

MEMORANDUM OF UNDERSTANDING

RODNEY DISTRICT COUNCIL

TRUSTEES OF POINT WELLS RECREATION RESERVE



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A handwritten signature or set of initials, possibly 'AG', written in dark ink.

DATED

13th Day of September

2007

PARTIES

1. **RODNEY DISTRICT COUNCIL (Council)**
2. **TRUSTEES OF POINT WELLS RECREATION RESERVE** as listed in the Schedule (Trustees)

BACKGROUND

- A. The Trustees are the current Trustees pursuant to the Trust Deed and are registered proprietors of the Land which they hold in fee simple subject to the Trust Deed.
- B. The Association is intended to represent the interests of the broader Point Wells community.
- C. The Trustees have granted a lease to the Association of the Hall situated on the Land.
- D. The parties have agreed in principle that the Land should be transferred to the Council, to be dedicated as a reserve subject to the Reserves Act 1977, free from the trusts under the Trust Deed, and free from the Lease and any other encumbrances.
- E. Both the Trustees and the Council have undertaken consultation in relation to the proposals outlined in this Memorandum.
- F. This Memorandum records the steps the parties intend to take in order to achieve those objectives.

THE PARTIES AGREE THAT:

1. DEFINITIONS

- 1.1 **Definitions:** In this agreement, unless the context indicates otherwise:
- (a) **Association:** means Point Wells Community and Ratepayers Association Incorporated No. 224427;
 - (b) **Hall:** means the existing hall building situated on the Land;
 - (c) **Land:** means the land known as Point Wells Reserve described as:
 - (i) 5,344m² more or less being Lot 20 DP32632 described in computer freehold register NA60D/884 and
 - (ii) 5,086m² more or less being Lot 21 DP32632 described in computer freehold register NA60D/885;
 - (d) **Lease:** means the deed of lease between the Trustees and the Association dated 1 September 2004;

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- (e) **Reserves Act:** means the Reserves Act 1977;
- (f) **Trustees:** means the trustees of the Land under the Trust Deed, the current members of which are listed in the Schedule, and includes their successors as trustees under the Trust Deed;
- (g) **Trust Deed:** means the Trust Deed dated 1 April 1946.

2. PROPOSED DEDICATION OF LAND FOR RESERVE

- 2.1 The Trustees wish to transfer the Land to the Council, to be dedicated as reserve subject to the Reserves Act, for no consideration. That dedication is intended to be effected by the registration of a transfer instrument under the Land Transfer Act 1952, in which the Council accepts the dedication.
- 2.2 The Trust Deed contains no power of sale, and accordingly it is necessary for the Trustees to apply to the High Court under section 64 of the Trustee Act 1956 for authorisation for the transfer to the Council. The Trustees will, once they are satisfied that it is appropriate to do so, file the appropriate Court application/s for that purpose.
- 2.3 Subject to the authorisation of the Court referred to in clause 2.2, the Council has agreed to accept the dedication of the Land for reserve.

3. ROLE OF ASSOCIATION

- 3.1 The parties will seek the co-operation of the Association in order to achieve the objectives and proposed actions set out in clause 2 of this memorandum. This includes the execution by the Association of a surrender of the Lease following the issuing of a Court Order authorising the transfer of the Land to the Council as provided in clause 2.2.

4. CLASSIFICATION OF RESERVE

- 4.1 The Trustees express the wish that the Land, once dedicated as reserve, should be classified by the Council for recreation purposes, or for recreation and local purposes, under the Reserves Act. The Trustees recognise that this will require a resolution by the Council under section 16(2A) of the Reserves Act once the Land has been so dedicated as reserve, and the Council is not fettered in regard to that decision.

5. WINDING UP OF THE TRUST

- 5.1 The parties acknowledge that the Trustees may apply to wind up the Trust in the same Court proceedings as the application for authorisation for the transfer to Council.

6. ADVISORY COMMITTEE TO BE ESTABLISHED

- 6.1 The Council intends that, following the transfer of the Land to the Council, it will establish an Advisory Committee for the purposes of day-to-day administration of the Land as a reserve. The Council intends initially to appoint the Trustees to the Advisory Committee, in addition to any other members appointed by the Council. Council officers will also recommend that the Trustees (or those of them that so

desire) be appointed for one full term over and above their initial term. However, this will not fetter the Council in relation to any future management of the Land as reserve, and in particular the Council will retain the unfettered power of decision as to the continuance of the Advisory Committee and as to the criteria for membership of that Committee.

7. PROCESS

7.1 The parties agree to work together in good faith in order to give effect to the objectives outlined in clauses 2, 3 and 4, and to take any actions which are necessary in order to do so subject, in the case of the Council, to the Council's statutory obligations under the Local Government Act 2002 and the Reserves Act.

7.2 Either of the parties may terminate this memorandum on giving written notice to the other if it considers it appropriate to do so in all the circumstances.

8. COSTS

The Council will pay the reasonable costs of the Court applications under clauses 2.2 and 5.1, the transfer of the Land to the Council and associated matters as contemplated by this Memorandum, but excluding any costs incurred by the Trust and/or the Association in obtaining its own legal advice.

SIGNATURES

THE COMMON SEAL of RODNEY DISTRICT COUNCIL was affixed in the presence of:

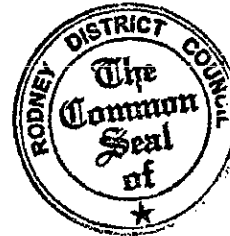
P. A. Gorman

~~Democracy Services Manager Executive Officer~~

[Signature]

~~Human Resources Manager/Executive Officer~~

Acting



Signed for and on behalf of TRUSTEES OF POINT WELLS RECREATION RESERVE by:

[Signature]

Chairperson

[Handwritten mark]

SCHEDULE

The Trustees of Point Wells Recreation Reserve

Alma Mooreen Cameron *M. Cameron*

Lindsay Leigh McClintock *Lindsay McClintock*

David Miles Hudson *DMH*

Garry George Atkins *G. G. Atkins*

Neville Henry Fursdon *NHF*

Debra Evelyn Green *Debra Green*

Noeline Cranston

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