

Christchurch City Council
Legal Services Unit

Memorandum

Date: 12 SEPTEMBER 2007

From: CHRIS GILBERT, LEGAL SERVICES MANAGER

To: PETER MITCHELL

RE: TRUSTEES – RICCARTON BUSH TRUST

1. The Riccarton Bush Trust wrote to the Chief Executive on 23 August 2007 as per the copy attached.
2. The Trustees requested that Council consider the Council appointments to the Trust and extend the one month period for outgoing council appointees to three months.
3. With respect, the request to extend the one month period to three months cannot be approved. The reason being that S.15 (i) of Riccarton Bush Trust Amendment Act 1947 expressly provides for one month and Council would be acting ultra vires by extending the period to three.
4. An extension of the period to three months without statutory sanction would mean that the Trust is acting without a quorum of duly appointed Trustees and actions of the Trustees who are invalidly holding office would invalidate the business of the Trust during this period. The result could be significant issues for the Trust.
5. An amendment to S.15 could be considered if Council was so minded.

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LEGAL SERVICES MANAGER

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23 August 2007

Mr. Tony Marryatt,
Chief Executive,
Christchurch City Council,
P.O. Box 237,
CHRISTCHURCH.

cc Peter Mitchell

Dear Tony,

COUNCIL APPOINTEES TO RICCARTON BUSH TRUST

At a recent meeting of the Riccarton Bush Trust Board discussion centred on the possible impact, from the upcoming local body election results, on the position of Council elected member appointees to the Trust Board.

The purpose of this letter is to alert you to the need for some future consideration by Council on the matter of Council appointments.

While the Riccarton Bush Act generally provides for terms of "five years" there is also a proviso requiring Council elected members to vacate their seat in the event of losing their position as "a member of the local authority [CCC]".

This section of the Act (section 15 of the 1947 Amendment—"If any member of a local authority which is empowered to nominate a member or members of the Board is nominated by that local authority, he shall, on expiration of one month after he has so ceased to be a member of the local authority, vacate his office as a member of the Board, unless in the meantime he has been confirmed in his office by resolution of the local authority") may have been overlooked in recent earlier decisions involving elected member appointees.

In the case of the current elected members appointed by Council the provisions of the Act will particularly affect Pat Harrow, who is not standing again for the Council, and will also affect the positions of either Bob Shearing/Mike Mora/Neville Bennett in the event of their non-election as elected members.



According to the Trust Board's records the following summarises the current elected member appointments:--

<u>Trustee</u>	<u>Appointed on</u>	<u>Appointed by</u>
Bob Shearing	10 February 2005	Christchurch City Council
Pat Harrow	3 March 2005	Christchurch City Council
Mike Mora	8 March 2005	Ricc./Wig. Comm. Board*
Neville Bennett	8 March 2005	Ricc./Wig. Comm. Board*

(* under delegation from Council)

At the conclusion of its consideration of this matter the Trust Board resolved as follows:--

"(a) That the City Council be informed of the need to review the appointment of Pat Harrow, and the dis-appointment or re-appointment of any of the 3 remaining Councillor/Community Board appointees who may cease to be elected members after the October elections.

(b) That the City Council be requested to consider the option of extending the one month requirement, to three months, for members ceasing to be elected members of the Council as a result of the October elections."

In the case of part (b) of the resolution above, members agreed that the request for a three month carryover could provide more flexibility to the Council in finalising its future representation on outside organisations, and enable the Trust Board to continue to function with a full roster of Council elected appointees until any new appointment needs have been dealt with.

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I would be pleased if you could arrange for the Council's consideration of this matter at the appropriate time.

Please do not hesitate to contact me (at 341-1018, or on (021) 206-4242) if further information may be required.

Yours sincerely,


Tony Gemmill,
ACTING MANAGER, RICCARTON HOUSE AND BUSH.

