

**With regards to the document THE ORIGINAL LEGACY which was published By Donnelly questions need to be asked with regards to the material in RED the text of the document as provided is in BLACK**

The Wilson Home Trust is a registered charitable trust. It was set up in the 1930s by William and Lucinda Wilson who donated their beautiful house and garden on the coast of Takapuna, Auckland, as a home for children with physical disabilities

No record can be found of Wilson Home trust, there is no trust deed, nor is it on the charitable trust register. The trust deed signed 20 July 1937 was a deed which vested the land with "the Board" for the establishment of an institution to be known as "the Wilson Home for Crippled Children", for the reception, relief, and treatment, and otherwise for the benefit of crippled children resident within the Auckland Provincial District.

"The board" was defined as the Auckland Hospital Board, the two other parties to the deed were Mr Wilson and the Mayor of Auckland.

The Wilson Home was never intended to be a permanent home for children. It was established during the polio epidemic and from the start; the emphasis was on helping children to be rehabilitated so they could return to their own community with their families.

There were polio epidemics in 1916, 1921, 1925, 1932, 1937, 1943, 1948-49, 1952-53, 1955-56 and 1961, how would they have known in 1937 that there would have been such a thing as a polio vaccine? Who formed this intent that the home should not be permanent and where was it expressed?

The WDHB is the Trustee but the Wilson Home, the Trust and its grounds are managed by an independent Management Committee whose role is to ensure the Trust deed and its variations are adhered to.

There is no mention in the trust document (or the 1949 Statute) of the Waitemata District Health board, I have no knowledge of how the vested interest with the Auckland Hospital board changed to the Waitemata District Health board and indeed no mention of this was made in 1999 when matters concerning the Wilson home were in the High court.

In 1999 the Trust applied to the High Court to vary the original Deed of the Wilson Home to represent changes that had taken place in the disability sector. As a result the Deed was varied to include:

- Children with physical disabilities and their families as beneficiaries of the Trust
- The development of training and research as a legitimate role for the Trust
- The opportunity to develop facilities off the Lake Road site
- The facility to benefit children and their families from Turangi (including Gisborne) to the tip of the North Island.

Indeed action was taken in the High court in 1999, I am of the opinion that legal advice should be sought on this as I believe that the only party capable of taking any action with regards to the variation of this deed would have been the Auckland Hospital Board or its successor, with the consent of the mayor of Auckland, Neither party was represented at the hearing. The court action was taken in the name of the trust, if the trust did not exist as an entity, then validity of the court action can be questioned.

Waitemata District Health Board is shown as the owner of the land at that time it went to court but was not represented or mentioned, if a change of deed needed to occur one would have assumed that the change from Auckland Hospital board to Waitemata health should have occurred on this occasion as well. One would expect the trustee to have an input in the proceedings.

#### TAKING THE VISION FURTHER

The Wilson family's legacy and vision has endured for 70 years and the Management Committee sees the opportunity to expand this vision so that the Wilson's legacy can benefit even more children with physical disabilities and their families.

Those on the management committee are two representatives of the CCS and three from the Waitemata district Health board. The trust deed stipulated three from the CCS and two from the Auckland Hospital board all appointed with the consent of the Mayor of Auckland.

The Trust would also like to extend its central premise that services for children are best provided

close to their family and community. We need to look both outward - to providing support initiatives to communities located in the Trust area (the upper half of the North Island) and inward, by considering our current resources and capitalising on them in order to expand additional support initiatives out into the wider community.

There is continued referenced to "the trust" we have no definition of "the trust" who purports to be the trust? And how can a trust have an area if we cannot establish what or who the "trust" is?

We think it's time to take the Wilson family vision further; but how much further and along which path? That is why we are asking for feedback from you, our stakeholders.

Who is we? This document is purportedly produced by Brian Donnelly Chair the document is headed Wilson Home trust . What interpretation do people take from that and how does it compare with reality?

### **THE WORK OF THE TRUST**

The primary work of the Wilson Home Trust is to:

- Provide support initiatives for children with physical disabilities and their families
- Administer the buildings and grounds of the Wilson Home so the site is preserved for the benefit of the children and the community

What is this Wilson Home trust? when was it set up? who are the trustees? What relevance does it have to the land in question?

The Trust owns 13 acres of prime coastal land at Takapuna. The property produces income which together with donations and legacies funds services, equipment and training for children and their families.

Where is this land? Is this the same land as referred to in the 1937 trust deed and 1949 statute and was vested with the Auckland hospital board? Incidentally on 24/03/1995 an area of 5.1082 hectares Certificate of Title 98D/653 ( 1 st Leonard's Rd ) was shown as acquired by Waitemata District Health Board transferred from Waitemata Health Limited ( Waitemata Health was incorporated 02-JUN-1993 struck off 1st January 2001) shareholders minister of finance and minister of Health .

On 10/10/07 a document entitled Application To Transfer Land - Health Reforms (transitional Provisions) reference 7572394.1 was registered against this title some one should have a closer look at this document, I have not obtained it due to the cost and the fact that I am doing this work pro bono.

Health boards have existed since 1 January 2001 when the New Zealand Public Health and Disability Act 2000 came into force. Due to this act all property Vested with Waitemata Health Limited was transferred to Waitemata DHB (section 95 and schedule 7 of the Act)

The Title 384854 for 0.4295 hectares is shown as being owned by the Crown and shows that on 10/10/2007 a document relating to leases was referenced at the land transfer office

ON 6/11/2007 a document entitled Departmental Dealing was registered over both titles. Reference 7604867.1

We lease facilities to the Waitemata District Health Board (WDHB) who under the auspices of the Wilson Home, provide such services as respite care for high need children with disability, rehabilitation services and family accommodation so families can be close to their children whilst they receive care and treatment.

The land as shown above is owned by the crown and the larger area by the Waitemata District Health Board, How can something be leased to its owners? Or is there land we don't know about?

The Wilson School, a special school for children with physical disabilities, also has its base school on the same site as well as running satellite classes at a number of North Shore schools.

I have not researched the back ground to this school.

Some of these on-site facilities are now outdated and as such, the very valuable and attractive site is not being fully utilised. It is timely to discuss with interested groups ways in which the Trust can maximise these valuable resources so we can expand our services into the wider community. The key question in this consultation is:

“ How can we make best use of our key resource in order to service our beneficiaries better?

“ What do our key stakeholders want to see included in our vision?

We have included a form at the back of this document on which to outline your thoughts on these issues. We ask you to complete it and send it back to the Trust.

Who is the trust when it set up what was is the relevance of this trust and how does it have any authority over the land in question?

#### OUR PRESENT INITIATIVES

The Trust directly funds services, equipment and training for children with physical disabilities and their family. These include:-

- A Family Coordinator as an independent advocate
- Children’s equipment not provided by the government
- Attendance fees for family to attend conferences
- Funds for children’s activities.
- Sponsored holiday house at Paihia for families
- A small library (books, videos, tapes) located in the family room.
- A regular newsletter sent to those on a mailing list
- Regular special events that support the sector. e.g. Know How Day, Children’s Party
- Funding Research projects relevant to Child Disability

How does a trust which is neither incorporated nor identifiable carry out the above? If the trust is incorporated what name is it in ?

#### THE WAY FORWARD

The following outlines some of the options we see that could make better use of the Takapuna site and increase the income for the beneficiaries of the Trust.

If the trust is non existent would it also mean that the beneficiaries too are non existent?

These are just suggestions and there may well be other ideas that the Trust Management Committee has overlooked.

A trust “management committee” and “trustees” of a trust are two very different things. A management committee was set up under the deed in 1937 but this did not include the Waitemata District health board and an explanation is still required as to how the asset vested in the Auckland hospital board became the property of the Waitemata district health board, which laws, which amendments, which legal processes were followed to facilitate this?

As such we invite your feedback on the ways we have outlined here that could provide more income and better services for children with disabilities and their families, together with any other thoughts you may have. The only criterion we must all keep in mind is the terms of the Trust Deed and the integrity of the beautiful grounds. Clarification is needed as to the term “the trust “.

#### THE TRUST’S DEVELOPMENT PHILOSOPHY

The Management Committee, taking into account the Trust Deed and the Wilson family vision, believes:

- Any development initiatives must be in accordance with the Trust deed
- Any development should be sustainable, in keeping with the environment and the preservation of trees and recognising the original heritage nature of the property
- The land should not be sold but retained either through leasehold developments or by constructing buildings for further services for the Deed’s beneficiaries

The management committee has no mandate to make this decision or any decision beyond the scope of what the deed allows the management board to do. The management board is under the control of the Auckland hospital board.

#### SITE OPTIONS (SEE SITE PLAN ATTACHED)

These options have been put forward as suggestions by the Management Committee. They are not definitive and are listed here for discussion purposes. We welcome your feedback on these options using the Feedback form contained at the back of this document.

The site is divided into three lots. The site is in two lots one owned by the crown the other Waitemata District Health board. According to the Trust Deed Lots 1 and 3 can be developed in any way chosen except for the restraints required by town planning legislation. On these sites this would mainly refer to trees. Lot 2 contains the original homestead and the chapel and is held as a ‘heritage site’, so can only be utilised for children with disabilities and their families. (See site plan)

**There is little or no point going into the various options for the site until the questions raised by this document are answered, I hereby ask for the Waitemata District Health board to clarify the points raised I ask for this information pursuant to the official information act. All questions are in Red**

**Was the health board aware of the following relationship? If so when was it declared?**

**In the minutes 23 April 2007 Donnelly declares his interest as CRANZ**

<http://www.waitematadhb.govt.nz/LinkClick.aspx?fileticket=4ZIVNtCvmCg%3D&tabid=198&mid=651> in the next minutes this remains uncorrected

<http://www.waitematadhb.govt.nz/LinkClick.aspx?fileticket=PIRBOcs8YRI%3d&tabid=235&mid=722>

CRANZ and CHRANZ are vastly different Cardiac Rehabilitation Association of New Zealand (Inc) and there is No record of Donnelly's involvement but CHRANZ has its own governance board that replaced the CHRANZ Establishment Board on 25 August 2003.



The CHRANZ mission is to: "Invest in rigorous, independent and relevant housing research to support policies and practices that meet New Zealand's changing and diverse housing needs through sustainable, affordable, good quality and responsive housing opportunities".

CHRANZ was established by Housing New Zealand Corporation (HNZC) and launched in August 2003. HNZC has provided initial research funding aimed to 'kick start' the housing research sector, with an expectation that CHRANZ will become increasingly independent by attracting research funding support from other stakeholders.

CHRANZ's core business includes setting housing research priorities for the total housing market and investing in independent research. CHRANZ's medium term goal is to deliver and promote policy relevant research on housing, and see it implemented at the policy and operational level.

The CHRANZ Board's housing research priorities are: (i) The New Zealand Housing System (ii) Linking Housing and Social, Cultural, Economic and Environmental Outcomes. <http://www.chranz.co.nz/who.html>

<http://www.hnzc.co.nz/hnzc/web/research-&-policy/housing-research-&-evaluation/other-research-in-housing.htm> The Centre for Housing Research Aotearoa New Zealand (CHRANZ) was established by Housing New Zealand in 2003 to address research gaps in the wider housing market.

Housing New Zealand provided funding to kick-start the housing research sector, with the expectation that CHRANZ will become increasingly independent, by attracting funding support from other stakeholders.

CHRANZ's core business includes setting housing research priorities for the total housing market, and investing in independent research.

**[BRIAN DONNELLY IS ON THE BOARD OF CHRANZ](http://www.chranz.co.nz/who/people.html)** <http://www.chranz.co.nz/who/people.html>

**Brian Donnelly is the Executive Director of the New Zealand Housing Foundation**, an organisation established to assist community group housing providers and to be a catalyst for new and innovative housing projects. Brian's career has been in and around the housing sector. He has a particular interest in the provision of housing for people in most need and in the urban renewal and asset management opportunities that exist for the development and regeneration of New Zealand's public and private sector housing stock. Brian has held senior management roles in large public sector organisations including Housing New Zealand Corporation and New South Wales Housing. From 1998 to 2003, he was a Director of BRANZ. He holds qualifications in Valuation and Property Management. Brian resides in Auckland and his other interests involve sports management in both rugby and cricket.

**Disclaimer : the information provided was sourced from publicly available documents and has been collated to the best of my professional knowledge. I intend this information to be a basis for discussion so that due diligence can be carried out prior to any decision as to the future of the site being made. Documents referenced will be downloadable from [www.verisure.co.nz](http://www.verisure.co.nz) soon**

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