

Submission to: Deputy Commissioner, Policy Inland Revenue Department

From: Rod Donald Banks Peninsula Trust

Subject: Taxation and the not-for-profit sector

By email: policy.webmaster@ird.govt.nz

Dated: 31 March 2025

Rod Donald Banks Peninsula Trust Te Pataka o Rakaihautu (Rod Donald Trust) is a charitable trust settled by the Christchurch City Council in 2010. The Trust is a Christchurch City Council-controlled organisation (CCO) (as defined by section 6 of the Local Government Act 2002). Trustees are appointed by the Council and must produce a Statement of Intent (SOI) each year as required by the Local Government Act. The SOI specifies the objectives, the nature and scope of the activities to be undertaken, and the performance targets and other measures by which the Trust is to be judged for that year. Each year the Trust must also deliver its audited accounts to the Council for scrutiny, as well as providing them to Charities Services.

Rod Donald Trust is aware of the IRD Issues Paper on taxation and the not-for-profit sector and makes the following comments in relation to Chapter 3 of that paper (donor-controlled charities):

- The Issues paper introduces a new concept of a “donor-controlled charity” (DCC) but without a proposed definition to consider.
- The Issues Paper at paragraphs 3.5 to 3.11 refers to the reasons to regulate DCCs as tax avoidance and compliance concerns due to the control the donor or their associates can exercise over the use of charity funds. Most of the examples refer to private foundations.
- The Rod Donald Trust deed provides that the Christchurch City Council, as the settlor, has the right to appoint up to seven of the maximum nine trustees. The Settlor can remove any trustee as it sees fit, regardless of whether the trustee has been appointed by the settlor or co-opted by the trustees.
- The Rod Donald Trust has received the majority of its funding from the Council to fund its charitable purpose.
- If IRD proposed a definition of DCC that was solely based on the power of appointment of the majority of trustees, or based on the proportion of funds that the founder (in this case Christchurch City Council) contributes to the charity, it is highly likely Rod Donald Trust would be designated a DCC.
- Given the range of additional compliance requirements that Rod Donald Trust has as a result of being a CCO (in addition to its Charities Act and Trusts Act compliance), Rod Donald Trust submits that in creating any definition of DCC all CCOs should be exempt as they are adequately regulated elsewhere.

Officials from Inland Revenue can contact Rod Donald Trust via our Manager, Shelley Washington, manager@roddonaldtrust.co.nz to discuss the points raised, if required.

Ngā mihi

A handwritten signature in black ink, reading "Jenn Chowaniec". The signature is written in a cursive, flowing style.

Jenn Chowaniec

Chair