

HUTT MANA CHARITABLE TRUST

PROPOSED CHANGES TO DEED OF TRUST CONSULTATION DOCUMENT

Background

1. The Trustees are proposing to make changes to their Trust Deed and are seeking public consultation on those changes.

Proposed Amendments

2. The Trustees propose to make the following changes to the Trust Deed:
 - 2.1 Removal of the requirement that persons seeking election as Trustees of the Trust must be resident in the particular area of the Trust which that person seeks to represent as a Trustee. All nominees standing for election to the Trust will need to be resident within the wider Trust district and a person can only be nominated for one constituent area.
 - 2.2 To update the provisions of the Trust Deed relating to the holding of Trustee meetings and the advertising of the Annual General Meeting. This is in particular to provide for Trustees to hold their meetings by way of AVL and other electronic means and also to make greater use of social and other electronic media.
3. **Attached** are the proposed amendments that it is intended to make.

Reasons for Amendments

Residence Requirement

4. The Hutt Mana Charitable Trust has five Trustees, each of whom represent particular areas within the Trust District. One Trustee is appointed to represent the Upper Hutt area, two Trustees are appointed to represent the Lower Hutt area, one Trustee is appointed to represent the Porirua area, and one Trustee is appointed to represent the North Wellington area (being essentially the areas of Tawa, Newlands, Johnsonville, Ngauranga and Broadmeadows).
5. The Trust District which embodies all of the above areas derives from the jurisdiction of the old Hutt Valley Energy Board. The Trust itself was formed as a result of the legislative reforms in the 1990s when the Power Boards were privatised. The forerunner to the Trust was the Hutt Mana Energy Trust.
6. The Hutt Mana Energy Trust was effectively wound up in 2005 when there were pay-outs made to power and gas consumers within the area of the old Hutt Valley Energy Board with the sum of \$35,000,000 being held back and which was settled into the Hutt Mana Charitable Trust.
7. At the time that the Energy Trust was established in 1996, it was based on the Community Board structure which required that those seeking election to a Community Board had to be resident within the particular community that that Board represented. Accordingly the requirement for residence in each particular area from which Trustees were elected was embodied into the original Trust Deed of the Energy Trust. When the Energy Trust was itself wound up, the Trust Deed for the Hutt Mana Charitable Trust was amended to incorporate similar provision for the election of its Trustees.
8. Importantly, the Local Electoral Act 2001 which the Hutt Mana Charitable Trust applies in respect of its elections, does not impose such residence restrictions on candidates standing for election to a local or territorial authority. In particular, there are no restrictions that where a particular local or territorial

authority is divided into wards, that persons seeking election to represent that ward, must be resident in that ward.

9. In fact the Local Electoral Act 2001 does not even require persons seeking election to a local body to be resident within the area of that local body. Nevertheless, the Trustees consider that there should still remain within the Trust Deed, a requirement that any person standing for election as a Trustee to the Trust must be resident within the broader district of the Trust.
10. The Trustees consider that the removal of this restriction would encourage a broader range and diversity of candidates. At the same time, it would ensure that there is some local knowledge of the Trust District by virtue of retaining the requirement that all candidates still reside within the Trust District.

Updating of Trust Deed

11. Most of the provisions of the Trust Deed were drafted in 1996.
12. Since then of course there have been significant advances in technology. At present, the advertising of the Annual General Meeting of the Trust is only required to be published in local print media. Accordingly it is intended to expand these provisions to also require any such advertising to be undertaken through the Trust's website and also on social media such as Facebook.
13. There is also a need to provide for alternative means of holding Trustee meetings. While the current Trust Deed does enable such Trust meetings to also be held by telephone, with the arrival of other digital forms of communication such as AVL or Skype, it is proposed that this also be incorporated.
14. The opportunity has also been taken to clarify what constitutes a quorum for Trust meetings. The Deed makes it quite clear that there must be at least three Trustees present for a quorum. The amendments proposed to the Trust Deed make it clear that that quorum is met if those persons are attending by way of telephone or other electronic means where they can be seen and heard by other participants at the meeting.

Public Submissions

15. Public submissions can be sent to the Trust either in writing to the offices of Kendons Accountants, P O Box 31-250, Lower Hutt 5040, or by email to secretary@hmct.org.nz.
16. The Trust can also be contacted at telephone number (04) 569 6113.
17. All submissions are to be received by the Trust no later than 5.00pm, Tuesday, 15 January 2019.