



# MEDIA RELEASE

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## **EASTERN BAY ENERGY TRUST ACKNOWLEDGES HIGH COURT DECISION**

The Eastern Bay Energy Trust said today it acknowledged a High Court declaratory judgment that has resulted in removing the chance for the trust to increase the input of power consumers in its affairs.

The trustees applied to the High Court for a ruling whether they could use clause 13 (the winding up clause) of the trust deed to wind up the trust and settle the trust fund on a new trust with the same name and the same energy related purposes.

In his judgment delivered yesterday, Justice Keane accepted that the trustees made the application "in good faith and in order to respond more flexibly for the benefit of consumers to changes in the law and market conditions". However, Justice Keane found that clause 13 allows the trust to be wound up, but not resettled in the manner contemplated.

Trust Chairman Mrs Toni Owen said "Three major changes contained in a new trust deed would have increased the input of power consumers and reduced the power of trustees. Unfortunately, the court did not find in our favour, but we are pleased that the judgment should bring a degree of finality to an issue we have been dealing with for a number of years".

"We felt obtaining a judgment to give consumers more say was very much in the interests of the people the trust represents as the majority owner of the area's lines company, Horizon Energy Distribution Limited," said Mrs Owen today.

"We wanted the ability to change the trust deed to achieve this effect but we also felt it was necessary to be absolutely sure it was our right to do so, and so we made the application to the High Court in July 2004.

"The request for changes to be made to the trust deed was instigated by Horizon and some consumers in 2002. The application to the High Court was made following a long process of consultation with both Horizon and the EBOP Power Society between 2002 and 2004, and only after both parties had confirmed their support for the application.

"However, both parties changed their stance later in the year and opposed the application which was already lodged in the High Court – Horizon because they wanted to retain the right for the company's directors to approve any changes that might be made to the trust deed in the future, and the Power Society because they wanted to change the energy related purposes to make it mandatory to pay rebates to consumers.

"The judgment is not what we had hoped for on behalf of the consumers, who would have had more input under the proposed new deed, but the important thing is that it was worth going to the court to find out. We can continue working within the current deed.

"Our deed is unique among energy trusts in that the Trust's distributions must be for energy-related purposes. We feel this is the most important element."

Mrs Owen said the trustees would now go out to power consumers under a consultation process over the coming months.

"The trustees had intended a full review of how the trust should operate and what proposed changes to the trust deed various groups might recommend. In light of the High Court judgment, there is no longer any point in canvassing views on proposed amendments because trustees will not have the power to effect these amendments. So, the review will be a more confined process, focusing only on the trust's distribution programme."

### ***For further information contact***

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