


## 10. RETENTION OF CASS BAY LAND FOR INCLUSION IN PORT HILLS RESERVE



<b>General Manager responsible:</b>	General Manager Strategic Development
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### PURPOSE OF REPORT

1. The purpose of this report is to recommend a way for the Christchurch City Council to assist the Banks Peninsula District Council in retaining a 23.37 hectare parcel of land in Cass Bay for future incorporation of a large portion into the Port Hills Reserve.

### EXECUTIVE SUMMARY

2. The Banks Peninsula District Council has requested the Christchurch City Council to look at ways of assisting it to retain an area of Cass Bay as reserve.
3. The Banks Peninsula District Council is under pressure with current budgets and needs the projected revenue from the sale of this land to fund urgent reserve works and repay debt on the land.
4. The Christchurch City Council has no funds currently available in the budget to purchase the land.
5. With the proposed abolition of the Banks Peninsula District Council the land will potentially vest in the Christchurch City Council.
6. The proposed solution enables the Banks Peninsula District Council to meet its capital commitments, protects the land for future incorporation into the Port Hills Reserve and provides security for the Christchurch City Council until clarity is provided on future direction and ownership.

### FINANCIAL AND LEGAL CONSIDERATIONS

7. The amount requested by the Banks Peninsula District Council is \$720,000 to repay debt on the land and fund capital work on other reserves. The Christchurch City Council has no budget available for purchase but could lend Banks Peninsula District Council the money from General Reserve funds, charge interest and treat the transaction as an investment.
8. The land is already owned by the Banks Peninsula District Council but may have to be sold to fund other urgent commitments. The loan advance would be secured against the land and prevent the sale of the land while enabling the Banks Peninsula District Council to meet its other commitments. The land would vest in the Christchurch City Council if the proposed merger eventuates.
9. It is within the Council's power of general competence to advance money as a loan to the Banks Peninsula District Council for the retention of the land for public recreation purposes. If and when a merger of the City and the Peninsula eventuates the act of merger would release the mortgage as the mortgagor and mortgagee would be the same.
10. Section 10 of the Local Government Act 2002 provides;  
*"The purpose of local government is*  
*(a) to promote the social, economic, environmental, and cultural well-being of communities, in the present and for the future."*
11. Section 12(2) of the Act provides;  
*"Status and powers*  
*(b) For the purposes of performing its role, a local authority has-*

- (i) *full capacity to carry on or undertake any activity or business, do any act, or enter into any transaction;*"

12. Section 14 of the Act provides;

*"Principles relating to local authorities*

(c) *In performing its role, a local authority must act in accordance with the following principles:*

- (i) *a local authority should collaborate and co-operate with other local authorities and bodies as it considers appropriate to promote or achieve its priorities and desired outcomes, and make efficient use of resources; and*
- (ii) *a local authority should undertake any commercial transactions in accordance with sound business practices; and"*

13. It will be prudent for the Council, if it approves this advance to:

- Request the Banks Peninsula District Council to provide security by way of a registered first mortgage over the land and
- Require the District Council to initiate steps (as and when requested by the Christchurch City Council) either for the land to be held for conservation purposes under the Reserves Act 1977 or make the land subject to a conservation covenant under section 77 of the Reserves Act.

14. Provided this loan is approved by the Council it fits with the general provisions of the Council's Investment Policy which authorises the Director of Strategic Investment to determine the specific term and conditions of the loan.

15. At the time of preparation of this advice the Legal Services Unit had not had the opportunity to search and report on the status of the land title. Any approval to the loan should therefore be subject to a satisfactory report on the legal title. This will examine any restrictions on title, survey issues, Public Works Act issues, possible contamination sites and any other adverse claims and Resource Management Act issues that could inhibit the future planned use of the land.

#### **STAFF RECOMMENDATIONS**

It is recommended that:

1. The Council:

- (a) Lends the Banks Peninsula District Council \$720,000 to repay debt and fund urgent reserve works.
- (b) Capitalises interest at a rate to be agreed with the Director of Strategic Investment, accrued on the loan for a period of two years, at which time it be reviewed.
- (c) Takes a registered first mortgage security over the land at Cass Bay (recent valuation \$880,000).
- (d) Requires the Banks Peninsula District Council to initiate steps (as and when requested by Christchurch City) for the land to be held for conservation purposes under the Reserves Act 1977, or alternatively make the land subject to a conservation covenant under section 77 of the Reserves Act.

2. That such advance be conditional on the Legal Services Manager being satisfied as to land title and security to ensure that the advance can be secured in the manner specified.

## **BACKGROUND**

16. Recently I was requested to look at options for assisting the Banks Peninsula District Council to meet some urgent capital requirements with a view to stopping the sale of land at Cass Bay and retaining the land for future incorporation into the Port Hills Reserve. One of the key constraints was that the Christchurch City Council had no available budgeted funds to purchase the land outright in the short term. The ownership issue is further complicated by the current Local Government Commission proposal for the abolition of Banks Peninsula District and, dependent on the outcome of this process, the potential vesting of the land in the Christchurch City Council at the time of abolition. There is also a need to ensure that should the abolition not take place the Christchurch City Council has adequate security and is able to exit the investment by repayment of the principal and interest or taking ownership of the land.

## **17. TIMING**

The Banks Peninsula District Council has delayed a decision on sale until its meeting on 27 April 2005, to ascertain if a solution can be found.

## **OPTIONS**

18. Options include:

- (a) The Christchurch City Council grants a loan to the Banks Peninsula District Council and takes security over the land in question.
- (b) The Christchurch City Council declines a loan and the Banks Peninsula District Council sells a portion of the land to raise funds.

## **PREFERRED OPTION**

19. That the Christchurch City Council makes a loan of \$720,000 to the Banks Peninsula District Council and takes a security over the Cass Bay land.

## ASSESSMENT OF OPTIONS

### Option 1: The Preferred Option

20. The preferred option.

	Benefits (current and future)	Costs (current and future)
<b>Social</b>	Adds to current recreation reserve.	
<b>Cultural</b>		
<b>Environmental</b>	Protects additional Port Hills land. Protects the green belt.	\$720,000
<b>Economic</b>		
<p><b>Extent to which community outcomes are achieved:</b> Primary alignment with community outcome. A city with a sustainable and natural environment. Also contributes to a city with healthy and active people, a cultural and fun city and a liveable city.</p> <p><b>Impact on Council's capacity and responsibilities:</b> Marginal.</p> <p><b>Effects on Maori:</b> No adverse effects.</p> <p><b>Consistency with existing Council policies:</b> Consistent with current Port Hills Policies and Strategy.</p> <p><b>Views and preferences of persons affected or likely to have an interest:</b></p> <p><b>Other relevant matters:</b></p>		

## Option 2

21. The Christchurch City Council does not assist the Banks Peninsula District Council.

	Benefits (current and future)	Costs (current and future)
<b>Social</b>	None	Opportunity lost.
<b>Cultural</b>	None	Opportunity lost.
<b>Environmental</b>	None	Opportunity lost.
<b>Economic</b>		
<b>Extent to which community outcomes are achieved:</b> Primary alignment with community outcome. Contrary to outcomes listed in (20) above.		
<b>Impact on Council's capacity and responsibilities:</b>		
<b>Effects on Maori:</b>		
<b>Consistency with existing Council policies:</b> Contrary to Port Hill Strategy and policies.		
<b>Views and preferences of persons affected or likely to have an interest:</b>		
<b>Other relevant matters:</b>		