

**BANKS PENINSULA CHARITABLE TRUST  
SUBCOMMITTEE  
AGENDA**

**FRIDAY 28 MAY 2010**

**AT 10.00 AM**

**IN THE NO. 1 COMMITTEE ROOM, CIVIC OFFICES**

**Subcommittee:** The Mayor, Bob Parker (Chair), Councillor Sue Wells and Garry Moore.

**In attendance:** Nadine Daines [Solicitor]

**Committee Adviser**

Megan Roberts  
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1. **APOLOGIES**
2. **MEETINGS MINUTES - CONFIRMATION OF MINUTES OF PREVIOUS MEETING HELD ON 9 MARCH 2009**
3. **MATTERS ARISING**
  - 3.1 Presentation of Rod Donald Banks Peninsula Trust Subcommittee Report by Legal Services.
4. **PROPOSED ROD DONALD BANKS PENINSULA TRUST**

**1. APOLOGIES**

**2. MEETINGS MINUTES - CONFIRMATION OF MINUTES OF PREVIOUS MEETING HELD ON  
9 MARCH 2009**

Attached.

**3. MATTERS ARISING**

3.1 Presentation of Rod Donald Banks Peninsula Trust Subcommittee Report by Legal Services.

#### 4. 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:
  - (a) provide to the Subcommittee the results of consultation with the Akaroa/Wairewa and Lyttelton/Mt Herbert Community Boards in respect to the proposed Rod Donald Banks Peninsula Trust; and
  - (b) provide a Draft Trust Deed and Draft Statement of Intent for the proposed Rod Donald Banks Peninsula Trust to the Subcommittee for its approval and for recommendation to the Council.

##### 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. By a resolution dated 11 October 2007, the Council established the Banks Peninsula Charitable Trust Subcommittee. The Council requested that the Subcommittee undertake further consultation with communities with an interest in the proposed objects of the Trust, draft a Statement of Intent and Trust Deed for the Trust, report to the Banks Peninsula Community Boards in respect to the draft documents and consider the potential to increase the Trust funds. The Council also requested that the Subcommittee report back to it in respect to these matters.
4. At its meeting on 9 March 2009, the Banks Peninsula Charitable Trust Subcommittee selected seven people with interests in the Banks Peninsula area to develop a framework for the operation of the proposed Rod Donald Banks Peninsula Trust. These people, the "Initial Trustees", have now prepared a draft Trust Deed **Attachment 2** and draft Statement of Intent for the Trust **Attachment 3**. These draft documents are attached.
5. The Akaroa/Wairewa and Lyttelton/Mt Herbert Community Boards have been consulted in respect to the documents. A summary of the comments made by the Community Boards, and the staff response to these comments **Attachment 1**, is attached to this Report.
6. The draft documents are now submitted to the Banks Peninsula Charitable Trust Subcommittee for approval and for recommendation to the Council.

##### FINANCIAL IMPLICATIONS

7. 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 in a special fund to date. The sale proceeds and accumulated interest of approximately \$3,400,000 will be settled on the Trust when the Trust is established.

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

8. 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.
9. The funds have been held un-dispersed in a special fund by the Christchurch City Council and are therefore available to be used for purposes consistent with the original endowments.

##### LEGAL CONSIDERATIONS

10. 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.

#### 4 Cont'd

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

11. 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?**

12. Not applicable.

##### **ALIGNMENT WITH STRATEGIES**

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

13. Not applicable.

##### **CONSULTATION FULFILMENT**

14. 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.
15. The Akaroa/Wairewa and Lyttelton/Mt Herbert Community Boards were also consulted in respect to the proposed draft Trust Deed and draft Statement of Intent for the Trust, at their respective meetings of 7 and 13 April 2010. A summary of the comments made by the Community Boards, and the staff response to the comments **Attachment 1**, is attached to this Report.

##### **STAFF RECOMMENDATION**

That the Subcommittee recommend to the Council that:

- (a) The draft Trust Deed and draft Statement of Intent for the proposed Rod Donald Banks Peninsula Trust be adopted in the forms attached to this Report, subject to such amendments as may be required by the Registrar of Charitable Trusts or the Charities Commission; and
- (b) The Trust be registered under the Charitable Trusts Act 1957 and the Charities Act 2005.

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### BACKGROUND (THE ISSUES)

17. 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.
18. Consultation was carried out in respect to the proposal in September and October 2007, as summarised in the Consultation Fulfilment section of this report.
19. 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 (the Banks Peninsula Charitable Trust Subcommittee).
20. The Banks Peninsula Charitable Trust 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.

The Council adopted the recommendations of the Hearings Panel on 11 October 2007.

21. At its meeting of 9 March 2009 the Subcommittee elected seven people with interests in the Banks Peninsula area to be "Initial Trustees" for the Trust. The "Initial Trustees" were invited 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.
22. The "Initial Trustees" met on several occasions in 2009. They have now developed recommended objectives for the Trust and a framework for its operation in the future. The objectives and operational framework are set out in the draft Trust Deed and draft Statement of Intent that have been prepared for the Trust.
23. The views of the Akaroa/Wairewa and Lyttelton/Mt Herbert Community Boards were sought on the Initial Trustees' proposals. A summary of the comments made by the Community Boards, and the staff response to the comments **Attachment 1**, is attached to this Report.
24. The Draft Trust Deed **Attachment 2** and Draft Statement of Intent **Attachment 3**, amended as noted for the Community Boards' comments, are attached to this Report.