



## TARANAKI ELECTRICITY TRUST

### PUBLIC CONSULTATION – NEW TRUST DEED

The attached document outlines the proposed new trust deed intended for public consultation. The trust deed is an essential legal document that governs the operations and management of the Trust. While the Trust already has an existing deed, this updated version has been drafted to comply with recent changes to trust legislation (the Trusts Act 2019) and to modernise the language used. We invite feedback from the community to ensure transparency and inclusiveness.

#### **Purpose of the Trust Deed**

The primary purpose of the Trust Deed is to establish the framework within which the Trust will operate. It defines the roles and responsibilities of the trustees, the rights of the beneficiaries and the terms under which the Trust will be managed. This modernised deed aims to ensure that the Trust serves its intended charitable purposes effectively while adhering to current trust standards.

#### **Key Provisions of the Trust Deed**

1. **Trustees' Responsibilities:** The new deed clarifies the duties and powers of the trustees, ensuring they act in the best interests of the beneficiaries and in accordance with the mandatory duties of the Trusts Act 2019.
2. **Charitable Purpose:** The new deed confirms the charitable purpose of the Trust and the trustees' commitment to the wellbeing of all sections of the community in the area over which the former Taranaki Electric Power Board was authorised to supply electricity.
3. **Amendments and Wind Up:** The process for amending the Trust Deed and the conditions under which the Trust may be wound up are detailed to provide clarity and security.
4. **Rules governing the appointment, retirement and proceedings of the Trustees:** The new deed incorporates several amendments to the present rules, summarised as follows:
  - a. Clarifies the eligibility requirements for trustees
  - b. Sets a maximum tenure for Chairperson and Deputy Chairperson roles
  - c. Clarifies the election process and system for the respective Wards
  - d. Clarifies the role of the Executive Secretary
  - e. Clarifies the process for appointing proxies
  - f. Overall, modernises the language of the rules including allowing for meetings to be convened via audio-visual link and the option for electronic voting



## **Consultation Process**

We are committed to involving the community in this process. Feedback can be submitted via email ([taret@xtra.co.nz](mailto:taret@xtra.co.nz)), post (PO Box 163, Inglewood 4330), dropped off at the TET Office (84 Rata Street, Inglewood) or during public meetings scheduled for

- North Taranaki Sport & Recreation Inc, 17 Princess Street, Waitara, on Wednesday, 14 May 2025 at 7pm.
- TET MultiSports Centre, 62 Portia Street, Stratford, on Wednesday, 28 May at 7pm.
- TET Stadium and Events Centre, 1 Elliot Street, Inglewood on Tuesday, 3 June at 7pm.

We encourage all interested parties to review the proposed new trust deed and provide their input.

## **Contact Information**

For any inquiries or to submit feedback, please contact the [taret@xtra.co.nz](mailto:taret@xtra.co.nz) or telephone 06-756-7563 (office hours Wednesday and Friday – 8.30am-1.30pm).

Grant Hassall

**Executive Secretary**

## TARANAKI ELECTRICITY TRUST

This deed is made on [date].

### **PARTIES**

**MICHAEL GERARD DAVEY** of [township of residence]

**ALAN LLOYD JAMIESON** of [township of residence]

**TONY GAVIN BEDFORD** of [township of residence]

**MELISSA ANNE STEVENSON** of [township of residence]

**JONATHAN MILLAR STANTON ERWOOD** of [township of residence]

**PETER JAMES McDONALD** of [township of residence]

(Trustees)

### **BACKGROUND**

- DRAFT**
- A. The Trustees are the trustees of Taranaki Electricity Trust (Trust) being a trust created by a trust deed dated 23 April 1993 (Trust Deed) as varied by:
- i. A Deed of Variation of Trust dated 23 August 1993; and
  - ii. A Deed of Further Variation of Trust dated 21 December 1994; and
  - iii. A Deed of Trust dated 10 May 1996 consolidated with all variations to that date; and
  - iv. A Deed of Trust dated 17 September 1998 consolidated with all variations to that date; and
  - v. A Deed of Trust dated 15 August 2002 consolidated with all variations to that date.
- B. The Trust is registered as a charitable trust under the Charitable Trusts Act 1957.
- C. The Trustees have unanimously agreed to vary the terms of the Trust Deed as set out in this deed and have carried out the public consultative procedure set out in section 83 of the Local Government Act 2002 and have considered the submissions received.
- D. This deed consolidates the original Trust Deed with all changes to date

## BY THIS DEED

- 1.1 The Trustees confirm that the variations implemented by this deed comply with all restrictions and requirements specified in the Trust Deed.
- 1.2 [*Name of authorised trustee*] is authorised to certify a copy of this deed and register this deed as required by Charitable Trusts Act 1957, s 23.

## 2 Definitions and Interpretation

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- 2.1 In this Deed unless the context otherwise requires:

**'Balance Date'** means 31 March or any other date adopted from time to time by the Trustees as the end of its Financial Year;

**'Board'** means the Trustees acting as a board under the Charitable Trusts Act 1957 or Trustees for the time being constituting the board, as the context requires;

**'Chairperson'** means the Trustee elected as chairperson pursuant to rule 5 of Schedule A;

**'Deed'** means this deed and includes the Schedules and any amendments;

**'Deputy Chairperson'** means the Trustee elected as chairperson pursuant to rule 5 of Schedule A;

**'District'** means the extent of the area over which the former Taranaki Electric Power Board was authorised to supply electricity pursuant to the licence granted to the Taranaki Electric Power Board under section 90 of the former Electricity Act 1968 as per the boundary map in Schedule B consisting of the total area of Ward A and Ward B combined;

**'Election Date'** means the date as defined in rule 4.2 of Schedule A;

**'Electors'** means at any appropriate date designated by the Trustees, any person:

- (i) whose name appears on each published roll of parliamentary districts (including the main roll and any supplementary rolls)
- (ii) who satisfied the Returning Officer that he or she was entitled to have his or her name on the published roll or supplements by virtue of an application for enrolment made before the closing of the roll or supplement; and
- (iii) whose electoral address is within the District

**'Financial Year'** means any year or other accounting period ending on a Balance Date;

**'month'** means a calendar month;

**'persons'** includes any individual, corporation, partnership, joint venture, association, trust, organisation, government department or local authorities;

**'Returning Officer'** means the independent election services firm appointed by the Trustees pursuant to rule 4.5 of Schedule A;

**'Trust'** means the Taranaki Electricity Trust established by the original Trust Deed dated 23 April 1993 and continued as a charitable trust by subsequent variations and by this Deed;

**'Trustees'** means the trustees for the time being of the Trust;

**'Trust Fund'** means all the funds of the Trust and includes all capital and income for the time being held by the trustees of the Trust;

**'Ward A'** means that part of the District in the territorial area of the New Plymouth District Council shaded blue and marked Ward A in Schedule B;

**'Ward B'** means that part of the District in the territorial area outside of the New Plymouth District Council shaded red and marked Ward B in Schedule B;

**'working day'** means any day of the week other than:

- (i) Saturday, Sunday, Good Friday, Easter Monday, ANZAC Day, Labour Day, the Sovereign's Birthday, Waitangi Day, Matariki and Taranaki Anniversary; and
- (ii) a day in the period commencing with 25 December in a year and ending with 2 January in the following year; and
- (iii) if 1 January falls on a Friday, the following Monday; and
- (iv) if 1 January falls on a Saturday or a Sunday, the following Monday and Tuesday; and
- (v) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday.

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**2.2** In this Deed, unless the context otherwise requires:

- references to one gender include the other gender;
- references to the singular include the plural and vice versa;
- the headings are for guidance only and shall not affect the interpretation of this Deed;
- references to clauses are references to clauses of the Deed and references to schedules are references to Schedules to this Deed;
- any reference to any legislation shall be deemed to be a reference to any legislation passed in substitution.

### **3 Declaration of Trust**

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The declaration of trust is hereby confirmed as follows:

- 3.1 The Trust established by the Trust Deed as an electric power trust is and shall continue to be known as the Taranaki Electricity Trust.
- 3.2 Any monies or other property of whatever kind either received contemporaneously with execution of the Trust Deed or subsequently paid,

given, transferred, vested in, purchased or acquired by (or agreed to be transferred to or purchased or acquired by) the Trustees shall be held upon the trusts set out in this deed and any accumulations of income therefrom and all monies, investments and property of whatever kind from time to time representing the same upon the trusts and for the purposes and with the powers, authorities and discretions set out in this deed.

#### 4 Purposes

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The purpose and object for which the Trust is established is to contribute to the wellbeing of all sections of community in the area over which the former Taranaki Electric Power Board was authorised to supply electricity (the District).

The objects of this clause 4 shall be met through the provision of grants. The specific details, including application criteria, shall be established and approved in each case by resolution of the Trustees.

The purposes of the Trust are charitable and may not extend to any matter or thing which is not charitable within the meaning of the Income Tax Act 2007 and its amendments for the time being or any re-enactment.

This clause shall not be altered in any way which results in the Trust ceasing to be for charitable purposes within the District.

#### 5 Tangata whenua

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In attaining its purposes, the Trust shall recognise the importance of tangata whenua and aspire to honour Te Whaitangi.

#### 6 The Trust

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The Trustees shall stand possessed of the capital and income of the Trust Fund **UPON TRUST** to apply the same at such time or times as they may in their absolute discretion think fit for the purposes of the Trust as set out in clause 4. Subject to this the Trustees:

- 6.1 **Income:** Will hold the income from the Trust Fund on trust:
- (a) To pay all expenses and other charges to be met from income and at the Trustees discretion to make payments normally charged to capital;
  - (b) to retain any income the Trustees think fit as a reserve for any purpose authorised by this deed or by law;
  - (c) at the Trustees discretion to accumulate income from the Trust Fund in any accounting period for any period; the income so accumulated may be added to the capital of the Trust Fund and held on the same trusts; this power is in addition to any power the Trustees may have to accumulate income; and
  - (d) at the Trustees discretion to carry forward unexpended income in any year to a future year or years and the Trustees may also set aside from income a reserve to meet fluctuations of income in future years and other contingencies.

These powers are in addition to any other powers or discretion the Trustees may have to carry forward income or establish reserves.

- 6.2 **Capital and income allocation:** The Trustees may decide that any money or dividend received is to be treated as capital or income or divided between the two as the Trustees think fit. This applies also to any assets or property received or any increase or decrease in value.

## **7 Appointment, Retirement and Proceedings of Trustees**

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The rules set forth in Schedule A hereto (with such amendments, deletions, and additions thereto as may be permitted by this deed or at law) shall govern the appointment, retirement and proceedings of the Trustees and associated matters.

## **8 Powers**

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### **8.1 General powers**

The Trustees may exercise the following powers in order to carry out its charitable purposes:

- (a) all the powers necessary to manage the Trust Fund and the Trust including, in relation to the Fund, all the powers of an absolute owner of the Fund;
- (b) all the powers necessary to carry out the purposes of the Trust, including powers incidental to those in clause 8.1(a) and the powers contained in the Trusts Act 2019.

### **8.2 Specific powers**

In addition to the general powers referred to in clause 8.1 and those implied by the general law of New Zealand or contained in the Trusts Act 2019, the Trustees may, among other things, exercise the following specific powers to carry out the charitable objects and purposes for which the Trust is established:

- (a) **Raise Money:** Raise money by all lawful means, accept gifts, legacies or other bequests (whether unconditional or subject to any condition acceptable to the Trustees that is consistent with the objects for which the Trust is established, and whether absolute or for a period of time only) and to solicit, receive and enlist financial or other aid from individuals and organizations;
- (b) **Invest:** To invest in any property and in any investment permitted by law for the investment of trust funds, whether or not authorised by law for the investment of trust funds, and upon such terms as the Trustees think fit and to vary any such investment from time to time;
- (c) **Sell:** Sell all or any part of the property comprising the Trust Fund at such price, on such terms, and subject to such conditions as they in their absolute discretion think fit with power to allow the whole or any part of the purchase money to remain owing as a debt to the Trust;
- (d) **Retain Property:** Retain property forming part of the Trust Fund;

- (e) **Lease:** Lease or to take on lease or licence any property on such terms and subject to such conditions as they think fit and to accept or effect such surrenders of leases and licences as they think fit;
- (f) **Borrow:** Borrow moneys on such terms and subject to such conditions as the Trustees think fit;
- (g) **Lend:** Lend moneys on such terms and subject to such conditions as the Trustees think fit;
- (h) **Guarantee:** Enter into any guarantee which the Trustees consider to be in the interests of the Trust;
- (i) **Determine Capital And Income:** Determine whether any money for the purposes of these presents is to be considered as income or capital and what expenses ought to be paid out of income and capital respectively and also to apportion blended funds;
- (j) **Maintain And Improve Property:** Maintain, manage, repair, improve and develop any property which, or an interest in which, for the time being forms part of the Trust Fund in such manner as the Trustees shall think fit;
- (k) **Employment And Remuneration:** Employ and pay a reasonable salary or fee to any person, firm, company or corporation (other than a Trustee) to do any act of whatever nature relating to the Trust;
- (l) **Bank Accounts:** Open an account or accounts at any time or times in any name or names and either on their own behalf or jointly with another at any bank, to overdraw any such account with or without giving security, and to make arrangements with any bank for any one or more of the following, namely the Trustees and/or any delegate or delegates named in writing by all the Trustees to operate upon any account from time to time opened or subsisting at that bank;
- (m) **Insurance:** Insure against loss or damage by any cause whatsoever any insurable property to any amount not exceeding the full insurance value thereof or the full replacement value thereof as the Trustees may in their absolute discretion from time to time think fit;
- (n) **Maintenance Contracts:** Enter into contracts of any nature whatsoever for the purpose of protecting, maintaining or enhancing the value of all or any assets acquired or held by the Trustees or which the Trustees have the right to acquire or hold;
- (o) **Delegate To Committees:** Delegate any of the powers and duties to any committee or committees consisting of such of the Trustees (or other such persons) as they may appoint for such purpose, subject to clause 14;
- (p) **Remunerate Trustees:** A Trustee being a solicitor or accountant or other person engaged in a profession or business may charge and be paid all such remuneration for their services as may be normal as if they had been employed in that behalf and had not been a Trustee hereof **PROVIDED THAT** no Trustee shall in any way (directly or indirectly) materially influence or determine any income, benefit or advantage that he or she may receive from the business operations of the Trust. This is a modification of the duty not to profit in section



36 of the Trusts Act 2019 and the duty to act for no reward in section 37 of the Trusts Act 2019;

- (q) **Other Powers:** Do such other acts and things as the Trustees may in their absolute discretion consider incidental or conducive to the attainment of the charitable purposes of the Trust.

## 9 Investment policy

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### 9.1 Standard of care

Subject to clause 11.1, despite the fact that the Trustees may from time to time include persons whose profession, employment or business is or includes acting as a trustee or investing money on behalf of others, the care, diligence and skill to be exercised by such persons:

- (a) Will not be that required by section 30 of the Trusts Act 2019; and
- (b) Will at all times be the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others,

This clause is a modification of the duty of prudent investment expressed in section 30 of the Trusts Act 2019

- 9.2** Subject to clause 11.1 but notwithstanding anything else in this deed, no Trustee shall be liable for any breach of trust in respect of any duty to exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others or that a prudent person engaged in a profession, employment or business that is or includes acting as a trustee of investing money on behalf of others would exercise in managing the affairs of others merely (in either case) because the investments of the Trust Fund are not diversified.

## 10 Trustee duties

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- 10.1** Subject to clause 10.2, the duties of the Trustees set out in Part 3 of the Trusts Act 2019 apply to their full extent unless explicitly modified or negated in this deed.

- 10.2** The mandatory duties set out in sections 22 to 27 of the Trusts Act 2019 shall apply at all times to the exercise of the Trustees' powers and discretions under this deed. Each Trustee and the Board, as the case may be, must:

- (a) know the terms of the Trust;
- (b) act in accordance with the terms of the Trust;
- (c) act honestly and in good faith;
- (d) hold or deal with the assets of the Trust and otherwise act to further the purpose of the Trust specified in clause 4 in accordance with the terms of the Trust;
- (e) exercise their powers for a proper purpose;

## **11 Trustee liability and indemnity**

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### **11.1 Liability**

No Trustee (including any former Trustee) will be liable for any loss to the Trust Fund arising from any act or omission of the Trustee or any of the Trustees unless it is attributable to that Trustee's own dishonesty or gross negligence or wilful misconduct which is known by that Trustee to be a breach of trust.

**11.2** No Trustee will be bound to take any proceedings against a co-Trustee or a former Trustee for any breach or alleged breach of trust committed by such co-Trustee or former Trustee.

**11.3** Each Trustee shall be chargeable only for such moneys as shall have actually been received by that Trustee although that Trustee may have joined in any receipt for money received by any other Trustee. No Trustee shall be answerable for the acts of any other Trustee nor for any loss which may arise by reason of any Trust Funds being lawfully deposited in the hands of any banker, solicitor, or agent, or for the sufficiency, or deficiency of any security upon which any trust money or any part thereof may be invested or for any loss in the execution of any trust unless the same shall happen through his or her neglect or default.

### **11.4 Trustee indemnity**

Any Trustee, officer, committee or employee of the Trust shall be indemnified out of the assets of the Trust for and in respect of any loss or liability which such Trustee may sustain or incur by reason of the carrying out or omission of any function, duty or power of the trustees under this deed and also in respect of any expenses incurred by the Trustee in the management and administration of the Trust Fund unless such loss or liability is attributable to such Trustee's dishonesty or to the wilful commission by such Trustee of an act known by the Trustee to be a breach of trust or to the willful omission by such Trustee of any act when that omission is known by such Trustee to be a breach of trust.

## **12 Remuneration and expenses of Trustees**

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**12.1** Each Trustee shall be entitled to be paid from the Trust Fund a reasonable fee for his or her services as a Trustee of the Trust, such fee to be reviewed periodically and not to exceed the amount recommended by an independent person or firm having expertise in the area. This is a modification of the duty not to profit in section 36 of the Trusts Act 2019 and the duty to act for no reward in section 37 of the Trusts Act 2019.

**12.2** Any Trustee being a lawyer, accountant or other person engaged in any profession, business or trade may be paid all usual professional, business and trade charges for services provided by that person or that person's employee or partner in connection with the Trust including acts which a Trustee, not being in any profession, business or trade, could have done personally. The amount of any such remuneration must not

exceed the fair market value for services provided. This is a modification of the duty to act for no reward in section 37 of the Trusts Act 2019.

- 12.3** No Trustee shall in any way (whether directly or indirectly) materially influence the determination of any income, benefit or advantage that he or she may receive from the business operations of the Trust.
- 12.4** Each Trustee is entitled to be indemnified against, and reimbursed for, expenses incurred by them in the exercise of their powers and duties under this deed.
- 12.5** The total amount of Trustee fees paid in each Financial Year shall be disclosed in the annual accounts of the Trust.

## **13 Accounts**

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- 13.1** The Board shall ensure that full and correct records of all the financial transactions of the Trust and its assets, liabilities and funds are kept.
- 13.2** The Board shall ensure that financial statements including a balance sheet and income and expenditure account and notes to those documents are prepared giving a true and fair view of the financial affairs of the Trust for that Financial Year.
- 13.3** The Board shall, as soon as practicable after the end of every Financial Year of the Trust, cause the accounts of the Trust for that Financial Year to be audited by an accountant appointed for that purpose and who is independent of the Trust's financial and accounting advisors.

## **14 Power to delegate**

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### **14.1 Power to delegate**

The Board may, from time to time, appoint any committee and may delegate any of its powers and duties except those listed in clause 14.5, to any such committee or to any person, and the committee or person, as the case may be, may without confirmation by the Board exercise or perform the delegated powers or duties in like manner and with the same effect as the Board could itself have exercised or performed them.

### **14.2 Delegate bound**

Any committee or person to whom the Board has delegated powers or duties shall be bound by the terms of this trust deed as if they were a Trustee (for the purposes of those delegated powers or duties) and is liable to the Trustees for any failure to comply with the terms of the Trust.

### **14.3 Delegation revocable**

Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power or the performance of any duty by the Board.

### **14.4 Delegate need not be Trustee**

It shall not be necessary that any person who is appointed to be a member of any such committee, or to whom any such delegation is made, be a Trustee.

#### **14.5 Limits on delegation**

The Board may not delegate:

- (a) any of its powers related to the determination of whether, when, or in what way any part of the Fund shall be distributed, used, possessed or applied for the Trust's purposes;
- (b) any of its powers of appointment and removal of Trustees under the rules set forth in Schedule A hereto;
- (c) any power to set or change the distribution date for any trust property;
- (d) any of its powers under clause 16 (variation of deed) or clause 17 (winding up);
- (e) any right to apply to the court;
- (f) the Board's powers of delegation under clause 14.1; or
- (g) any other powers held by the Board that cannot be delegated under the Act.

#### **14.6 Duty to review delegations**

If the Board exercises its powers to delegate under this clause 14, the Board must:

- (a) keep under review the arrangements under which the committee or person acts and how such arrangements are being put in effect; and
- (b) if the circumstances make it appropriate to do so, consider whether the Board should exercise any power to intervene (for example, a power to give directions to the committee or person, or to amend, revoke, or replace the appointment).

#### **14.7 Delegation by Trustee**

A Trustee cannot delegate all or any of their powers or functions under this deed without the prior written approval of all other Trustees and such delegation must also comply with the provision of section 70 of the Trusts Act 2019.

### **15 Common seal**

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The Board shall have a common seal which shall be kept in the custody of the secretary, or such other officer as shall be appointed by the Board and shall be used only as directed by the Board. It shall be affixed to documents only in the presence of, and accompanied by the signature of, two Trustees.

### **16 Variation**

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**16.1** Subject to clause 16.2, this deed may be altered, added to, rescinded or otherwise amended by a resolution passed by at least 75% of the total number of Trustees provided that no such amendment shall:

- (a) detract from the exclusively charitable nature of the Trust or result in the distribution of its assets on winding up or dissolution for any purpose that is not exclusively charitable; or
- (b) be effective until registered under the Charities Act 2005

This clause modifies section 38 of the Trusts Act 2019 (the duty to act unanimously).

- 16.2** Except where an alteration, addition, rescission or other amendment to this deed is of an administration nature only or is required to retain the charitable status of the Trust for taxation purposes, no such alteration, addition, rescission or other amendment shall be effective unless the Trustees have first consulted in a manner the Trustees in their absolute and unfettered discretion consider fair and reasonable in the circumstances with the people and communities within the District about the tenor or gist of that alteration, rescission or other amendment.
- 16.3** For the purposes of clause 16.2, “of an administration nature only” may include a variation that the Trustees consider is (without limitation):
- (a) Of a grammatical nature or is intended to simplify and/or clarify drafting; or
  - (b) Necessary in light of legislative updates; or
  - (c) Common practice, such as to align with technological advances.

## **17 Winding up and dissolution of assets**

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### **17.1 Winding up**

If at any time:

- (a) A unanimous resolution of the Trustees has been passed after the Trustees have formally consulted with the people and communities within the District about the winding up of the Trust in a manner the Trustees in their absolute and unfettered discretion consider fair and reasonable; or
- (b) For any reasons the purposes hereof become wholly frustrated and incapable of being carried out

the Trustees shall proceed to wind up the Trust.

### **17.2 Distribution of assets**

If, either on the winding up, failure or dissolution of the Trust, or in the case of the Board having incorporated in accordance with the provisions of the Charitable Trusts Act 1957 on the liquidation of the Board or on its dissolution by the Registrar, there remains, after payment of all of the Trust’s debts and liabilities, any property or assets whatsoever, they shall be given or transferred to a charity or charities registered under the Charities Act 2005 with charitable purposes within New Zealand similar to those set out in this deed, or be applied for such charitable purposes within New Zealand as the Board may, by resolution, determine at, before, or during the winding up, failure, dissolution or liquidation. If the Board is unable to make such decision, such property shall be disposed of in accordance with the directions of a Judge of the High Court pursuant to Charitable Trusts Act 1957, section 27 on the application of any member of the Board.

Executed as a deed on [date].

[Signed for [Trustee's name] by its  
authorised representative]

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Witness name

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Signature of party

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Signature of witness

[Signed for [Trustor's name] by its  
authorised representative]

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Witness name

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Signature of party

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Signature of witness

**DRAFT**

## **SCHEDULE A – RULES GOVERNING THE APPOINTMENT, RETIREMENT AND PROCEEDINGS OF THE TRUSTEES**

These rules shall take effect from the date of this Deed and shall supersede any previous rules.

### **1. Number of Trustees**

- 1.1 The number of Trustees shall be six (6).
- 1.2 The elected trustees shall principally reside within the boundaries of the District, subject to rule 3.3.
- 1.3 The elected Trustees as at the date of these rules are Michael Gerard Davey, Alan Lloyd Jamieson, Tony Gavin Bedford, Melissa Anne Stevenson, Jonathan Millar Stanton Erwood and Peter James McDonald.

### **2 Eligibility**

- 2.1 The following persons shall not be eligible for election as a Trustee and may not hold office as a Trustee:
  - (a) a person under the age of 18;
  - (b) a bankrupt who has not obtained a final order of discharge, or whose order of discharge has been suspended for a term not yet expired, or is subject to a condition not yet fulfilled;
  - (c) a person who has been convicted of any offence punishable by a term of imprisonment of two or more years unless that person has obtained a pardon or has served the sentence or otherwise suffered the sentence imposed upon that person;
  - (d) a person who is prohibited from being a director or promoter of, or in any way directly or indirectly being concerned or taking part in the management of, a company under section 382, 383 or 385 of the Companies Act 1993;
  - (e) a person who is mentally disordered within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
  - (f) a person who is subject to a property order made under section 30 or section 31 of the Protection of Personal and Property Rights Act 1988.

### **3. Term of Office**

- 3.1 A Trustee shall cease to hold office if:
  - (a) the Trustee resigns by written notice to the Trustees;
  - (b) the Trustee becomes ineligible for election or appointment as a Trustee pursuant to rule 2.1;
  - (c) the Trustee dies while holding office as a Trustee; or

(d) is absent from three consecutive ordinary meetings of the Trustees without reasonable cause or without leave of absence from the Trustees.

3.2 Subject to rule 4.3, all Trustees shall retire in each election year.

3.3 If a Trustee moves to a principal place of residence outside of the boundaries of the District, the remaining Trustees must be notified in writing. It shall be at the discretion of the remaining Trustees to decide if that Trustee is required to resign from their position. If the remaining Trustees agree that the Trustee should resign then that Trustee shall cease to hold office and the provisions of rule 4.19 shall apply.

3.4 Upon every election, re-election, retirement or cessation of office of any Trustee the Trustees shall cause an entry thereof to be recorded in the minute book of the Trust.

#### 4. Elections of Trustees

4.1 Other than the current elected Trustees as set out in rule 1.3, the trustees shall be elected in accordance with this rule 4.

4.2 The next election shall take place on or about 16 June 2026. Subsequent elections shall occur every four years thereafter on the third Friday of June or nearest working day to that date ("*Election Date*").

4.3 Elected Trustees shall continue in office until the declaration of the result of the election.

4.4 A retiring Trustee is eligible for re-election.

4.5 For each election the Trustees shall appoint an independent election services firm to act as Returning Officer.

4.6 All elections shall be held on a Ward system. Ward A shall be that part of the District in the territorial area of the New Plymouth District Council and Ward B shall be the balance of the District.

4.7 No later than 1 April of the relevant election year, the Trustees will call for nominations to fulfil all vacant Trustee positions through reasonable public methods within the District. Nominations shall remain open for the period specified by the Trustees being no less than 10 working days. The Trustees must ensure the call for nominations:

- (a) specifies the requirements Trustees must meet under this Deed, including rule 2.1;
- (b) clearly states the period that nominations are open;
- (c) clearly states the method/s of submitting nominations;
- (d) clearly states any further information that will be required from the nominees.

4.8 Nominations for election shall be for the Ward in which the candidate has their electoral address and candidates shall be elected to represent each Ward in such manner as will ensure that there are three Trustees elected to represent each Ward.



- 4.9 Each nomination shall be proposed by two Electors who reside in the Ward for which the candidate is standing and shall include the candidate's acceptance of nomination.
- 4.10 Those eligible to vote shall be the Electors at an appropriate date to be designated by the Trustees.
- 4.11 Electors having an electoral address in Ward A shall only vote for candidates for Ward A and Electors having an electoral address in Ward B shall only vote for candidates in Ward B.
- 4.12 If there are less candidates for Trustees for one Ward than are required, then the remaining Trustees may continue to act for the purpose of appointing another Trustee or Trustees in accordance with the provisions of rule 4.19. Any person appointed under this rule shall have his or her principal residential address in the Ward in which the vacancy has occurred.
- 4.13 Nominations shall be on forms prepared by the Returning Officer. Each candidate shall state the Ward in which he or she has his electoral address.
- 4.14 If the number of candidates does not exceed the number of vacancies the Returning Officer shall forthwith declare such candidate or candidates to be duly elected as Trustees and shall publicly notify the same.
- 4.15 The election procedure shall be by secret ballot of all Electors entitled to vote in accordance with this rule. Voting can occur by the following methods, as determined by the Trustees:
- (a) by placing voting papers into a ballot box;
  - (b) by submitting voting papers to the Returning Officer by post;
  - (c) by electronic voting
- 4.16 The opening and closing dates of the election shall be nominated by the Trustees and shall be publicly notified through all reasonable public methods within the District.
- 4.17 Electors shall be entitled to vote for less than the required number of candidates if they so wish.
- 4.18 An election shall not be invalidated by virtue of any irregularity having occurred prior to the voting, or by reason of any failure to comply with these rules as to the conduct of the election or as to the counting of the votes, if it appears to the Trustees upon investigation that the election was conducted generally in accordance with the principles laid down in these rules and that the irregularity, failure, or mistake, did not affect the result of the election.
- 4.19 Where for any reason the number of Trustees is reduced below six the remaining Trustees may continue to act for the purpose of appointing another Trustee or Trustees to bring the number of Trustees to six and for no other purpose. Any such person so appointed shall take office on the day of his or her appointment and shall hold office until the next election of Trustees. Any person appointed under this rule shall have his or her principal residential address in the Ward in which the vacancy has occurred.

**5. Chairperson and Deputy Chairperson**

- 5.1 The Trustees shall elect a Chairperson and Deputy Chairperson who shall also be Trustees at the first Trustees' meeting after the Election Date in 2026 and every four years thereafter, or at any other time when either position becomes vacant.
- 5.2 In the event there is a deadlock as to who should be appointed as Chairperson then the remaining Trustees shall debate to determine the outcome and if no resolution to the deadlock can be reached, such office will be filled by the Trustees drawing lots.
- 5.3 In the event there is a deadlock as to who should be appointed as Deputy Chairperson then the remaining Trustees shall debate to determine the outcome and if no resolution to the deadlock can be reached, such office will be filled by the Trustees drawing lots.
- 5.4 If the Chairperson or Deputy Chairperson is not present at any meeting of the Trustees then those Trustees present may choose one of their number to be Chairperson of the meeting.

**6. Maximum tenure**

- 6.1 As from the date of this Deed, the maximum tenure of Chairperson and Deputy Chairperson respectively shall be two consecutive four-year terms.
- 6.2 There is no maximum tenure for elected Trustees.

**7. Quorum**

- 7.1 A quorum at meeting of the Trustees shall comprise four (4) Trustees present in person or by proxy or by telephone call, AVL or other electronic means.

**8. Proxies**

- 8.1 A Trustee may exercise the right to vote on a specific issue either by being present in person or by proxy.
- 8.2 A proxy for a Trustee is entitled to attend and be heard at a meeting of Trustees as if the proxy were the Trustee but may only vote on those issues authorised in the notice appointing the proxy and in accordance with any directions given as to voting in such notice.
- 8.3 A proxy must be appointed by notice in writing signed by the Trustee and the notice must state what meeting the appointment is for and the specific issue(s) the proxy is to vote on.
- 8.4 A Trustee may only appoint a fellow Trustee to act as their proxy.

**9. Validity of Proceedings**

- 9.1 All acts by any meeting of Trustees or of a committee of Trustees or by any person acting as a Trustee shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Trustee or person acting as aforesaid or that they or any of them were for any reason disqualified, be as valid as if such person has been duly appointed and was qualified to be a Trustee.

10. **Rescission or Variation of Resolutions**

10.1 Any resolution of the Trustees may be rescinded or varied from time to time by the Trustees at any subsequent meeting by the same majority as was necessary to pass the resolution being rescinded or varied.

11. **Meetings**

11.1 **Annual Meeting of Trustees**

- (a) Within four (4) months of the end of each Financial Year the Trustees shall hold an annual public meeting to report on the operation of the Trust during the preceding Financial Year and adopt the audited accounts, annual report and business plan.
- (b) The Trustees shall give no less than fourteen (14) days' notice of the public meeting via all reasonable public methods within the District.

11.2 **Ordinary Meetings**

The Trustees shall convene and hold meetings at such intervals and times as they deem appropriate to the conduct and affairs of the Trust.

11.3 **Special Meetings**

Three (3) Trustees may at any time summon a special meeting for any reason deemed by them to justify the same.

12. **Notice of Meeting**

12.1 Subject to rule 13, notice in writing of every meeting shall be delivered or sent by post or email to each Trustee by the Executive Secretary or other person acting under the direction of the Trustees. At least seven (7) working days' notice of any meeting shall be given to each Trustee. No notice shall be necessary for adjourned meetings except to Trustees not present when the meeting was adjourned.

13. **Content of Notice**

13.1 Every notice of meeting shall state the place, day and hour of the meeting and shall state the matters to be discussed at that meeting. Notice of any meeting may be abridged or waived if all the Trustees consent in writing to such abridgement or waiver.

14. **Committees**

14.1 The Trustees may from time to time appoint any one or more Trustees to be a committee for:

- (a) making any inquiry;
- (b) considering, supervising or transacting any business of the Trust;
- (c) the investment and management of the Trust Funds or any part thereof, or
- (d) the performance of any duty or function which in the opinion of the Trustees will further the purposes and objects of the Trust.

14.2 Subject to these rules and to any directions from time to time given by the Trustees every such committee may regulate its own procedure but so that a quorum at any meeting of the committee will be a majority of its members for the time being.

## 15. **Voting**

15.1 Except as otherwise provided in this Deed and subject to the quorum requirements as to meetings, the Trustees shall exercise their powers and discretions by a simple majority vote of the Trustees present and eligible to vote.

15.2 In the event of an equality of votes the Chairperson of the meeting shall have a casting vote in addition to his or her deliberative vote.

## 16. **Interested Parties**

16.1 A Trustee who in any way, whether directly or indirectly, has a material interest in any contract or proposed contract or arrangement or dealing with the Trust shall disclose the nature of that interest at a meeting of the Trustees and such disclosure shall be recorded in the minutes of the meeting.

16.2 A Trustee required to disclose an interest by rule 16.1 may be counted in a quorum present at a meeting only for the purposes of enabling the meeting to proceed but shall not vote in respect of the matter in which the Trustee is interested provided that the Trustee may be expressly permitted to vote by a unanimous vote of the other Trustees present given after the disclosure of the interest.

16.3 If any question shall arise at any meeting as to the materiality of a Trustee's interest or as to the entitlement of any Trustee to vote and such question is not resolved by the Trustees voluntarily agreeing to abstain from voting, such question shall be referred to the Chairperson of the meeting (or to the Deputy Chairperson in the event the Chairperson is the interested party) and the Chairperson's ruling (or Deputy Chairperson's ruling if Chairperson is the interested party) in relation to any such Trustee shall be final and conclusive except in a case where the nature or extent of the interest of the Trustee concerned has not been fairly disclosed.

## 17. **Minutes**

17.1 A minute book shall be provided and kept by the Trustees and all proceedings of the Trustees shall be entered in the minute book.

17.2 Minutes signed by the Chairperson of the meeting at which the proceedings of the meeting at which the minutes were taken, or by the Chairperson of the next succeeding meeting, shall be evidence of the proceedings.

17.3 Where minutes of the proceedings at any meeting of Trustees have been made in accordance with the provisions of these rules then, until the contrary is proved, the meeting shall be deemed duly held and convened and all proceedings at that meeting will be deemed to have been duly conducted.

## 18. **Resolutions in Writing**

18.1 A resolution in writing, signed by a majority of the Trustees is as valid and effective as if passed at a meeting of Trustees provided that the Trustees signing or assenting to the resolution would constitute a quorum and would have power to pass the resolution at a meeting of Trustees. Any such resolution may consist of several

documents (including facsimile or other similar means of communication) in similar form, each signed by one or more Trustees. A copy of any such resolution shall be entered in the minute book. The Executive Secretary shall, within seven (7) days after any resolution is passed in accordance with this rule, send a copy of the resolution to each Trustee who has not signed or assented to the resolution.

## 19. **Meetings by Telephone, Audio-Visual Link (AVL) or other electronic means**

19.1 Notwithstanding any other provision in the Deed or these rules, the contemporaneous linking together of a number of the Trustees or members of a committee (“the participants”) being not less than a quorum, together with the Executive Secretary, shall be deemed to constitute a meeting and all the provisions in these rules as to meetings shall apply to such meetings by telephone, AVL or other electronic means so long as the following conditions are met:

- (a) all the participants for the time being entitled to receive notice of a meeting shall be entitled to notice of a meeting by telephone, AVL or other electronic means and to be linked by telephone, AVL or other electronic means for the purposes of such meeting. Notice of such meeting may be given by telephone, AVL or other electronic means;
- (b) each of the participants taking part in the meeting, and the Executive Secretary, must be able to hear each of the others taking part at the commencement of the meeting;
- (c) at the commencement of the meeting each participant shall acknowledge his or her presence for the purpose of such meeting to all the others taking part;
- (d) a participant may not leave the meeting by disconnecting his or her telephone, AVL or other electronic means without having previously obtained the express consent of the chairperson of the meeting and shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone unless having obtained the express consent of the chairperson to leave the meeting as aforesaid.

19.2 Minutes of the proceedings of such meeting by telephone, AVL or other electronic means shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by the Chairperson of the meeting or by the Executive Secretary.

## 20. **Execution of Documents**

20.1 All documents required to be executed by the Trustees shall be deemed to be validly executed and binding on the Trust if these documents have been entered into and executed by the authority of the Trustees previously given and signed by at least two (2) Trustees or any other person approved by the Trustees for the purpose.

## 21. **Executive Secretary**

21.1 The Trustees shall appoint from time to time an Executive Secretary who shall act as the Secretary and Chief Executive Officer of the Trust but who shall not be a Trustee.

21.2 The Executive Secretary shall have the functions and powers as may from time to time be delegated to the Executive Secretary by the Trustees.

## SCHEDULE B

