



PRE-ELECTION REPORT

TO THE PUBLIC

2017

Trustees

Mark Ingle (Chairman)
Denise Harding (Deputy Chairperson)
Brad Chibnall
Rob Hamill
Charlotte Isaac
Kathryn Williams

March 2017

File Ref: 5/15/12 & 10/1

INDEX

	Page
1. Purpose of Report	3
2. Purposes of the Trust	3
3. Actions Taken to Meet the Purposes of the Trust	4
4. Accountability to the Community	
5. Safe Guards	7
6. Conclusions	8
7. History of the Trust	9
8. The Trust	11
9. References	12

Pre Election Report to the Public

[This report and its conclusions were presented for adoption and authorisation for publication by resolution of the WEL Energy Trust on 28 February 2017.]

1. Purpose of Report

The WEL Energy Trust was established by a Deed of Trust on 26 May 1993. Clause 16.21 of the Deed requires that no later than three months prior to every election, the Trust must review the purposes of the Trust and report publicly the results of the review.

In conducting the review the Trust must consider the following three questions:

- (i) Do the rules and policies of the Trust provide adequate protection for customers?
- (ii) Should the Trust continue in its existing form or be amended?
- (iii) Should the Trust be wound up?

2. Purposes of the Trust

The Trust is a special purpose body with responsibilities to:

- (i) Manage its investment in WEL Networks Ltd
- (ii) Ensure the WEL Company operates as a successful business
- (iii) Have regard to customer interests in industry matters
- (iv) Distribute surplus income at its discretion and to be accountable to the community.

Income beneficiaries are the Company, customers, the community and energy related projects, at the Trust's discretion.

Capital beneficiaries are the Hamilton City Council (63%), Waikato District Council (35%) and the Waipa District Council (2%).

3. Actions Taken to Meet the Purposes of the Trust

(i) Manage its investment in WEL Networks Ltd and

(ii) To ensure the WEL Company operates as a successful business

- The Trust's operating expenses are stable. Trustees are satisfied that the current structure and its operating expenditure are sufficient to maintain good governance and management of the Trust.
- An annual review of the Trust's investment in the Company and of the performance of the Directors is undertaken in accordance with clauses 8.1 and 16.2 of the Trust Deed.
- In 2015 WEL Energy Trust engaged KPMG to complete a review of WELNET for the purpose for fulfilling this legal requirement.
- As an extension to previous year's review, in 2016 KPMG was engaged to consider the strategic context of the investment through a thorough review of the capital structure and the implications for returns and dividends in future years.
- In 2015 the Trust developed a Statement of Investment Policies and Objectives (SIPO), which includes consideration of these elements.
- The Strategic Direction, Targets and Measures of the Company are reviewed annually as part of the formal review of investment in the Company.
- Every quarter the Company reports on electricity industry issues and the Company's financial results against targets in the Strategic Directions document.
- Continued review and support where necessary of the Company for its significant capital expenditure.
- Bi-annual meeting with the Board of Directors and Company executives to review half yearly and yearly results.

(iii) To have regard to customer interests in industry matters

- In February 2017 a submission was made to the Government's Draft New Zealand Energy Efficiency and Conservation Strategy regarding the de-prioritisation of the Warm up NZ healthier homes initiative.
- WEL Energy Trust hosted a presentation focussing on the impact of alternative technologies on the electricity distributions sector and the implications for the

future structure of WEL Energy Trust. WEL Networks is currently assessing the impact of these technologies for the business, which form a key part of its strategic priorities.

- WEL Energy Trust keeps a watching brief on changes in alternative technologies, and has requested that this be added as a section in the Company quarterly Updates to the Trust from 2017, including how alternative technologies are being applied and used.
- The IRD has initiated a review of its tax treatment of the Electricity Lines discount. WEL Energy Trust has supported the Company in the preparation of a joint submission on this, commissioned by the Electricity Networks Association (ENA) and prepared on behalf of member organisations by PwC.
- Price thresholds set by the Commerce Commission have been achieved by WEL Networks Ltd.
- The Trust is a member of the Energy Trusts of New Zealand Inc (ETNZ), which is a national body providing support and opportunities for the sharing of knowledge and experience among the 22 member trusts throughout New Zealand. Trustees and staff have regularly attended ETNZ conferences.

(iv) To distribute surplus income at its discretion and to be accountable to the community.

- The Trust's Vision is to support "A forward thinking, vibrant, connected Community" and it does this by being diligent shareholders and investors, and by using its income as effectively as possible to benefit the Community.
- In 2013/14 a strategic review was conducted and the Trust resolved to research and define an outcome focussed, progressive community investment model.
- In 2015 a new 5 year community investment strategy was adopted and implemented. The plan has three main strategies:
 1. To maximise long term impact by being strategic and transformative,
 2. Expand support beyond Grantmaking, and
 3. Govern the Trust effectively and efficiently and be responsive to our community.
- The strategy defined four main outcome areas:
 1. Flourishing families and liveability
 2. Enhancing Image and Building Community Pride

3. Business/ Economic Development and Workability
4. Energy Efficiency and Healthier Homes.

- The Trust aims to be responsive to the community and offers 8 grants rounds per year; five for 'quick response grants' for up to \$5,000, and three for 'community support grants' for over \$5,000. The Trust aims to be strategic and move to providing fewer larger grants over time, and has established a mechanism for 'Major Transformational Project Grants' when funds allow.
- During 2016 the Trust conducted a thorough strategic review of its structure and investments. Trustees have listened carefully to the community voice on what is important to the region in terms of regional values, as well as priority areas for action, and in 2017 adopted a bold new **Mission** to guide the Trust into the future:

'Working together, working smarter, to grow investment and to unlock the powerful possibilities of our Community, now and into the future.'

- To meet our responsibilities and resource our strategies and communities long term, an important focus of the Trust is that of investor and asset owner. This reflects the Trusts intention to be an active and responsible asset owner, adopting investment strategies to sustain and grow its assets for people today and for future generations.
- The Trust recognises that lasting change requires long term commitment and a well-researched, collaborative approach. As an organisation we remain focussed on our commitment to back the people who are changing the world, and to proactively work with others to realise the powerful possibilities of our region.

4. Accountability to the Community

- Monthly Trust meetings are advertised for the public to attend.
- A draft Annual Plan/ Statement of Intent is prepared and the public can make submissions on any aspect of the plan. Submitters may request to be heard in support of their submission.
- An annual report is prepared and available to the public. An annual general meeting is held for the public to attend and have the opportunity to comment on the Trust's activities, ask questions and to also appoint the Auditor.
- In addition the Trust continues to periodically review its operations through surveys and benchmarking.

5. Safe Guards

There are numerous safe guards in the Trust Deed to ensure satisfactory governance and management of the Trust. Among these are:

- A public consultation procedure is required in relation to:
 - The Annual Plan
 - Any proposed action to sell any shares in the Company; carry out an amalgamation, merger, or reconstruction of the Company that results in sale of, or voting rights change, to the shares in the Company
 - Distributing part of the Trust fund to the capital beneficiaries
 - Bringing forward the termination date of the Trust

- Variations to the Trust Deed:
 - Every amendment must be publicly notified
 - Public consultation procedures are also required for amendments to Clause 9 Trusts of Income until Termination Date; Clause 10 Trusts of Capital; Clause 11 and Rule 2 Election, Appointment, Retirement and Proceedings of Trustees; Rule 3 Term of Office and Rule 4 Cessation of Trusteeship

- Conflict of Interest:
 - A Trustee must disclose any material interest whether held directly or indirectly which is or may be in conflict with the interests of the Trust from time to time

- Guidelines for Access to Information by Beneficiaries:
 - Adoption of the Guidelines for Access to Information by Beneficiaries of Electricity Community and Customer Trusts.

6. Conclusions

The Trust Deed requires this review to consider 3 specific issues:

(i) Do the rules and policies of the Trust provide adequate protection for customers?

Trustees' View: The Trustees are satisfied that the rules and policies of the Trust provide adequate protection for customers.

(ii) Should the Trust continue in its existing form or be amended?

Trustees' View: The Trustees are satisfied, from the actions taken and the outcomes achieved, that the Trust should continue in its existing form.

(iii) Should the Trust be wound up?

Trustees' View: The Trustees are satisfied, from the actions taken and the outcomes achieved, that there are no compelling reasons for the Trust to be wound up.

7. History of the Trust

- a) WEL Energy Group was the first power company to be corporatised. The Waikato Electricity Authority introduced a share ownership plan that saw 1/3rd sold to customers, 1/3rd to the WEL Energy Trust (set up to represent community interests) and the remaining 1/3rd to UtiliCorp United.
- b) A merger was proposed by UtiliCorp between Power New Zealand and the WEL Energy Group, which was strongly resisted by the Trust.
- c) In 1995 Power NZ began a major share buying campaign for WEL Energy Group shares. A share war broke out between WEL Energy Trust and the UtiliCorp-Todd-Power NZ combo, resulting in the Trust spending \$20 million to increase its holding to nearly 43%, and the UtiliCorp group failing to gain a controlling interest. The Trust funded this through a combination of cash reserves (\$8 million) and an ANZ loan facility (up to \$15 million).
- d) In 1998 the Trust entered into a deal which returned WEL to local community control. The Company sold its shareholding in Power NZ for \$79.7 million. This represented a capital profit for WEL of \$28 million. Auckland Electricity Limited, a wholly owned subsidiary of Mercury Energy, purchased the UtiliCorp NZ and Power NZ shareholding in WEL. It also undertook to make an offer to the remaining minority shareholders of WEL. The Trust had the ability to purchase AEL's shareholding in WEL at an estimated purchase price of \$119 million. The Trust also received an \$18 million interim dividend, part of which went towards repaying the ANZ loan.
- e) On 3 February 1999 the Trust paid out \$110.8 million to Mercury Energy to take its shareholding from just below 43% to 95%. On 1 March the WEL Energy Company sold its electricity consumers to Natural Gas Corporation in a deal worth \$89.5 million.
- f) In 2000 the Trust proceeded with compulsory acquisition of the remaining 5% of shares held by private shareholders.
- g) The financial transactions around (e) and (f) are complex and the file is held by WEL Networks. The minutes of January 1999 note that the loan draw down figure for the Mercury Energy deal was \$107.5 million. In December 1999, to fund the compulsory acquisition scheme, the Trust endorsed an extension of the ANZ loan and additional funding of \$15-20 million by variation to the present facility.
- h) The Trust's 1999 annual report states:
- i) "The share purchase was funded by a term loan of \$107,500,000 from the ANZ Banking Group and \$4,000,000 of cash from the Trust."

- j) The Trust's 2000 annual report states:
- a. "Arrangements were made with the WEL Energy Group to utilise its surplus funds to repay \$110,000,000 of WEL Energy Trust Shareholding Ltd's loan from the ANZ Bank when it became due on 3 August 2000 and this was completed on 9 August 2000.
 - b. A residual loan of \$16,000,000 from ANZ Bank is the balance remaining from the purchase of the 5% minority shareholdings, and will remain for up to 5 years with flexible repayment terms."
- k) **2010 CAPITAL RESTRUCTURE:** The Trust increased its investment in the Company by \$20.3m through a new capital structure arrangement (Convertible Note). One of the key objectives of the strategic review was for the Trust to create financial security, thus removing the Trust's reliance on year by year WEL Networks dividends to cover operating costs and the Community Grants Programme. The return on the \$39 Million convertible note facility was reset in 2015/16 by IRD at 6.25%.
- l) Ultrafast Fibre Limited was established by WEL Networks Limited in 2010 in order to fulfil a New Zealand Government initiative to rollout ultrafast broadband (UFB) across eight centres in Central North Island.

In 2011/12 the Trust kept a watching brief on the non-core business projects that the Company was currently rolling out, being Broadband and the Smart Network.

- i. Fibre – Interests are held through Waikato Networks Ltd (WNL) of which WEL is an 85% shareholder (Waipa Networks owns 15%). This was a significant investment for WEL, and has a different risk/ return profile to the core lines business.
 - ii. Smart Networks and Smart Boxes – WEL's smart box programme in the Waikato and TOP Energy Smart Meter rollout in Northland. Operated internally and not regulated. Top Energy project is delivered through Smart Co Ltd, of which WEL is a 15% shareholder.
- m) In 2013 **MOMENTUM FOUNDATION** is established through a long term loan from WEL Energy Trust. While the Trust initiated the concept of the Momentum Foundation, it is a separate legal entity with a fully independent Board who is appointed by an appointments panel of 7, one being the WEL Trust chair or appointee. The treatment of the Momentum Foundation loan of \$10,000,000, due for repayment at the Trust's termination in 2073, was written down to recognise the net present value of the loan.
- n) \$39 Million convertible note facility was reset in 2015/16 by IRD at 6.28%.

- o) **Investment Valuation:** An independent valuation of the Trust's investment in the Company was completed at the end of March 2014, being \$629,200,000. The next independent valuation of the Trust's investment in the Company is due to be completed by the end of March, 2017.
- p) In 2015/16 the Trust sought to maintain a balance of at least \$10,000,000 in term deposits. A further \$2,000,000, less committed funds, is also set aside for the Trust's community lending programme. Approximately \$2.6 Million is distributed in grants to community organisations each year.

8. The Trust

- Seven Trustees are elected by the electors in the Trust district. Elections are held every 3 years in June. The next election is on 30 June 2017.
- Trusteeship is an onerous obligation, as detailed in the provisions of the Trustee Act 1956. Trustees have a higher level of liability than directors of a company (partly because they take less risk, but also because they have additional duties). The obligations of Trusteeship are outlined in the Candidate Handbook.
- The Trust district comprises all of Hamilton City, most of Waikato District and a small part of Waipa District. The Trust has approximately 130,000 electors in the district.
- The Trust continues to the year 2073 unless terminated sooner if its purpose is completed.
- The Trust is a special purpose body with responsibilities to:
 - Manage its investment in WEL Networks Ltd
 - To ensure the WEL Company operates as a successful business
 - To have regard to customer interests in industry matters
 - To distribute surplus income at its discretion and to be accountable to the community
- Income beneficiaries are the Company, customers, the community and energy related projects, at the Trust's discretion.
- Capital beneficiaries are the Hamilton City Council (63%), Waikato District Council (35%) and the Waipa District Council (2%).
- WEL Networks Ltd is a 100% owned subsidiary company.

- The Financial Statements of the Trust are reported on annually in the Annual Report. Annual Reports for the past 3 Financial Years can be found on the Trust website.
- The Trust's financial strategy is detailed in the Statement of Investment Policies and Objectives (SIPO) (available on the Trust website).
- The Trust's 5 year Community Investment Strategy and 5 Year Strategic Plan are also available on the website.

9. References

Deed of Trust

WEL Energy Trust 2015 – 2019 Community Investment Strategy

WEL Energy Trust 2017 – 2021 Strategic Plan

Trust Statement of Investment Policies and Objectives, 2016.

2017/18 Annual Plan / Statement of Intent

WEL Energy Trust 2016 Annual Report

WEL Networks Ltd and Subsidiaries 2016 Annual Report

Annual Review of WEL Energy Trust's Investment in WEL Networks Ltd, KPMG. December 2016.

WEL Energy Trust website (www.welenergytrust.co.nz)

For the WEL Energy Trust

Raewyn Jones
TRUST MANAGER