

Mercury Bay Recreation Trust Deed Change

TO Mercury Bay Community Board
FROM Allan Tiplady - Programme Manager
DATE 22 September 2015
SUBJECT Mercury Bay Recreation Trust Deed Change

1 Purpose of Report

To review the purpose of the Mercury Bay Recreation Trust and its future role.

2 Background

The Mercury Bay Recreation Trust was established in November 2011.

Its objects are:

- a. For the benefit of the wider community of Mercury Bay to promote the provision, development, construction, management and maintenance of social, cultural, educational and leisure facilities in the Mercury Bay area.
- b. To support and encourage the use of such facilities for all forms of social, cultural, educational, recreation and leisure activities and community events as may be appropriate.
- c. To obtain the funds required for any projects associated with such facilities by seeking such grants, donations, sponsorship and other financial support and undertaking such fund raising as shall be required.
- d. To foster, promote, support and be involved in community events.
- e. To do all such things and to undertake all such activities as may allow the objects and purposes of the trust to be met.
- f. To carry out any one or more of such objects independently of any such objects

The Trust has operated, since being established, in accord with its objects.

The future role of the Trust has been raised particularly in relation to the role of the Community Board to ensure clarity for the future.

The clarity of roles issue has been raised previously resulting in a Memorandum of Understanding, dated September 2012, being adopted by both the Community Board and the Recreation Trust.

This report is prepared for the Community Board to consider the principles of the issues raised and provide guidance on the future role of the Trust. If changes are proposed the process to implement them will be subject to legal advice being obtained. Any change will also require the Trust to agree and resolve as the Deed can only be changed by resolution of the Trust carried by a majority of two thirds of the number of Trustees.

3 Issue

The issue around clarity of roles has been raised again and is addressed in this report. The issues include:

- a. Is the role of the Trust too wide and should it be focussed on raising funds for recreation projects only?
- b. The Trust has focussed primarily on the Mercury Bay Multi Sports Park, but its deed requires it to focus on the whole of the Mercury Bay area. Should the role of the Trust

- be limited to only the Mercury Bay Multi Sports Park?
- c. The role of Trustees who are also members of the Community Board needs clarification particularly around potential conflicts between Trust and Community Board objectives.
- d. The Trust membership doesn't require users of sport and recreation facilities to be included.
- e. If the role of the Trust is changed to fund raising, the Community Board / Council would retain responsibility for all other aspects of sport and recreation projects. In this scenario how would the views and aspirations of the sports codes be included in the planning and delivery of sports and recreation projects?

4 Discussion

The following discussion points relate to the issues identified.

- a. Many of the objects of the Recreation Trust focus on planning and delivering new projects and making recommendations to the Community Board. This has included liaising with sports Codes. The Community Board and Council also have a primary role to develop strategy and plan and implement it for sports and recreation facilities and services, which includes consultation and liaison with sports codes. These roles overlap and have potential to create duplication of effort, conflicting conclusions and confusion with sports codes regarding the roles and status of the two parties.

One of the benefits of the Trust is its ability to apply for and obtain funds from external sources that are not accessible by the Council. This is seen as a key role for the future to ensure external funding opportunities are realised. If the purpose of the Trust is changed to this it would give it a very clear focus and mandate to work with the sports codes and funding providers to raise the funds necessary to implement the strategy and plans developed by the Community Board.

- b. The Trust Deed requires it to act for the benefit of the wider Mercury Bay community. In reality its focus has been on the Multi Sports Park, which is provided for the benefit of the wider Mercury Bay community. However, if its role is changed to obtaining funds for sports and recreation projects in Mercury Bay these will most likely be for the Multi Sports Park. If the Trust Deed is to be changed it would be prudent to relate the role of the Trust to the provision of services and facilities at the Multi Sports Park.
- c. The Trust Deed provides for Trustees to be appointed by the Trust and that two members are to be members of the Mercury Bay Community Board. The Trust deed does not specify a clear reason for this or what the role of the Community Board Member Trustees is to be. As a result they have to act in the interests of Trust to achieve its objects, which could create a conflict of interest with the Community Board, which could have differing objectives on any particular matter. Change is needed to the Trust Deed to clarify that the role of the Community Board Members of the Trust is to reflect and advocate the views of the Community Board to the Trust and relate those to the objects of the Trust.
- d. The Trust Deed provides that the non-Community Board Trustees maintain appropriate skills with a balance of community, sporting and business interests. If the Trust objects are to be changed to reflect a fund raising focus this could be changed to focus on skills needed for identifying and pursuing funding opportunities and on people with sporting links to ensure communication and input from the perspective of the users.
- e. If the role of the Trust is to be changed as proposed the Community Board / Council will retain responsibility for the development of strategy, plans and

implementation of parks and reserves services and facilities. In fulfilling this role it will be important to engage with the users of the Multi sports Park. Consideration could be given to establishing a Council / User liaison group to ensure input is achieved to Council's decision making process.

As indicated under the background section above this report is prepared for the Community Board to consider the principles of the issues raised and provide guidance on the future role of the Trust. If changes are proposed the process to implement them will be subject to legal advice being obtained. Any change will also require the Trust to agree and resolve as the Deed can only be changed by resolution of the Trust carried by a majority of two thirds of the number of Trustees.

At this stage it is proposed that if the Community Board consider change should be made in accord with that outlined in the discussion above, that approval be granted in principle only, subject to legal advice and consultation and discussion with the Trust. Attachment A shows how the revised structure for the future management of the Multi Sports Park might look.

5 Suggested Resolution(s)

That the Mercury Bay Community Board:

1. Receives the 'Mercury Bay Recreation Trust Deed Change' report, dated 22 September 2015.
2. Considers whether to approve in principle the following proposals in relation to the future of the Mercury Bay Recreation Trust.
 - a. The objects of the Trust be amended to focus solely on the raising of funds from external sources for the delivery of services and facilities at the Mercury Bay Multi Sports Park.
 - b. The membership of the Trust to include two members of the Mercury Bay Community Board, whose role is to represent the interests of the Community Board and the community members to be selected for their skills in identifying and pursuing funding opportunities and with sporting links to ensure communication and input from the perspective of the users.
3. Further consider how the users of the Multi Sports Park are engaged in the development of strategy, plans and their implementation.
4. Obtain legal advice on the appropriate process to follow to implement the principles approved under 2 above.
5. Initiate consultation and discussion with the Mercury Bay Recreation Trust on the proposed changes to the role of the Trust.
6. Acknowledge that any change to the Trust Deed is the sole responsibility of the Trustees which requires a resolution of the Trust carried by a majority of two thirds of the number of Trustees.

References-Tabled/Agenda Attachments

Attachment A *Possible Structure for the Future Operation and Development of the Mercury Bay Multi sports Park*

Attachment A - Trust Deed Structure