

The Proposed Christchurch Replacement District Plan

Submission of Rod Donald Banks Peninsula Trust

Submitter Details:

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The Rod Donald Banks Peninsula Trust (Trust) will not gain any advantage in trade competition through this submission.

The Trust wishes to be **heard** in support of this submission.

The Trust will consider presenting a joint case with others making a similar submission.

This submission relates to:

Proposal 2.	Definitions
Proposal 6.	General Rules
Proposal 9.	Natural and Cultural Heritage
Proposal 8.	Subdivision, Development and Earthworks
Proposal 17.	Rural
Proposal 18	Open Space
Proposal 19	Coastal Environment

The Trust made submissions to Stage 2 Proposals and understands that hearings relating to some of these matters have been deferred to the Stage 3 hearings.

The Trust wishes for this submission to be considered in addition to its Stage 2 submission.

INTRODUCTION

The Rod Donald Banks Peninsula Trust (Trust) is a charitable trust founded by the Christchurch City Council in 2010 for the benefit of the present and future inhabitants of Banks Peninsula and for visitors to the area.

The Trust's activities focus on the area formerly administered by the Banks Peninsula District Council (the Region).

The Trust seeks to work in partnership with other organisations to achieve its objectives and to align activities with the projects and initiatives of Christchurch City Council.

Principle objectives of the Trust include:

- To promote sustainable management and conservation (consistent with the purposes and principles of the Resource Management Act 1991 and the Conservation Act 1987 and any replacement legislation) of the natural environment in the Region;
- To establish, support or facilitate environmental based projects that are focussed on:
 - the maintenance and development of recreation facilities including parks, reserves, walkways and affordable camping grounds in the Region;
 - providing public access to recreation facilities including parks, reserves, walkways and affordable camping grounds in the Region;
 - the reinstatement and preservation of native vegetation in the Region;
 - the enhancement of the natural biodiversity of the Region;
 - the restoration of the Region's waterways to their natural state; and,
 - the protection of native endangered species present in the Region
- To establish, support or facilitate projects that are focussed on the protection, preservation and enhancement of areas of historical or cultural significance or the built heritage of the region.

In the five years since its inception, the Trust has initiated a raft of projects to support these objectives, and gained extensive experience with the policy and regulatory framework that it must work within.

The Trust has supported and facilitated biodiversity projects, through a multi-year grant and partnership with the Banks Peninsula Conservation Trust and Orton Bradley Park, and through partnerships with other organisations to purchase land, principally for biodiversity recovery, but also for the protection of waterways and to provide public walking access.

The Trust has developed a Walking and Cycling Strategy to foster and encourage projects which support the Christchurch City Council's Public Open Space Strategy 2010-2040. It has initiated projects to further the goals of the Public Open Space Strategy and provide public walking access and associated facilities, including the purchase of covenanted rural land and establishment of a tramping hut to service with the Summit Walkway. This property at 562 Western Valley Road is included in the Waipuna Saddle SES/H/24.

The Trust seeks District Plan provisions which will enable it and others to further its objectives and projects.

SUBMISSION

In this submission, where specific wording is requested, requests to delete wording are shown as ~~struck through italic~~ and to add wording shown as underlined italic. Requests which do not provide specific wording but outline general intent are shown as underlined.

Note: The Rod Donald Banks Peninsula Trust's area of interest is limited to Banks Peninsula.

The Trust requests amendments to the proposed Christchurch Replacement District Plan as set out under 'Decisions Requested.', or to like effect.

The Trust requests any consequential amendments to objectives, policies, rules, matters for discretion, definitions or elsewhere, that are necessary to give effect to this submission.

The Trust would welcome the opportunity to work with the Council and any other parties to seek agreed resolutions to the matters in this submission.

General Submission.

The Trust expresses concern about the process used to identify Sites of Ecological Significance.

Firstly the comprehensive study *Banks Ecological Region, Survey Report for the NZ Protected Natural Areas Programme, 1992* by Hugh Wilson, which identified Recommended Areas for Protection was not used as the base. This would have ensured that all sites previously identified were revisited to establish their current condition and whether they had improved or degraded since they were originally identified.

Secondly the SES process has not been completed prior to notification of Stage 3 and therefore the Schedule of SES areas is incomplete. This means that clearance of significant vegetation and habitats that are yet to be identified as SES is now a discretionary activity. Clearance of this 'Significant Indigenous Vegetation' is currently non-complying in the Banks Peninsula District Plan. By way of example, SES H24 on Waipuna saddle includes part of the Trust's property, but does not include an adjacent area of old growth totara forest on a neighbouring property. Clearance of such vegetation without SES status is now proposed to be discretionary. Hence the Trust seeks to clearly define this type of vegetation by listing it in a Schedule in Chapter 9 named Significant Indigenous Vegetation and Habitats (or alternatively as a definition in Chapter 2), and restoring the protection for clearance to non-complying status.

Thirdly, the SES process by its nature treats areas of indigenous vegetation and habitat as static islands, worthy of protection, but not of expansion. It does not recognise that they and other areas of Significant Indigenous Vegetation and Habitat provide a seed source for the expansion of biodiversity, or of areas that provide ecological corridors and habitat linkages.

Finally, it puts all the onus for protection upon the landowners who have the SES or Significant Indigenous Vegetation and Habitat on their properties and fails to recognise that activities on neighbouring properties, or up or down stream may have adverse effects on the vegetation that the Plan seeks to protect. There are many private covenants protecting significant areas and the work of these landowners should not be undermined by other activities beyond their control.

At the same time, the Trust seeks to expand the list of activities permitted in SES and other Significant Indigenous Vegetation and Habitat to include minor access tracks for the purpose of ecological management and accepts a continuing use right for grazing in such areas.

The Trust is also concerned that the Historic Areas registered with New Zealand Historic Places Trust (now Heritage New Zealand) in Lyttelton and Akaroa have not been recognised in Stage 3. These areas were registered at the instigation of local communities to protect the historic character of the towns and followed a comprehensive assessment and public consultation process. Once again, the schedule of individual sites will not include all items of heritage value. Recognition of historic/heritage areas enables a holistic approach to protection and development. Changes may be proposed for a site which is not in itself heritage listed, but may still have an impact on the heritage character and values of the area.

Proposal 2. Definitions

Decisions Requested.

Indigenous vegetation

Retain.

Passive recreation activities

Retain: with the following amendment

Add: I. public toilets

Reasons. The definitions are supported.
Public toilets are an important facility for recreation activities.

Proposal 6. General Rules - 6.6 Water Body Setbacks

Decisions Requested:

6.6.1 Objectives and Policies

Retain: 6.6.1.1.3 Policy – Management of activities in water body setbacks

6.6.2 Rules

Retain: 6.6.2.3.5 Discretionary Activities; D1

Retain: 6.6.2.4.5 Discretionary Activities; D1

6.6.3 Matters of discretion

Retain: 6.6.3.2; i.; i., ii., iii., iv.

Reasons. The Stage 3 additions to policy 6.6.1.1.3 are supported.
The provisions for setbacks for Sites of Ecological Significance are supported.
The new matters of discretion are supported.

Proposal 9. Natural and Cultural Heritage

9.1 Indigenous Biodiversity and Ecosystems

Decisions requested:

9.1.1 Objectives and Policies

Retain: objectives and policies in 9.1.1 except for the following amendments:

Policy 9.1.1.1.1. b.

Add: b. either by private covenants, or by including them in the District Plan as Sites of Ecological Significance by way of amendment.

Policy 9.1.1.1.2

Amend: b. Enable the clearance of *identified significant* indigenous vegetation and habitats outside of the Sites of Ecological Significance only where...

c. iii. providing for limited clearance of indigenous vegetation ~~to maintain~~ for tracks, pest control, fire ponds, fencing, existing grazing, and improved pasture, and park management.

Add: d. Activities and development should not adversely affect:

i. the ecological resilience and functioning, habitat values and amenity values of areas of significant indigenous vegetation, wetlands or habitats of indigenous fauna,

ii. habitat linkages and corridors between areas of indigenous vegetation, wetlands and other natural habitats

iii. fresh water fish habitat, fish passage and aquatic ecosystems generally.

Reasons. Policy 9.1.1.1.1 b. should state how further identified areas are to be protected.

The term “identified” used in the Policy 9.1.1.2 above is unclear. Indigenous vegetation types not yet assessed as SES areas but which meets the criteria currently listed in Rule 9.1.2.2.4 D2 should be listed in a separate schedule as Significant Indigenous Vegetation and Habitats to give better clarity to the Plan. The Trust’s team working on this submission, all put different interpretations on what was meant by “identified” and we had to refer back to the Council planner for an explanation of what was intended by this policy. The term significant indigenous vegetation is used elsewhere in multiple places in the Plan, but is not defined. Having it listed in a Schedule and referred to by the proper name of Significant Indigenous Vegetation and Habitats will provide clarity.

‘Existing grazing’ should replace the words improved pasture because areas of improved pasture (as defined in the BP District Plan) and areas of significant indigenous vegetation are mutually exclusive. If significant indigenous vegetation exists, then land cannot have been managed as improved pasture for many years. Grazing however, often occurs within areas of significant vegetation and the change proposed retains the existing use right using the same wording as in rule 9.1.2.2.1 P1.

The Plan should carry over policies from the BP District Plan that recognise that biodiversity and ecosystems can be adversely affected by activities other than clearance, and by adjacent or nearby activities (for example residential activity bringing domestic pets, or wilding spread from forestry) The importance of ecological corridors needs to be recognised.

9.1.2 Rules - Indigenous Biodiversity and Ecosystems

9.1.2.2.1 Permitted Activities

Rules P1 and P3, Activity Specific Standard

Add: **creation of access tracks less than 1.5m cleared width for the purpose of managing the ecological values of the site.**

Rule P3, Activity Specific Standard

Amend: a. Any indigenous vegetation clearance shall be limited to:
i. **vegetation not identified in Rule 9.1.2.2.4 D2 as Significant Indigenous Vegetation and Habitats;**
or, for vegetation that is identified as Significant Indigenous Vegetation and Habitats;
ii. **clearance undertaken on an area of improved pasture for pastoral farming existing at 25 July 2015; existing grazing where the site has been used for grazing on or within 12 months prior to 25 July 2015;**

Rule P5, Activity Specific Standards

Amend: a. **Any customary harvesting shall be limited to the Open Space Zone vegetation and animals that are not identified in Schedule of Significant Indigenous Vegetation and Habitats and shall not occur within a Site of Ecological Significance**

Reasons. Access tracks are necessary for the maintenance, enhancement and monitoring of Sites of Ecological Significance and areas of Significant Indigenous Vegetation and Habitats.

The Plan needs to be clear that items ii – viii in Rule P3 applies to minor clearance of the vegetation types described in 9.1.2.2.4 D2 (which we request below to be identified in a Schedule and formally named Significant Indigenous Vegetation and Habitat). Again, our team had to refer back to the Council planner to get clarification that the intent of the rule was to permit clearance of indigenous vegetation types not identified in D2, and that the standards listed applied only to the vegetation types in D2. For clarity we have requested that the word ‘or’ is added after standard i.

As explained above, we consider that Improved Pasture and areas of Significant Indigenous Vegetation are mutually exclusive. However, it is possible for these areas to be currently grazed. The existing use right can continue, but areas of significant vegetation should not be able to be actively cleared or subjected to a greater intensity of grazing.

Clarity is needed about the permitted status of Customary Harvesting and that it does not override the provisions for Sites of Ecological Significance or Significant Indigenous Vegetation and Habitats. There is no reason to limit customary harvesting to the Open Space Zone.

9.1.2.2.4 Discretionary Activities

Delete: Rule 9.1.2.2.4 D1 and D2

Add/Amend: The list of vegetation types described in D2 should be moved to a Schedule in 9.1.4 Appendices, with the heading ‘Significant Indigenous Vegetation and Habitats’. Make consequential amendments elsewhere.

9.1.2.2.5 Non-complying Activities

Add: NC2 Indigenous vegetation clearance of Significant Indigenous Vegetation and Habitats in Schedule (to be numbered) that does not meet one or more of the Activity Specific Standards in Rule 9.1.2.2.1 P3

Note: The Trust’s intent is that clearance that is reasonable and necessary for farming and conservation activities, or of vegetation that is not within an SES or otherwise meets criteria for significance, is provided for as a permitted activity, but that otherwise clearance should be non-complying. Significant vegetation and habitats types should be expressly identified by way of a schedule (or alternatively as a definition).

Reasons. Significant indigenous vegetation is referred to elsewhere in the PCRDP (eg Ch8, Subdivision) but is not defined or described. The discretionary rule is confusing and does not clearly provide for minor clearance for necessary activities.

As described under the heading ‘General Submission’, the Trust is concerned that the SES process has been flawed in its execution and is currently incomplete. There are other areas, not yet assessed, which would meet the criteria for SES. These areas should be adequately protected from clearance so that they have the opportunity to grow into SES areas in the future and meet the Plan Objective 9.1.1.1 of enhancing indigenous biodiversity rather than merely maintaining the status quo.

The Trust agrees with exemptions for minor clearance, and for vegetation that does not meet criteria for significance.

9.1.3 Matters of Discretion

Add: Comprehensive matters of discretion to address effects on Sites of Ecological Significance and other areas of significant indigenous vegetation and habitat.

Reason. If there are to be discretionary activities then assessment matters are required to provide guidance for decision making.

9.2 Outstanding Natural Features and Landscapes, significant Features and Landscapes and Areas of Natural Character in the Coastal Environment

Decisions requested:

Objectives and Policies

Retain: the objectives and policies in 9.2.1 and 9.2.2, except for the following amendments

9.2.1.1 Outstanding Natural Features and Landscapes

Amend: a. The district's following outstanding natural *landscapes features* are protected ...
b. The district's following outstanding natural *features landscapes* are protected ...

Policy 9.2.2.4, b. v.

Amend: Enabling pastoral farming, *conservation and recreation* activities which contribute to the ~~rural~~ landscape character of Banks Peninsula.

Policy 9.2.2.7, a. i.

Amend: i. Enable small scale buildings associated with farming, *conservation* and recreation activities

Reasons. The objectives and policies are generally supported.
The objectives for Outstanding Natural Features and Landscapes are muddled.
The Significant Landscape covers not just the Rural Zone, but also parts of the Open Space Natural Zone. The importance of conservation and recreation activities within the Significant Landscape should be recognised.

9.2.3.2 Landscape Overlay Rules – Outstanding Natural Features and Landscapes

9.2.3.2.1 Activity Status Table

Retain: The status of activities in the table except for the following amendment

Add: new restricted discretionary activity for ONL Banks Peninsula to provide for a residential unit in the Open Space Natural Zone for caretaker or management purposes.

Add: new permitted activity within Banks Peninsula ONL and ONF to provide for new walking access tracks less than 1.5m in formed width.

Reasons. The provisions for activities in the overlay are generally supported.
Within the Open Space Natural Zone a residential unit for caretaker or management purposes is a permitted activity, subject to standards. Within Outstanding Natural Features and Landscapes restricted discretionary status is appropriate to control the effects of such development and non-complying status is unduly restrictive.
Walking tracks will only have minor effects and should be expressly provided for as a permitted activity.

9.2.3.3 Landscape Overlay rules for Significant Features and Landscapes

9.2.3.3.1 Activity Status Table

Amend: **To clarify that buildings that are permitted in the rules for the Banks Peninsula Open Space zones are not further restricted in the Significant Landscape Overlay.**

Amend: **to provide for new walking access tracks less than 1.5m in formed width as a permitted activity**

Reasons. The provisions for activities in the Significant Landscape within the Banks Peninsula Open Space zones are confusing and unclear. In particular the effect of 'n/a' in relation to buildings is unclear.

The rule 'a. Any building except as listed below' appears to make all buildings other than those listed a discretionary activity.

Within the Significant Landscape it is not appropriate to further restrict buildings that are otherwise permitted in the Open Space Zones (in the same way that buildings in the Rural Zone are not further restricted).

For example, within the Open Space Natural Zone a residential unit for caretaker or management purposes is a permitted activity subject to standards. Farm buildings up to 300m², and tramping huts up to 100m² are permitted.

Walking tracks should be expressly provided for as a permitted activity.

The Trust seeks clarity that activities already provided for in the Banks Peninsula Open Space Zones will not be further restricted in the Significant Landscape.

9.2.3.4 Overlay Rules for Areas of Natural Character in the Coastal Environment

9.2.3.4.1 Activity Status Table

Add: **new permitted activity within all natural character overlays to provide for new walking access tracks less than 1.5m in formed width**

Add: **new permitted activity within all natural character overlays to provide for new buildings less than 20m² for passive recreation activities**

Reason. Walking tracks should be a permitted activity.

Very small buildings for public amenities such as toilets and shelters will only have minor adverse effects and should be a permitted activity.

9.2.4 Matters of Discretion

Retain: **the Matters of Discretion in 9.2.4 with the following amendments**

9.2.4.1 Outstanding Natural Features and Outstanding Natural Landscapes

Amend: **h. in rural areas, whether the proposal supports the continuation of conservation and farming activities ...**

9.2.4.3 Natural Character in the Coastal Environment

Amend: **c. Within areas of at least high natural character and outstanding natural character, whether the development can be practicably located outside the area of *high* natural character.**

Reason. The matters of discretion are generally supported.
Conservation is an important rural activity.
Consideration of whether a development can practicably be located elsewhere should also apply within areas of outstanding natural character.

9.3 Historic Heritage

Decision Requested.

9.3.1 Objective, 9.3.2 Policies

Retain: **The objective and policies in 9.3.1 and 9.3.2**

Add: **The Heritage New Zealand registered Historic Areas in Akaroa and Lyttelton should be included as overlay areas with associated Rules and Matters of Discretion in the relevant zones.**

Reason. These areas have already been registered by Heritage NZ in recognition of their heritage values, at the instigation of local communities and following rigorous assessment and public consultation. The Akaroa Historic Area is currently recognised in the Banks Peninsula District Plan. These registered Historic Areas should be recognised in the Replacement Plan immediately in order to provide recognition of their heritage values. To leave them out until further assessments are made as proposed in Policy 9.3.2.4 puts them at risk of inappropriate planning decisions.

The proposed heritage places and settings in Appendix 9.3.6.1.2 are not adequate to recognise heritage values and maintain the important historic heritage of Akaroa and Lyttelton. These are the oldest areas of colonial settlement in Canterbury and have retained the original layout as well many buildings and structures erected by the first European settlers. The historic character and values of these areas is greater than just the sum of the individual heritage listings and planning decisions need to be taken with regard to the context of the whole area.

Proposal 8. Subdivision, Development and Earthworks

Decisions Requested.

8.3.1.5 Matters of Discretion – allotment size and dimension

Rural Banks Peninsula, a.

Amend: **a. Sites of Ecological Significance, *Significant Indigenous Vegetation and Habitats***

Reason: Areas of Significant Indigenous Vegetation should be taken into account during subdivision.

Proposal 17. Rural
Decision Requested:

17.2.3 Built From Standards - Banks Peninsula Rural Zone

Add: **Provide for a coastal setback for buildings of 40 metres from MHWS in the Banks Peninsula Rural Zone**

Reasons. A Coastal setback of 40m is provided for in the Banks Peninsula District Plan.
The Trust supports the continuation of this setback to maintain the public access, open space and amenity values of the coast, in line with the Stage 3 objectives and policies in Chapter 18 Coastal Environment.

17.8 Matters of Discretion

Add: **New matters of discretion to assess effects on any adjacent sites of Ecological Significance or Significant Indigenous Vegetation and Habitat.**

Reason. Activities may affect significant ecological areas on neighbouring sites. See 'General Submission' and submission on 9.1.1 above.

Proposal 18 Open Space
Decisions Requested.

Rule 18.5.2.3 RD11

Delete: **Rule RD11**

Reasons. As a consequence of provisions in Ch 9 this rule is now unnecessary and may unreasonably restrict some permitted activities in the Zone.

Proposal 19. Coastal Environment
Decisions Requested.

19.1 Objectives and Policies

Retain: **Objectives and Policies with the following amendments.**

19.1.4 Policy – Access to and along the coast

Amend: **c. ~~is concentrated where existing access is provided~~ new public access is limited to non-motorised access.**

Reason. The Trust supports greater public access to the coastal environment, but motor vehicle access is already sufficiently provided for, and if extended is likely to bring negative effects such as habitat destruction, poaching, litter, etc.

Signed on behalf of the Rod Donald Banks Peninsula Trust:



Trust Manager

Date: 4 September 2015