

# **Riccarton Bush Amendment Bill**

Local Bill

## **Explanatory note**

### **General policy statement**

The purpose of this Bill is to modernise and update the governance arrangements for the Board known as The Riccarton Bush Trustees, to better define its functions, provide for the continuation of its work, and enhance its finance and administration.

Riccarton House and Bush, situated in Christchurch, was the property of the pioneer Deans family, the first European settlers on the Canterbury Plains in 1843. Riccarton House is a grand Victorian/Edwardian homestead built in stages between 1856 and 1900. Riccarton Bush is Canterbury's sole remnant of Kahikatea floodplain forest. Situated in the grounds of the property is Deans Cottage, which was built by William and John Deans in 1843 and is the oldest building built on the Canterbury plains.

Riccarton Bush (15 acres) was gifted by the Deans family to the people of Canterbury in 1914 and the Riccarton Bush Act 1914 was passed by Parliament to provide for the preservation and management of the property and to constitute the Board as the controlling body.

In 1947, the Christchurch City Council, the Waimairi County Council, Heathcote County Council, Paparua County Council, and the Borough of Riccarton joined together to purchase Riccarton House

and the associated grounds (13 acres) from the Deans family to add to the original gift of the Bush.

As a consequence of this land purchase, the Act was the subject of a substantial review in 1947, which resulted in the Act being amended in a number of ways, including to authorise the purchase of the House and grounds and to vest them under the control of the Board.

The Act has been the subject of minor technical amendments enacted by Parliament in 1949, 1964, 1972, and 1979.

As the Act was last substantially amended in 1947, it is necessary for the Act to be updated to account for changed circumstances and practices since then.

The Board considered a complete re-writing of the Act but decided, for reasons of continuity and preserving its legislative history, that its preference was to proceed by way of an amendment Bill.

The Board is substantially funded by a limited statutory levy on the Christchurch City Council and by additional operational and capital expenditure grants made by the Council periodically.

### **Clause by clause analysis**

*Clause 1* is the title clause.

*Clause 2* is the commencement clause.

*Clause 3* provides that *Part 1* amends the Riccarton Bush Act 1914.

*Clause 4* provides for the terms of office of members of the Board.

*Clause 5* inserts new sections detailing the functions of the Board, allowing for the establishment of committees, and empowering the Board to delegate some of its functions and powers.

*Clauses 6 to 9* contain minor administrative amendments to the Riccarton Bush Act 1914.

*Clause 10* inserts new sections requiring the Board to adopt a financial plan to be integrated with the planning processes of the Christchurch City Council, providing for the application of the Local Government Act 2002, requiring the Board to formulate and maintain a management plan for the lands vested in it, and authorising the Board to acquire additional land, including the land at 30 Kahu Road.

*Clause 11* inserts a *new Schedule 2* recording the legal description of 30 Kahu Road.

*Clause 12* provides that *Part 2* amends the Riccarton Bush Amendment Act 1947.

*Clause 13* amends the trusts on which the Board holds its property to extend those trusts to include the restoration, maintenance, and conservation of Riccarton House and Deans Cottage.

*Clause 14* amends the constitution of the Board.

*Clause 15* updates section 7 in line with the amendment of the trusts.

*Clause 16* introduces a new arrangement for payments to the Board by the Christchurch City Council.

*Clause 17* repeals section 15 of the Riccarton Bush Amendment Act 1947.

*Clause 18* deals with the matter of the liability of members of the Board.

*Clause 19* abolishes the offices of treasurer and secretary of the Board.

*Clause 20* provides that *Part 3* amends the Riccarton Bush Amendment Act 1949.

*Clause 21* gives the Board the power to let any part of its property.

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*Hon Gerry Brownlee*

## **Riccarton Bush Amendment Bill**

Local Bill

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Riccarton Bush Amendment Act **2012**.

**2 Commencement**

- (1) **Section 16** comes into force on 1 July 2013. 5
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1**

**Amendments to Riccarton Bush Act 1914**

**3 Principal Act amended**

This Part amends the Riccarton Bush Act 1914. 10

**4 New sections 4 and 4A substituted**

Section 4 is repealed and the following sections are substituted:

**“4 Terms of office of members of Board**

- “(1) A member of the Board appointed under **section 5(2)(a)** of the Riccarton Bush Amendment Act 1947 who is not an elected member of the council or a community board (as defined in section 5 of the Local Government Act 2002) holds office for 3 years. 20
- “(2) A member of the Board appointed under **section 5(2)(a)** of the Riccarton Bush Amendment Act 1947 who is an elected member of the council or a community board (as defined in section 5 of the Local Government Act 2002) holds office for the shorter of the following periods: 25
  - “(a) 3 years:
  - “(b) the period during which he or she is an elected member of the council or community board.
- “(3) A member of the Board appointed under **section 5(2)(b)** of the Riccarton Bush Amendment Act 1947 holds office for the shorter of the following periods: 30
  - “(a) 3 years:

- “(b) the period during which he or she is an elected member of the community board.
- “(4) A member of the Board appointed under **section 5(3) or (4)** of the Riccarton Bush Amendment Act 1947 holds office for 5 years. 5
- “(5) A member of the Board appointed under **section 5(5)** of the Riccarton Bush Amendment Act 1947 holds office for the period that the Board specifies when it appoints the member.
- “(6) The terms of office of members of the Board stated in this section are subject to the provisions in **section 4A(2) and (3)** stating when members of the Board vacate office. 10
- “**4A When Board members come into office and vacate office**
- “(1) A member of the Board comes into office on the date of his or her appointment.
- “(2) A member of the Board vacates office,— 15
- “(a) in the case of a member of the Board appointed under **section 5(2)(a)** of the Riccarton Bush Amendment Act 1947 who is not an elected member of the council or a community board (as defined in section 5 of the Local Government Act 2002), when his or her successor is 20 appointed:
- “(b) in the case of a member of the Board appointed under **section 5(2)(a)** of the Riccarton Bush Amendment Act 1947 who is an elected member of the council or a 25 community board (as defined in section 5 of the Local Government Act 2002), on the earlier of the following events:
- “(i) his or her successor is appointed:
- “(ii) he or she ceases to be an elected member of the council or community board: 30
- “(c) in the case of a member of the Board appointed under **section 5(2)(b)** of the Riccarton Bush Amendment Act 1947, on the earlier of the following events:
- “(i) his or her successor is appointed:
- “(ii) he or she ceases to be an elected member of the 35 community board:
- “(d) in the case of a member of the Board appointed under any of **section 5(3) to (5)** of the Riccarton Bush



Amendment Act 1947, when his or her successor is appointed.

“(3) A member of the Board may vacate his or her office at any time before the time provided in **subsection (2)**.”

**5 New sections 10A to 10C inserted** 5

The following sections are inserted after section 10:

**“10A Functions of Board**

The functions of the Board are to—

- “(a) appoint a chief executive officer:
- “(b) reappoint or replace a chief executive officer: 10
- “(c) specify the functions of the chief executive officer:
- “(d) establish broad lines of policy consistent with this Act (and amendments) for the guidance of the chief executive officer:
- “(e) ensure that the Board’s assets are maintained in good order and condition: 15
- “(f) ensure that the Riccarton Bush is run effectively and efficiently.

**“10B Powers relating to committees**

- “(1) The Board may appoint 1 or more committees to advise it on any of its functions. The Board may also discharge a committee or alter a committee’s membership. 20
- “(2) The Board may carry out an action described in **subsection (1)** from time to time but must do so by resolution.
- “(3) A person may be appointed to be a member of a committee despite not being a member of the Board. 25
- “(4) A committee may regulate its own procedure, except that it must comply with directions that the Board gives it.
- “(5) The quorum at a meeting of a committee is 2 members.

**“10C Delegation of functions and powers** 30

- “(1) The Board may delegate any of its functions or powers, except—
- “(a) the power of delegation in this section:
- “(b) the functions in **section 10A**:
- “(c) the powers in **section 10B**: 35

- “(d) the functions in **sections 23 and 26**:  
“(e) the power in **section 28(2)**:  
“(f) the functions in sections 66 and 67 and Schedule 8 of the Local Government Act 2002 (which are applied to the Board by **section 24** of this Act): 5  
“(g) the powers in **section 10A** of the Riccarton Bush Amendment Act 1947.
- “(2) The Board may delegate a function or power from time to time, and either generally or specifically, but must do so by resolution. 10
- “(3) The Board may delegate a function or power only to—  
“(a) the chief executive officer appointed under **section 10A**; or  
“(b) a committee appointed under **section 10B**.
- “(4) The chief executive officer or a committee to which a delegation is made may perform the function or exercise the power in the same manner and with the same effect as if the function or power had been conferred by this section and not by delegation, except that the performance or exercise is subject to general or special directions that the Board gives or conditions that the Board imposes. 15 20
- “(5) A chief executive officer or committee purporting to act in accordance with a delegation is presumed to be doing so in the absence of proof to the contrary.
- “(6) A delegation does not prevent the Board from performing the delegated function or exercising the delegated power. 25
- “(7) A delegation is revocable at will.
- “(8) A delegation continues in force according to its tenor until it is revoked.”
- 6 New section 11 substituted** 30  
Section 11 is repealed and the following section substituted:
- “11 Common seal**  
The fixing of the common seal of the Board to a document is valid only if—  
“(a) the Board has made a resolution to do so; and 35  
“(b) 2 members of the Board are present when the seal is fixed.”

**7 New section 14 substituted**

Section 14 is repealed and the following section substituted:

**“14 Public entry to and conduct in Riccarton property**

“(1) This section applies to the Riccarton Bush, Riccarton House and the grounds around it, and Deans Cottage and the grounds around it (**Riccarton property**). 5

“(2) Members of the public may enter the Riccarton property at the times the Board allows and without paying a fee.

“(3) Members of the public who have entered the Riccarton property must— 10

“(a) comply with restrictions or conditions that the Board imposes; and

“(b) pay fees that the Board sets for matters other than entry.”

**8 Powers of Board**

Section 15(4) is repealed and the following subsection substituted: 15

“(4) The powers of the Board are not affected by a vacancy in its membership.”

**9 Penalty**

Section 19 is amended by omitting “twenty pounds” and substituting “\$1,000”. 20

**10 New heading and sections 21 to 28 substituted**

Section 21 is repealed and the following heading and sections are substituted:

*“Financial plans, statements of intent, and management plans”* 25

**“21 Definitions for sections 22 to 27**

In **sections 22 to 27**,—

“**council** means the Christchurch City Council

“**financial plan** means a financial plan that complies with **section 22** 30

“**financial year** means a period of 12 months ending on 30 June

“**management plan** means a management plan that complies with **section 25**

“**Riccarton property** means the Riccarton Bush, Riccarton House and the grounds around it, and Deans Cottage and the grounds around it. 5

**“22 Requirements for financial plan**

“(1) A financial plan must—

“(a) cover a period of at least 10 consecutive financial years; and

“(b) set out the Board’s proposed annual operating budget (including revenue and expenditure) for each of the first 3 years of the 10-year period that it covers; and 10

“(c) set out the Board’s proposed annual capital expenditure budget for each of the 10 years of the 10-year period that it covers; and 15

“(d) provide for integrated decision-making and the co-ordination of the Board’s resources; and

“(e) contribute to the accountability of the Board and the council to the community; and

“(f) contribute to the council’s ability to comply with its planning obligations. 20

“(2) A financial plan must—

“(a) be prepared in accordance with generally accepted accounting practice, as defined in section 3 of the Financial Reporting Act 1993; and 25

“(b) contain information that the council reasonably considers to be appropriate; and

“(c) be in the form that the council reasonably considers to be appropriate.

**“23 Council approval of financial plan** 30

“(1) The Board must adopt a draft financial plan in the year immediately before the commencement of the first financial year that the plan covers.

“(2) The Board must deliver the financial plan to the council before— 35

- “(a) 1 November in the year immediately before the commencement of the first financial year that the plan covers; or  
“(b) another date that the council reasonably determines.
- “(3) The council may approve the draft financial plan. 5
- “(4) If the council approves the draft financial plan, the plan—  
“(a) becomes the final plan; and  
“(b) comes into force on 1 July of the first financial year that it covers and continues in force until the end of the third consecutive financial year that it covers. 10
- “(5) A final financial plan—  
“(a) is a statement by the Board of its intentions about the matters covered by the plan; and  
“(b) is not a decision by the Board to act on any specific matter covered by the plan; and 15  
“(c) does not entitle any person to require the Board to implement the plan.
- “(6) The Board and the council may agree to amend the financial plan at any time.
- “(7) The first financial plan must be prepared for the financial year commencing on 1 July 2013. 20
- “**24 Statement of intent**  
Sections 65, 66, and 67 and Schedule 8 of the Local Government Act 2002 apply to the Board and the council as if—  
“(a) references to the shareholders or any of the shareholders were references to the council: 25  
“(b) the reference in clause 1(c) to directors were a reference to Board members.
- “**25 Requirements for management plan**  
A management plan must— 30  
“(a) ensure the protection and conservation of the flora and fauna in the Riccarton Bush; and  
“(b) ensure the protection and conservation of Riccarton House and the grounds around it and Deans Cottage and the grounds around it; and 35

- “(c) ensure appropriate use, enjoyment, and development of the Riccarton property; and
- “(d) comply with the trusts specified in **section 2** of the Riccarton Bush Amendment Act 1947.

- “**26 Board making and amendment of management plan** 5
- “(1) The Board must prepare a draft management plan.
- “(2) The Board must provide a copy of the draft management plan to—
- “(a) the council; and
  - “(b) the Royal Society of New Zealand Canterbury Branch Incorporated; and
  - “(c) the New Zealand Historic Places Trust.
- “(3) The Board must make the draft management plan available for inspection free of charge during ordinary office hours at the Board’s office. 15
- “(4) The Board must place a public notice in a newspaper circulating in the area in which the Riccarton property is situated—
- “(a) stating that the draft management plan is available for inspection free of charge during ordinary office hours at the Board’s office; and 20
  - “(b) inviting submissions on the draft management plan before a specified date.
- “(5) The Board must place the notice at least twice on different days.
- “(6) The Board must give every person who makes a submission and who indicates a wish to be heard in support of his, her, or its submission a reasonable opportunity of appearing before the Board in support of the submission. 25
- “(7) The Board must adopt a management plan within 5 years after the commencement of the Riccarton Bush Amendment Act **2012**. 30
- “(8) The Board must keep the management plan under continuous review and amend it to meet changed circumstances or to reflect increased knowledge.
- “(9) The Board must comply with **subsections (2) to (6)** if it proposes to make material amendments to the management plan. 35

- “**27 Status of management plan**  
The Board must comply with the management plan when performing its functions or exercising its powers.
- “**28 Additional land**
- “(1) The land described in **Schedule 2** vests in the Board on the date of commencement of the Riccarton Bush Amendment Act **2012**. 5
- “(2) The Board may acquire any other land or interest in land on the terms that the Board thinks fit.
- “(3) In relation to land or an interest acquired under **subsection (2)**, the Board— 10
- “(a) must hold it on the same trusts as the Board holds the Riccarton Bush; and
- “(b) must administer it in accordance with this Act (and amendments) as if it were part of the Riccarton Bush; 15
- and
- “(c) may use it for the planting, cultivation, and conservation of trees, shrubs, and plants whether indigenous to New Zealand or not.
- “(4) Any reference in this Act (or amendments) to ‘Riccarton Bush’ 20 includes land vested in, or acquired by, the Board under this section, unless it is inconsistent with the context to read the reference in this way.”
- 11 New Schedule 2 added**
- The principal Act is amended by adding the **Schedule 2** set 25 out in the **Schedule** of this Act.

## Part 2 Amendments to Riccarton Bush Amendment Act 1947

- 12 Principal Act amended** 30  
This Part amends the Riccarton Bush Amendment Act 1947.
- 13 New section 2 substituted**  
Section 2 is repealed and the following section substituted:

- “2 Declaration of trust**
- “(1) The land described in Schedule 1 is vested in the Board on trust to keep and manage for the purposes of—
- “(a) planting, cultivating, and conserving trees, plants, and shrubs indigenous to New Zealand; and 5
  - “(b) public use and enjoyment for the purposes of health, instruction, and recreation.
- “(2) The land described in Schedule 2, and the land described in **Schedule 2** of the Riccarton Bush Act 1914, is vested in the Board on trust to keep and manage for the purposes of— 10
- “(a) planting, cultivating, and conserving trees, plants, and shrubs whether indigenous to New Zealand or not; and
  - “(b) public use and enjoyment for the purposes of health, instruction, and recreation; and
  - “(c) restoring, maintaining, and conserving Riccarton House 15 and the grounds around it and Deans Cottage and the grounds around it.”
- 14 New sections 5 and 5A substituted**
- Section 5 is repealed and the following sections are substituted: 20
- “5 Constitution of Board**
- “(1) The members of the Board are appointed as described in this section.
- “(2) The Christchurch City Council must appoint 5 members, as follows: 25
- “(a) 3 must be persons whom the council decides to appoint:
  - “(b) 2 must be elected members of a community board, as defined in section 5 of the Local Government Act 2002, for either of the following communities:
    - “(i) the community in which the Riccarton Bush is 30 situated; or
    - “(ii) a community immediately adjacent to that in which the Riccarton Bush is situated.
- “(3) The family of John Deans must appoint 2 members by nominating them under section 9 of the Riccarton Bush Act 1914. 35
- “(4) The Royal Society of New Zealand Canterbury Branch Incorporated must appoint 1 member.



“(5) The Board may appoint 1 member.

**“5A Transitional provision on constitution of Board**

“(1) In this section,—

“**commencement date** means the commencement date described in **section 2(2)** of the Riccarton Bush Amendment Act **2012** 5

“**implementation date** means the date 6 months after the commencement date.

“(2) Members of the Board at the commencement date cease to hold office at the end of the day before the implementation date. 10

“(3) The terms of office of the first members appointed under **section 5** begin on the implementation date.”

**15 Power to purchase certain lands**

The proviso to section 7(3) is repealed. 15

**16 New heading and sections 10 to 10B substituted**

Section 10 is repealed and the following heading and sections are substituted:

*“Council payments to Board*

**“10 Definitions for sections 10A and 10B 20**

In **sections 10A and 10B**,—

“**council** means the Christchurch City Council

“**financial year** means a period of 12 months ending on 30 June

“**plan** means a financial plan in force under **section 23(4)** of the Riccarton Bush Act 1914. 25

**“10A Amount and timing of payments**

“(1) The Board may require the council to pay the Board in each financial year the amount that the plan specifies that the council must pay the Board in the year for the Board’s operating budget. 30

“(2) However, the council may adjust the amount of the payment if the Board indicates that it intends to depart significantly from

the plan or the council's opinion is that the Board has departed significantly from the plan. The council must consult with the Board before adjusting the amount.

“(3) The council must pay the amount under **subsection (1) or (2)** to the Board by 12 equal monthly instalments in advance. The first instalment for the financial year must be paid on 1 July and each subsequent instalment must be paid on the first day of the month. 5

“(4) If a plan makes provision for the council to contribute to capital expenditure by the Board, the council's contribution must be paid to the Board at the time that the Board and the council agree. 10

“**10B Payments only as in plan**

The council is not liable to pay any amount to the Board, under **section 10A** or otherwise, unless provision for the amount is made in a plan.” 15

**17 Section 15 repealed**

Section 15 is repealed.

**18 New section 16 substituted**

Section 16 is repealed and the following section substituted: 20

“**16 Members of Board and committees not personally liable**

“(1) No member of the Board is personally liable for an act or omission of the Board, a member of the Board, or a member of a committee of the Board done or not done in good faith in the course of the operations of the Board or the committee. 25

“(2) No member of a committee of the Board is personally liable for an act or omission of the committee or a member of the committee done or not done in good faith in the course of the operations of the Board or the committee.

“(3) **Subsections (1) and (2)** are subject to sections 44 to 46 of the Local Government Act 2002, which apply as if the Board were a local authority.” 30

**19 Powers of Board**

Section 19(h) is amended by omitting “a secretary and treasurer, and”.

**Part 3**

**Amendment to Riccarton Bush  
Amendment Act 1949**

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**20 Principal Act amended**

This Part amends the Riccarton Bush Amendment Act 1949.

**21 New section 2 substituted**

Section 2 is repealed and the following section substituted:

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**“2 Power to lease or grant licence over Riccarton property**

**“(1)** The Riccarton Bush Trustees may lease, or grant a licence over, all or a part of the Riccarton Bush, Riccarton House, the grounds around Riccarton House, Deans Cottage, or the grounds around Deans Cottage on the terms and conditions that the trustees think fit.

15

**“(2) Subsection (1)** applies despite anything to the contrary in any other enactment.”

**Schedule**

**s 11**

**New Schedule 2 added to Riccarton Bush  
Act 1914**

**Schedule 2**

**s 28**

3339 m<sup>2</sup> being Lot 1 on Deposited Plan 13668 and being the land  
comprised in computer freehold register CB511/172

5