquisition is budgeted into the 2018/19 financial year. We understand the Loan was fully provisioned in Council’s balance sheet. The Loan and Guarantee documentation provides for assignment of the debt in this manner. This is clearly the cleanest resolution to the uncertainty over the Loan.

10. Deferring discussions until the New Year is of added concern to the Trustees as it risks continuation into the 2019 election cycle, which may prevent a conclusion being met. The prospect of further discussion with a subsequent new Council creates further uncertainty.

11. Whilst not ideal in the Trustees’ eyes, the deferral of consultation over future funding needs into the New Year is not as problematic as the Loan itself. It makes sense for the two matters to be dealt with separately in this way.

12. It is worth noting that there is an historical context to the establishment of the Loan and Guarantee. In that context, the Council taking an assignment of the Loan will effectively return it to where it rightly belongs, rather than continue the current tri-partite arrangement which is not ideal for any of the parties.

We trust you can support this proposal for Council to seek an Assignment of the Loan, on expiry date, on sound commercial terms and well secured, on the basis that it provides clarity for all parties. Further discussions as to future funding needs can proceed in the New Year, as you proposed. These matters could be immediately documented in a Memorandum of Understanding (MOU) between the Parties, which would form the basis of a clear and concise disclosure within the Trust’s annual report, concluding the uncertainty over the Loan’s future. We enclose a suggested wording of a MOU to that effect, which could be placed before Councillors, together with this letter.

We look forward to your urgent attention to these proposals.

Kind regards,

Doug McKay
Chairman, The Eden Park Trust