



19. 12. 2003

**REPORT BY THE CHAIRMAN OF THE  
PARKS, GARDENS AND WATERWAYS COMMITTEE**

**PART A - MATTERS REQUIRING A COUNCIL DECISION**

**1. STYX LIVING LABORATORY TRUST  
IHUTAI MEMORANDUM OF UNDERSTANDING**

<b>Officer responsible</b> Director of Legal and Secretariat Services	<b>Author</b> Peter Mitchell, DDI 941-8549
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At the Council meeting held on Thursday, 11 December 2003, there was an issue raised when the Council came to consider an item in the Parks, Gardens and Waterways Committee report on the agenda relating to a memorandum of understanding between the Styx Living Laboratory Trust, the Canterbury Regional Council and this Council. A copy of that report to the Council 11 December meeting is attached.

The issue raised was in relation to the tenure of trustees on the Trust, although the purpose of the report was to obtain Council approval to the memorandum of understanding. The report was not seeking Council approval to the appointment of trustees.

As a result of the issue raised the Council minutes record:

*“Several Councillors questioned the desirability of the proposed trustees being appointed for life. The opinion was also expressed that provision should be made for the appointment from time to time of the then current Deputy Mayor, rather than Councillor Lesley Keast being appointed for life. It was further resolved that this clause be withdrawn and that a further report on the proposed appointment be submitted to the 19 December Council meeting.”*

I have now had an opportunity to consider the legal documents involved.

A Trust Deed signed on 6 May 2002 constituted the Styx Living Laboratory Trust. In that deed Mrs Lesley Keast, in a personal capacity, was a signatory to the constituting document as an original trustee together with a number of other Christchurch people. Mrs Keast was not signing the constituting document on behalf of the Council and that document makes no reference to her position as a Councillor nor as the Deputy Mayor.

It is standard practice for documents establishing trusts to be signed by a number of people in their personal capacity and I see nothing unusual in the way that Mrs Keast signed this document as an original trustee.

The trust deed constitutes the Styx Living Laboratory Trust which is a separate legal entity from the Council, as a charitable trust intended to support the Council in achieving vision three in the Christchurch City Council document called “*Vision 2000-2040 the Styx*” by developing a living laboratory.

The constituting trust document is slightly unusual in that paragraph 5.3 provides that each trustee shall hold office for life subject to a clause whereby the trustees are able to resign or they can be removed from office by a resolution of the other trustees. The total number of trustees is to be between 6 and 12 persons.

However this is not a situation where the trust deed provides the right for the Council to make an appointment of a person as a trustee. It is simply a situation where Mrs Keast has chosen to act in a capacity as an original trustee to enable the trust to be constituted. If the trustees choose to be appointed for life that is a matter only for them.

The trust deed does provide for a board of management, in addition to the trustees, and this board of management effectively carries out the operational day-to-day matters on behalf of the trustees. That board of management comprises between 10 and 15 persons including representatives appointed by Environment Canterbury, tangata whenuwa, education, research and the general community.

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**1 Cont'd**

This part of the trust deed does provide for the City Council to appoint one person onto the board of management and I understand that Mrs Christine Heremaia of the Council's Parks & Waterways Unit has in fact been operating in that capacity since the board of management was constituted in 2002. I also understand that there is no formal resolution of the Council to appoint her to that position and I believe it would be appropriate if the Council was so minded, to ratify her appointment to the board of management on behalf of the Council.

The trust deed provides that persons appointed to the board of management hold office for a term of three years and that the Council may change its appointment at any time.

**Staff**

**Recommendation:** That the Council appoint Mrs Christine Heremaia as the Council's representative on the Board of Management of the Styx Living Laboratory Trust.

**Chairman's**

**Recommendation:** That the above recommendation be adopted.

**CONSIDERED THIS 19TH DAY OF DECEMBER 2003**

**MAYOR**