

# **Christchurch City Council**

## **Initial Proposal for Representation Arrangements for the 2016 Local Elections**

### **Submission of the Rod Donald Banks Peninsula Trust**

#### **Submitter Details**

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#### **The Rod Donald Banks Peninsula Trust**

1. The Rod Donald Banks Peninsula Trust (the 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.
2. The Trust's activities focus on the area currently in the Banks Peninsula ward, comprising the Akaroa/Wairewa and Lyttelton/Mt Herbert communities.
3. 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 and other organisations.
4. The principle objectives of the Trust include:
  - To promote sustainable management and conservation of the natural environment;
  - To establish, support or facilitate projects that are focussed on walkways and recreation facilities; the reinstatement and preservation of native vegetation; the enhancement of the natural biodiversity; the protection of native endangered species; the protection, preservation and enhancement of areas of historical or cultural significance or the built heritage; and the restoration of waterways to their natural state.
5. In the five years since its inception, the Trust has initiated a raft of projects to support these objectives, supported by four pillars of access, biodiversity, knowledge and partnership.

6. Our relationships with the Lyttelton-Mt Herbert and Akaroa/Wairewa Community Boards, and with the Councillor for the Banks Peninsula Ward, are critical to our success. Having a Councillor who is dedicated to Banks Peninsula, and understands the particular issues and geography of the Peninsula is very important to the Trust.
7. In this submission the Trust presents information on why it considers Banks Peninsula should be an exception to the +/- 10% requirement and continue to be a separate ward of the Christchurch City Council and have a single Councillor representing that ward.

## **The 2005 reorganisation**

8. The Commission's 2005 reorganisation scheme provided for a single-member ward covering the area of the former Banks Peninsula District and the constitution of two community boards (Akaroa-Wairewa and Lyttelton-Mt Herbert). In constituting the Banks Peninsula Ward, the Commission considered that non-compliance with the 10% fair representation rule was necessary in order to provide effective representation of communities of interest.

*In the view of the Commission ... while Banks Peninsula District continues to contain three distinct communities of interest, each of these areas has significant and further developing links with Christchurch City. The significant growth of tourism-related activities on the Peninsula and the developments that tie in with such activities will, in the view of the Commission, further strengthen the links between the Christchurch and Banks Peninsula areas over time (Local Government Commission 2005).*

## **The 2009 reorganisation**

9. In 2009, the 2005 structure was retained with slight ward boundary alterations. The Commission decided that the retention of the Banks Peninsula Ward was required in order to provide effective representation of communities of interest. It noted that the single-member Banks Peninsula Ward ensured that there is a 'Peninsula voice' at the Council table, and the arrangement enabled coordination between the two Peninsula community boards and the Council. The Local Government Commission report noted:

*34. As noted, the Banks Peninsula Ward does not comply with the fair representation requirement (+/-10% rule) set out in section 19V(2). Section 19V(3)(a) provides that where the Council or the Commission considers that the effective representation of communities of interest within island or isolated communities so requires, wards may be defined and membership distributed between them in a way that does not comply with subsection (2).*

*38. We believe that the initial representation arrangements for Banks Peninsula have enabled the Council to give effect to the restructuring in a manner that appears to have the support of Peninsula residents. The Council and other submitters suggested that to change current representation arrangements for the Peninsula area would undermine the developing relationship between Peninsula residents and their new Council.*

*39. The single member Banks Peninsula Ward ensures that there is a 'Peninsula voice' at the Council table. The current arrangement enables coordination between the two Peninsula community boards and the Council. The arrangements appear to have integrated well into the Council's current governance structure (and supporting administrative arrangements). Based on the considerations above, we are satisfied that at this time retention of the Banks Peninsula Ward is required in order to provide effective representation of communities of interest."*

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*65. This decision is not an enduring justification for the retention of the Banks Peninsula Ward. We were told that the current arrangements, introduced with the 2006 reorganisation, have helped to integrate Banks Peninsula with Christchurch City. A change to these arrangements at this time, as part of the current review, is seen as a risk to the integration process. However, there are growing community of interest linkages between the Peninsula and the remainder of the City and we believe the Council should give careful consideration to these as part of its next representation review. This should include re-examination of the strength of commonality between the Lyttelton-Mt Herbert community and the Akaroa-Wairewa community. (LGC 2009).*

10. The Commission also noted that projected population changes across the City signalled the need for a comprehensive review of city-wide arrangements for when the Council next undertook a representation review. It identified that this should include the identification and evaluation of a range of ward options.
11. Further population shifts that have resulted from the 2010/2011 earthquakes have made the review of communities of interest across the city a specific focus of the current representation review.

## **The 2015 Working Group**

12. A Citizen Participation and Representation Review Working Group (the Working Group) was set up to advise on ways to improve citizen participation in local democracy.
13. The Working Group initiated targeted engagement for the community to identify their communities of interest.

14. As reported to Council the Banks Peninsula residents were more vocal than other communities about the future of the Banks Peninsula Ward. Their views included:
  - Banks Peninsula is a unique and isolated community, distinct culturally, historically, geographically, and economically from the city.
  - Current arrangements are working well and current boundaries should be retained
  - The Akaroa-Wairewa and Lyttelton-Mt Herbert Community Boards argued for the retention of the existing Bank Peninsula Ward.
  - Banks Peninsula should be considered as isolated because of its nature (geographical, mostly rural population, the consequences of the higher vulnerability of the area).
  
15. This consultation identified that there are three distinct communities of interest in Banks Peninsula – Lyttelton Harbour Basin/Whakaraupō, Little River/Wairewa and the Outer Peninsula including Akaroa.
  
16. In considering Banks Peninsula whether the exceptions in section 19(V)(3)(a) of the LEA could be applied the Working Group noted:
  - that exceptions to section 19V(3)(a) are not common.
  - aside from Stewart Island, which is an obvious special case, the Banks Peninsula Ward is a significantly large deviation.
  - substantial numbers of residents of the Lyttelton Harbour Basin area travel regularly, often daily, to Christchurch. In turn, a high proportion of the Ward’s workforce lives in Christchurch City.
  - that Akaroa and its surrounds were isolated but also that the needs of this community could be met by retaining its own specific community board.
  - that there are important distinctions between the Lyttelton-Mt Herbert community and the Akaroa-Wairewa community.
  
17. The Working Group considered splitting the Banks Peninsula Ward and spreading it across two City wards. This would mean any extra load on councillor/s due to remoteness or isolation would be spread across four councillors. However, this was not a preferred option. The Working Party favoured not splitting the Banks Peninsula area.

## **Council Decisions**

18. The Council resolved at its meeting on 14 May 2015 that:
  - Banks Peninsula community be combined with other communities to form a ward that complies with the definition of “fair representation” under Section 19V(2) of the Local Electoral Act 2001, rather than treat it as an isolated community
  - Akaroa-Wairewa should continue to be treated as an isolated community.
  - A member-population ratio model lower than the status quo of 1:26,000 was preferable

- The public comment on an Initial Proposal of 16 wards, 16 councillors and 7 community boards.
19. The Council agreed that the initial proposal had a number of advantages:
- Representation should comply with the 'Fair' requirement - this model complies with the 'Fair representation' requirements.
  - The initial proposal brings the representation ratio within the +/- 10% limit for all wards including Banks Peninsula.
  - Effective representation of communities of interest - this model is consistent with the communities of interest identified in the review.
  - Majority feedback supported a lower ratio of population to councillors - this model represents a lower ratio.
  - Majority feedback supported retaining a similar number and distribution of community boards - this model does that. Although the number of community boards is one fewer, the coverage is the same.
  - Feedback from Banks Peninsula supported keeping the Banks Peninsula ward - this Initial Proposal does not retain the Lyttelton/Mt Herbert Community Board but does propose a Lyttelton-Sumner Community Board and keeps the Akaroa/Wairewa Community Board.
20. The 14 May Council report noted:

*In considering this matter ... the general consensus from the Working Party and majority view at Councillor workshops is that the ward representation ratio should be within the +/- 10% tolerance specified in the Local Electoral Act. However, the matter of the ward of Banks Peninsula continues to be an issue for debate.*

## **Local Electoral Act and Local Government Commission Guidelines**

21. The Local Electoral Act 2001 (LEA) requires that in reviewing their representation arrangements local authorities must provide for 'effective representation of communities of interest' (ss19T and 19U) and 'fair representation of electors' (s19V).
22. The 2014 Local Government Commission Guidelines section 5.1 lists three key factors for local authorities to carefully consider. They are:
- communities of interest
  - effective representation of communities of interest
  - fair representation of electors.

## **Effective representation of communities of interest**

23. Effective representation for communities of interest includes identifying communities of interest that are geographically distinct. Factors to consider include the size, nature, and diversity of the district/region.

24. The 2014 Local Government Commission Guidelines section 5.17 advises when practicable, *the following factors need to be considered when determining effective representation for the local authority:*
- *avoiding arrangements that may create barriers to participation, for example, not recognising residents' familiarity and identity with an area during elections*
  - *not splitting recognised communities of interest between electoral subdivisions*
  - *not grouping together two or more communities of interest that have few common interests*
  - *accessibility, size, and configuration of an area, including:*
    - *the population's reasonable access to its elected members and vice versa*
    - *the elected members' ability to*
      - *effectively represent the views of their electoral area; and*
      - *attend public meetings throughout the area, and provide reasonable opportunities for face-to-face meetings.*

## **Fair representation**

25. Section 19V of the Local Electoral Act 2001 details the factors to be applied in determining the membership for wards/constituencies in order to achieve fair representation of electors.
26. Section 19V(2) of the LEA requires membership of wards to provide approximate population equality per member, that is, all votes are of approximately equal value (referred to as the '+/-10% rule') unless there are good (prescribed) reasons to depart from this requirement.
27. The grounds for not complying with this rule must be clearly identified by the council and non-compliance proposals must be referred to the Commission for determination whether there are appeals or not.
28. The 2014 Local Government Commission Guidelines section 5.35 recommends that councils consider the following factors when determining specific representation due to isolation:
- isolation needs to relate to the ability of a community to receive appropriate representation by elected members
  - isolation needs to be evidenced by things such as significant distance or travel time, or other physical/practical travel, and/or communications difficulties, or service reliability problems
  - for a community to have enhanced representation on the grounds of isolation, a significant proportion of the population of the area should be physically isolated
  - physical separation alone may not necessarily constitute isolation
  - an area may not be isolated simply because it is rural in nature
  - isolation may justify one member instead of no specific representation for a community based on an application of the '+/-10% rule', but caution would need to be applied in allocating additional members on that basis.

In addition, a district may have its own particular factors that contribute to an area having a sense of isolation.

## **The Trust's Submission**

29. **The Trust does not support the Initial Proposal for Representation Arrangements for the 2016 Local Elections. It considers that the Council has not provided sound reasons why the fair representation of Banks Peninsula is not considered as an exception under section 19V of the Local Electoral Act.**
30. The Trust considers that in the Council reports there is little discussion and rationale for why the Council decided that *'Banks Peninsula community be combined with other communities to form a ward that complies with the definition of "fair representation" under Section 19V(2) of the Local Electoral Act 2001, rather than treat it as an isolated community'*
31. It seems the Council has put too much weight on the Local Government Commission Determination of 2009 which gave an indication the arrangement of a separate Banks Peninsula Ward could not endure.
32. However, the reasons given in 2005 and 2009 for Banks Peninsula to have a lower population represented by one councillor still apply today:
  - In 2005 the Commission considered that non-compliance with the 10% fair representation rule was necessary in order to provide effective representation of communities of interest.
  - In 2009 the Commission considered the single member Banks Peninsula Ward ensured that there was a 'Peninsula voice' at the Council table and the current arrangement enables coordination between the two Peninsula community boards and the Council. They stated that the arrangements appeared to have integrated well into the Council's governance structure (and supporting administrative arrangements). Based on these considerations the Commission were satisfied that the retention of the Banks Peninsula Ward was required in order to provide effective representation of communities of interest.
33. There have been no substantial changes in the nature of Banks Peninsula communities of interest to alter the rationale provided by the Commission in 2005 and 2009 for the constitution of the Banks Peninsula Ward.
34. The Commission also suggested growing linkages between the Peninsula and the city:
  - In 2005 the Commission referred to the growth of tourism-related activities on the Peninsula and the developments that tie in with such activities will further strengthen the links between the Christchurch and Banks Peninsula areas over time.
  - In 2009 the Commission felt there were growing community of interest linkages between the Peninsula and the remainder of the City and they believed the Council should give careful consideration to these as part of its next

representation review, including re-examination of the strength of commonality between the Lyttelton-Mt Herbert community and the Akaroa-Wairewa community.

35. The Trust observes that while there has been growth in tourism this has not necessarily strengthened the links between Christchurch and Banks Peninsula. Parts of the Peninsula communities feel alienated because of tourism. The links from tourism may not benefit the local community and tourism really is an area where a strong local voice is needed.

### ***Effects of amendments to the Local Electoral Act 2001***

36. In 2009 Section 19V(3)(a) provided four grounds for not complying with the fair representation requirements of section 19V(2). These grounds were:

- a. *to provide for effective representation of communities of interest within:*
  - i. *island communities*
  - ii. *isolated communities*
- b. *where compliance would limit effective representation of communities of interest by:*
  - i. *dividing a community of interest*
  - ii. *grouping together communities of interest with few commonalities of interest.*

37. In 2013 amendment to section 19V(3)(a) was made:

*Despite subsection (2),—*

*(a) if the territorial authority or the Commission considers that 1 or more of the following apply, wards and subdivisions of a local board area or a community may be defined and membership distributed between them in a way that does not comply with subsection (2):*

- (i) non-compliance with subsection (2) is required for effective representation of communities of interest within island communities or isolated communities situated within the district of the territorial authority; or*
- (ii) compliance with subsection (2) would limit effective representation of communities of interest by dividing a community of interest between wards or subdivisions; or*
- (iii) compliance with subsection (2) would limit effective representation of communities of interest by uniting within a ward or subdivision 2 or more communities of interest with few commonalities of interest.*

38. This amended section specifically allows for a ward to not comply with the +/- 10% rule. Subsections (i) and (iii) are particularly relevant for Banks Peninsula.

39. The 2014 Local Government Commission Guidance states:

*the arrangements in section 19V(3)(a) of the Local Electoral Act 2001 now contain greater flexibility in respect of the '+/-10% rule' than was the case in 2010.*



40. The Council has NOT given enough attention to the effects of this amendment, and that the Local Government Commission may have a quite a different view from that which was expressed in the 2009 determination,

***Evidence for Banks Peninsula to be an exception to the +/- 10% requirement***

41. It is our view that the Council had enough evidence to make the case for a Banks Peninsula Ward that did not meet the +/- 10% requirement. They should have done this.
42. The Council also did not, but should have, clearly identified the grounds for their decision for NOT considering Banks Peninsula as an exemption under section 19V.
43. The Council should have considered each of the factors in paragraph 24 above when determining whether the Initial proposal provides effective representation.
44. We discuss these factors:

**Avoiding arrangements that may create barriers to participation, for example, not recognising residents' familiarity and identity with an area during elections:**

45. Having one Councillor for the existing large geographical area of Banks Peninsula is barely working now. It is a struggle for the Councillor to attend meetings in the community especially meetings in Akaroa or outer bays due to the travel time.
46. We therefore disagree with the community feedback quoted saying that the current arrangements are working well. In our experience the current system puts a heavy load on the single Councillor and for a number of years the Peninsula has been reasonably represented because of the commitment of the elected members we have had, but at significant personal costs to them.

**Not splitting recognised communities of interest between electoral subdivisions:  
Not grouping together two or more communities of interest that have few common interests:**

47. In striving for compliance with section 19V (1)(a) of the LEA the Council realised it needed to combine the existing Banks Peninsula Ward with another part of the city.
48. The options considered by the Working Group were to combine it in part or whole with the Halswell area or part of the Sumner area. It chose the Sumner option.
49. This proposed Banks Peninsula-Sumner Ward combines the three recognised communities of interest of Banks Peninsula with communities of interest in Sumner and Heathcote Valley that in the Trust's view have few common interests.
- Sumner is a distinct community of interest with strong commonalities with Redcliffs and Mt pleasant.

- Banks Peninsula and Sumner are physically separate with the closure of Evans Pass Road, and that is likely to continue for many more years.
- The Lyttelton Tunnel connects Lyttelton and Heathcote, but those travelling from Lyttelton predominately stay on Tunnel Road looking across Heathcote, but with no interest or social connection to it.

50. The Banks Peninsula-Sumner Ward as proposed does NOT provide effective representation of communities of interest.

**Accessibility, size, and configuration of an area, including:**

- **the population's reasonable access to its elected members and vice versa**
- **the elected members' ability to effectively represent the views of their electoral area; and attend public meetings throughout the area, and provide reasonable opportunities for face-to-face meetings**

51. Banks Peninsula ward comprises an area of approximately 108,000 hectares, while the rest of Christchurch comprises an area of approximately 45,000 hectares, with the 15 proposed urban wards thus having an average area of 3000ha. Banks Peninsula therefore has an area 36 times that of each proposed urban ward.
52. Banks Peninsula is rural, coastal and extremely hilly, whereas the rest of Christchurch City is primarily a densely populated flat urban district, although it does contain areas of rural and semi-rural land on its periphery.
53. Rural communities behave in a different way to urban communities - they are more independent, feel a great sense of ownership of local communal assets, are more sociable with each-other but also more private. What brings communities together are often projects like pest-control, weed-control, volunteer fire brigades etc, quite different from urban pastimes.
54. The Peninsula's sparse population is splintered into many isolated communities separated by twisty roads and 500m high hill-passes. To travel these settlements takes a considerable time and each have different geographically determined issues. For example Little River area has issues with the lakes, Lyttelton with the Port, Akaroa with tourism, and each outer bay has a different character and its own facilities to look after.
55. Communities of interest on the Peninsula face isolating factors such as travel times and weather-affected road conditions which create pressures not experienced elsewhere in the City and impact on effective representations.
56. Because of the terrain of Banks Peninsula the roading network predominantly along ridges with spur roads down into the settlements making travel is difficult and slow. An elected member cannot be expected to represent the same number of people as other elected members and attend meetings in a geographical area that has difficult access, is disperse and is 36 times larger than the average city ward.

57. Having strong Community Boards is important for local democracy but is not an alternative to ensuring the three communities of interest in the Peninsula have effective representation at the Council table.
58. Critical in Banks Peninsula is the elected members' ability to effectively represent the views of their electoral area; and attend public meetings throughout the area, and provide reasonable opportunities for face-to-face meetings.
59. The Trust's recent experience with both the Christchurch Replacement District Plan process and the Freedom Camping Bylaw has emphasised that the needs of and issues facing the Peninsula are not well understood by the urban based Christchurch City Council where the staff are effectively remote and isolated from the issues of Banks Peninsula. Both issues have needed extensive submissions because the geographic difference between Banks Peninsula and the City has not been appreciated by the Council.
60. The CCC recognises Banks Peninsula as a distinct and different community in its proposed replacement Plan by having a separate Banks Peninsula rural zone with specific rules as regards landscape, amenity and biodiversity different to the rest of Christchurch.
61. The different requirements and special needs of Banks Peninsula are also recognised by the city in their roading maintenance contracts by a separate different contract for Banks Peninsula. This is because the roading and access issues on Banks Peninsula are so much more challenging and unpredictable to the rest of CCC.
62. These examples underline the need for a specific Councillor who understands the Banks Peninsula issues. The councillor for Banks Peninsula needs to have access to staff and other elected members to ensure the Banks Peninsula viewpoint and issues are properly considered. Dissipating this knowledge by combining Banks Peninsula with Sumner and Heathcote would put Banks Peninsula at a greater disadvantage than now

***Examples of wards subject to clause 19V exception***

63. As reported in the Council report of 14 May there are a number of examples of wards subject to clause 19V exception.
  - Thames Coromandel District - Coromandel –Colville ward
  - Marlborough District – Marlborough Sounds ward
  - Gisborne District – Makakaoa-Waiapu ward
  - Tasman District Council has two wards (Golden Bay and Moutere / Waimea)
  - Central Otago has two wards - Cromwell and Teviot Valley
  - Southland District Council has 3 wards - , Stewart Island / Rakiura, Waiau Aparima and Winton Wallacetown.
  - Christchurch City Council – Banks Peninsula Ward

64. The length of this list does not support the Working Group's *statement 'that exceptions to section 19V(3)(a) (sic) are not common.'*
65. The common themes identified in the above examples of isolation communities are:
- Natural geographic divisions
  - Large geographic area compared with other wards in the district
  - Isolation compounded by weather
  - Infrastructure contracts being managed within the ward
  - Distinct communities of interest and the need for this to be represented
  - An increase in population during holiday periods.
  - Consequential exceptions where one or more wards fall outside the plus or minus 10% range, because they comprise island or isolated communities of interest, the remaining wards may also fall outside the plus or minus 10% range.
66. Many of these reasons apply to Banks Peninsula too.