

## 9. PROPOSED ROD DONALD BANKS PENINSULA TRUST

|                                     |   |
|-------------------------------------|---|
| <b>General Manager responsible:</b> | General Manager Regulation & Democracy Services, DDI 941-8462 |
| <b>Officer responsible:</b>         | Legal Services Manager  |
| <b>Author:</b>                      | Nadine Daines, Solicitor, Legal Services Unit                 |

### PURPOSE OF REPORT

1. The purpose of this report is to provide the Community Board with a Draft Trust Deed and Draft Statement of Intent for the proposed Rod Donald Banks Peninsula Trust that is to be established by the Council. The documents are **attached** for the Community Board's consideration and comments.

### EXECUTIVE SUMMARY

2. The Council has previously approved the establishment of a charitable trust to administer the funds received from the sale of endowment properties owned by the former Banks Peninsula District Council.
3. The Council also appointed a subcommittee to be responsible for preparing a draft trust deed and draft statement of intent for the proposed trust. The subcommittee elected seven people with interests in the Banks Peninsula area to develop a framework for the operation of the Trust. These people, the "Initial Trustees", have prepared the draft trust deed and draft statement of intent for the Trust. The subcommittee has approved these draft documents.
4. The Council requested that the draft trust deed and draft statement of intent be provided to the Banks Peninsula Community Boards for consideration. The documents are **attached** to this report for the Community Board's consideration and comments.

### FINANCIAL IMPLICATIONS

5. As noted in previous Council reports in respect to the proposed Rod Donald Banks Peninsula Trust, the proceeds of sale of the Banks Peninsula District Council endowment properties have been held un-dispersed to date. The sale proceeds will be settled on the Trust when the Trust is established.

### Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

6. The use of the proceeds of sale of the endowment properties was indicated in the 2004-14 LTCCP adopted by the Banks Peninsula District Council.
7. The funds have been held un-dispersed and are therefore available to be used for purposes consistent with the original endowments.

### LEGAL CONSIDERATIONS

8. The Council has previously received legal advice that establishing a charitable trust to administer the funds for the benefit of the Banks Peninsula and Christchurch City communities is an acceptable use that is consistent with the purposes of the original endowments.

### Have you considered the legal implications of the issue under consideration?

9. Yes, as above.

### ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

### Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

10. Not applicable.

## **ALIGNMENT WITH STRATEGIES**

### **Do the recommendations align with the Council's strategies?**

11. Not Applicable.

## **CONSULTATION FULFILMENT**

12. A special consultative procedure in respect to the establishment of the Rod Donald Banks Peninsula Trust was conducted in September and October 2007. The Hearings Panel reported back to the Council on 11 October 2007 and the Council adopted the Hearings Panel recommendations. The recommendations are discussed in further detail in the Background section of this Report.

## **STAFF RECOMMENDATION**

13. (a) That the Community Board comment on the attached draft Deed of Trust and draft Statement of Intent of the proposed Rod Donald Banks Peninsula Trust.  
  
(b) That the Board note that any suggestions made by the Community Board will be considered before the Draft Trust Deed and Draft Statement of Intent for the Trust are submitted to the Council for approval.

## **BACKGROUND (THE ISSUES)**

14. On 30 August 2007, the Council passed a resolution approving in principle the establishment of a charitable trust to administer funds obtained from the sale of endowment properties owned by the former Banks Peninsula District Council. The Council resolved that the purpose of the Trust should be to aid the maintenance and development of the natural and built heritage in the Banks Peninsula area, and to aid the maintenance and development of environmental and community based projects in the area. The Trust is dedicated to the memory of Rod Donald, to recognise his commitment to the Banks Peninsula area.
15. Consultation was carried out, as summarised in Clause 12 of this report.
16. The Hearings Panel recommended that the Council -
  - (i) establish a charitable trust as a council-controlled organisation, for the purpose of administering the funds obtained from the sale of endowment properties owned by the former Banks Peninsula District Council;
  - (ii) appoint a subcommittee comprising Garry Moore, Bob Parker and Sue Wells to attend to the formation of the Trust.
17. The subcommittee was asked to -
  - (i) undertake further consultation with the communities affected by or with an interest in the proposed objects of the Trust;
  - (ii) draft a Statement of Intent to be available for consideration by the Council in due course;
  - (iii) consider the potential for increasing the level of Trust funds from sources other than (and in addition to) the funds obtained from the sale of the endowment properties;
  - (iv) prepare a report for consideration by the Banks Peninsula Community Boards and the Council containing the subcommittee's recommendations in respect to the Deed of Trust and the Statement of Intent.
18. In April 2009 the subcommittee invited seven people with interests in the Banks Peninsula area to be "Initial Trustees" for the Trust. The role of the "Initial Trustees" is to conduct the groundwork required to establish the Trust and to represent the various communities with an interest in the proposed objects of the Trust. The "Initial Trustees" are Nuk Korako, Nicola Shirlaw, Simon Mortlock, Stuart Wright-Stow, Garry Moore, Claudia Reid and Stewart Miller. The "Initial Trustees" will be formally appointed as trustees when the Trust is settled.

19. The "Initial Trustees" have now developed the objectives of the Trust and a framework for its operation in the future. The objectives and framework, which have been approved by the subcommittee, are set out in the Draft Trust Deed and Draft Statement of Intent attached to this Report. The Community Board's views on the proposals are sought. Following Community Board consultation, the draft Trust Deed and draft Statement of Intent, amended as necessary, will be submitted to the Council for approval.