

# Reviewer's Opinion

## Eastern Bay Energy Trust

### 1. Appointment

- 1.1 The Eastern Bay Energy Trust ("**the Trust**") adopted in May 2006 the Guidelines for Access to Information by Beneficiaries of Electricity Community and Customer Trusts ("**the Guidelines**") which had been endorsed by the Minister of Energy and agreed between members of the Energy Trusts of New Zealand.
- 1.2 The Eastern Bay of Plenty Power Society Incorporated ("**the Society**") has requested on behalf of its members disclosure by the Trust of certain information.
- 1.3 The Trust has accepted that this is a request by a Beneficiary (as that term is defined in the Guidelines), but has declined to supply that information.
- 1.4 The Society has requested a review of that decision pursuant to clause 7.7 of the Guidelines.
- 1.5 I have been appointed by the Arbitrators' and Mediators' Institute of New Zealand Inc ("**AMINZ**") as Reviewer to conduct that Review.

### 2. Background

- 2.1 The Trust was established by Deed dated 1 August, 1994. It was then named the Bay of Plenty Electricity Consumer Trust.
- 2.2 That Deed recites that pursuant to the Energy Companies Act 1992 the Minister of Energy had approved an establishment plan prepared and submitted in respect of Bay of Plenty Electricity Limited; and that in

order to give effect to that establishment plan that company wished to establish a consumer trust “for energy related purposes or objects”.

2.3 The purpose of the Trust established by that Deed is, under clause 4:

“ ... to enable the Trustees to apply the Trust Fund for or towards energy related purposes for consumers.”

2.4 The word “consumers” is defined in that Deed. There is, however, no definition as such of the word or expression “beneficiary”.

2.5 It will be seen that consumers as so defined are not directly beneficiaries as that expression is normally understood in a trust. Trustees have responsibilities and duties under a trust and that is no different in this trust. As I read the Deed, the trustees’ primary obligation is to apply trust funds towards energy related purposes for customers; rather than any direct benefit such as a payment or credit off energy purchased.

2.6 It has been accepted, however, by the Trust that the 23,800 electricity consumers throughout the relevant region are beneficiaries and that the Society represents some of these and is therefore eligible to seek this Review; and I need make no further comment on that.

2.7 There is recital A to the Deed of Trust dated 1 August, 1994 which refers to the approval by the Minister of Energy of an establishment plan, in order to give effect to which Bay of Plenty Electricity Limited (“**the company**”) wished to establish a “consumer trust for energy related purposes or objects within the District”.

2.8 The Guidelines do not in fact refer to “consumer trusts” but rather to “community trusts” and “customer trusts” as those terms are defined in the Electricity Act 1992. Again, no point is taken of that difference in the submissions I have received and I need consider it no further. I merely note that those definitions are:

“A customer trust is a trust—

- (a) Whose income beneficiaries substantially comprise persons who are a class or classes identified by reference to any of—
  - (i) The person's connection to the lines of the electricity business:
  - (ii) The person's receipt of electricity from the electricity business:
  - (iii) The person's liability for payment for supply of electricity from the electricity business:
  - (iv) The person's liability for payment for the connection:
  - (v) The person's liability for payment for line services; and
- (b) That has confined distributions largely to those beneficiaries.”

“ A community trust is a trust—

- (a) Whose income beneficiaries substantially comprise persons who are a class or classes identified by reference to their domicile or location or operation within, or connection to, a prescribed geographic area:
- (b) That has confined distributions largely to those beneficiaries or for purposes related to a prescribed geographic area.

2.9 The Rules of the Society record that it was constituted by resolution dated 15 July, 2002 and that its primary objects are:

- “(a) To represent the beneficiaries of the Trust.
- (b) Ensure that the beneficiaries’ best interests are paramount in decisions made by the Trust.
- (c) Do any act or thing incidental or conducive to the attainment of any of the above objects.”

2.10 The Society has, on behalf of the beneficiaries and members that it represents, requested from the Trust certain information and it is common ground that that request has been properly made under Clause 6.3 of the Guidelines.

2.11 The position for the Trust is that it has supplied significant information to the Society and its members both in specific responses and through general information supplied to the public.

### 3. Information Requested

3.1 The information sought by the Society is set out in a schedule in a spreadsheet supplied to me. That schedule is a summary of information requested on other occasions by letter or the like. The schedule also records the Society's interpretation of the Trust's response to the specific requests made.

3.2 The significant dates on which this information was requested are 26 May, 2006, an undated letter and 10 May, 2007. The response dates are said to be respectively 15 June, 2006, 30 January, 2007 and 15 October, 2007.

3.3 The Society claims that "meaningful information on these ventures is not available through publicly disclosed documents." It claims that "the detailed financial statements ... add little further useful information..."; and that there are "no details of the dollar value of investments in... subsidiaries and there are no details of the trading performance of the entities". It claims it is "therefore impossible to gauge the commercial performance of these investments, or in fact to determine if Trust funds, ie funds belonging entirely to consumers as beneficiaries of the Trust, have been used prudently and in activities permitted by the Trust Deed. In other words, there is no transparency, no means of external monitoring, and no accountability."

3.4 The Society says its "requests for information are not frivolous or vexatious. They are genuine requests made in the best interests of the consumer beneficiaries and are an attempt to measure the potential risks and rewards inherent in the various business ventures

carried out under the umbrella of subsidiary or associated companies.”

#### **4. Trust’s Response**

- 4.1 The approach taken by the Trust is that it is “a democratic organisation”, with elections giving the opportunity for members of the public, including beneficiaries and members of the Society, to participate. It has significant ways, it says, of communicating information about its activities, financial affairs, and performance through annual reports, financial statements, consolidated accounts and informative presentations at its annual meeting. It also refers to its website and newsletters; and an “extensive public consultation process”.
- 4.2 The Trust says that it is for the trustees to take responsibility for management of the Trust and the Trust Fund having regard to its various legal obligations including the express terms of the Trust Deed. That responsibility includes management and investment decisions for which it takes professional advice and which includes the allocation of the appropriate percentage of its income in Trust Fund growth, with the remainder available for distribution for “energy related purposes” as stated in the Trust Deed. The proportion that it has allocated is 40% to “grow the trust fund” and 60% for “distribution to the community for ‘energy related purposes’ ”.
- 4.3 In its response to me the Trust has set out in significant detail much of its investment. I take it that much, if not all, of this information has been available to the Society in the past through the resources I have mentioned. As to any further information its submissions state:

“The Trust believes it has made available to the [Society] all the information it can without compromising the future value of the Trust’s investments and without compromising legal agreements which require the Trust to keep certain information confidential.”

## 5. Telephone conference

5.1 The Guidelines at clause 9 state:

“The Reviewer shall investigate a complaint referred for review and may act as a conciliator in relation to the complaint.”

5.2 Mindful of that, after I had formed a preliminary view on this Review I first wrote to the parties with certain questions that I had and then arranged a telephone conference between representatives of the Trust and Society respectively on 14 December, 2007.

5.3 I set out now four of the questions that I asked and the responses given to them by the Trust:

Is the Trust prepared and able to fix the value of the shareholding of Development Enterprises Limited in Parkwood Investments Limited for its 100% shareholding? If not, what is the basis for declining to supply that information to the Society?

“Currently, the value of shareholding of Development Enterprises Limited in Parkwood Investments Limited is \$250,000.”

Is the Trust prepared and able to state the number of pellet fire units sold by the joint venture of Parkwood Enterprises Limited as at 26 May 2006 and the present time? If not, what is the basis for declining to supply that information to the Society?

“As at 26 May 2006 there would have been no fires sold as the factory was still being set up at that stage, and no completed fires would have yet come off the assembly line. As at 30 November 2007 there would have been 383 fires sold, with 200 fires stock still in hand.”

Were two properties purchased by the Trust about the time of the undated letter from the Society to the Trust which is item 8 to Appendix 4 of the Society’s submissions; if so, is the Trust prepared and able to disclose the individual purchase price of those properties respectively; and if not, what is the basis for declining to supply that information to the Society.?

“One property was purchased on 1 December 2006 for \$585,000. The other property was purchased on 29 June 2007 for \$400,000. No other properties are owned.”

Is the Trust prepared and able to state the financial year of the pellet fires joint venture? “All Trust entities have a balance date of 31 March. This enables the required consolidations to be done more efficiently and effectively.”

5.4 My fifth question was addressed to the Society I set out now that question and the Society’s response:

Is there supplied to the Society to its satisfaction by the Trust’s submissions information sought by it; and, if so, what is that information? “The Trust’s submissions do provide limited new information and paragraphs 10 d and 10 e relating to DEL information requested and document in Document Ref 10(c) 1 of Appendix 4 to the Society’s submissions. Other than that, and notwithstanding some of the Trust’s attempted explanations for declining to provide information to the Society, the Trust’s submissions do not provide any additional information to satisfy the requests made by the Society”

5.5 My reasons for these questions were twofold, first because I thought that there were the specific questions that the Society had asked of the Trust which were capable of answer and indeed were in fact promptly answered; and secondly because I thought that the official response from the Trust might have answered some of the more general questions raised by the Society.

5.6 At the telephone conference Mr. Streeter on behalf of the Society expressed concern about the risk factors involved in the investments to which this Review refers. My view on that is that it is for Parkwood Investments Limited and its directors to make risk decisions on its ventures and investments and it is for the trustees of the Trust which holds shares in Development Enterprises Limited to exercise the rights that it has as shareholder in relation to activities of that company or its subsidiaries. Although Mr Streeter referred critically to the treatment he

and fellow Society members had had and the time that had been taken for replies, I do not think that those are matters which I need or can address in this Review. As to the prospect of the Society members standing for election as trustees to the Trust (a point that had been raised by the Trust in its response), Ms Rose expressed some views about the propriety of the election process (and this is not part of my jurisdiction) and also Mr. Streeter referred to the period of trusteeship of four years as being too long.

- 5.7 At that telephone conference too, there was reference to recent publicity concerning the Parkwood pellet fires investment to which I shall refer but Mr. Wills of the Trust made it clear that Development Enterprises Limited held 100% of the shares in Parkwood Investments Limited and that company had recently been in receivership to put tactical pressure on the joint venture partner which had resulted in the purchase of that partner's share in the venture by Parkwood Investments Limited. This whole matter is not part of what was raised before me in this Review but perhaps the exchange of information has been helpful.
- 5.8 When I asked the Trust's representatives why the information at paragraph 5.3 had not been supplied when it was requested, it was acknowledge that this perhaps could have been done in some respects. So far as the properties purchased were concerned, at the time the request was made it was considered commercially sensitive to reveal the prices (which where then confidential) in the context of the rental that was being sought or obtained.
- 5.9 I did encourage the parties at the conclusion of the telephone conference that there could perhaps be further exchanges of information in the future but suggested that this would have to be requested in more specific terms and, of course, could be objected to by the Trust on any of the grounds set out in clause 6.4 of the Guidelines.

5.10 Although there was some benefit from these conciliation processes, they did not materially alter my views on the Review other than in the specific supply of information as I have recorded at paragraph 5.3.

## 6. Specific Requests

6.1 I deal now with the specific items of information for which the Society has sought disclosure. I do so mindful of the provisions of Clause 6 of the Guidelines under which I have been appointed. Those matters of which the Trust is obliged to make available on request are in clause 6.2 namely:

- 6.1.1 The trust deed which governs the Trust;
- 6.1.2 Financial statements of the Trust, which may include a statement of assets and liabilities and a statement of income and expenditure;
- 6.1.3 The Trust's annual report;
- 6.1.4 Minutes of annual meetings;
- 6.1.5 [The] Guidelines.
- 6.1.6 Any other information which a Trust makes publicly available, whether through its website or any other means.

6.2 Under Clause 6.3 beneficiaries may request disclosure of **any** other information. It is only if the circumstances in Clause 6.4 arise that that other information may be withheld. There is first the general expression: "where there is good reason to do so" followed by the following examples:

- 6.2.1 To protect the privacy of a natural person, including deceased natural persons; or
- 6.2.2 Where the making available of the information would or would be likely to prejudice the commercial position of the person who supplied or is the subject of the information; or
- 6.2.3 Where the disclosure of the information would or would be likely to prejudice the commercial position of any other

person, whether or not that person supplied the information to the Trust; or

- 6.2.4 To protect information which is otherwise subject to an obligation of confidence;
- 6.2.5 Where the information is required to be withheld in order to enable the Trust, or any entity in which the Trust has any form of investment, to carry out, without prejudice or disadvantage, commercial activities or negotiations; or
- 6.2.6 Where the disclosure of the information would or would be likely to prejudice the commercial position of the Trust or any entity in which the Trust has any form of investment; or
- 6.2.7 To prevent the disclosure or use of the information for improper gain or improper advantage; or
- 6.2.8 To maintain legal professional privilege including litigation privilege; or
- 6.2.9 To protect information relating to the exercise by the trustees of any discretionary power, subject to any contrary principle of law; or
- 6.2.10 Where the request for information is frivolous or vexatious; or
- 6.2.11 Where the information requested is not Trust Information.

6.3 There is the further provision in clause 6.5:

“6.5 Where a request under these Guidelines relates to information described in clause 6.3 the Trust, if it is satisfied that the interests protected by that information would be likely to be prejudiced by the disclosure of the existence or non-existence of such information, may give notice in writing to the Beneficiary that it neither confirms nor denies the existence or non-existence of that information.”

6.4 My interpretation of those clauses is that they create different entitlements and obligations from those that apply to a normal trust situation and to beneficiaries of a trust in the normal course of trust administration. There are recognized obligations of trustees to beneficiaries in law and categories of information that beneficiaries are entitled to. Because the Guidelines at clause 6.3 enable beneficiaries of a trust (“community trust” and/or “customer trust”) to request disclosure and because clause 6.4 empowers withholding of

disclosure on the grounds set out, in my view that is the primary consideration and starting point (if not the only one).

- 6.5 What makes all that difficult in practice is the general expression “where there is good reason to do so”, and the issue of whether this is the subjective view of the trustees or some other objective assessment. In my view it is the latter.
- 6.6 In its submissions the Trust has expressed its objection to the disclosure of certain information sought relying on clause 6.4 and referring to “its trading investments”. It refers to the “[compromise of] legal agreements which require the Trust to keep certain information confidential.” It claims that “... if full financial information on the Trust’s investments were made public this could impact markedly on those business operations and, ultimately, on the future of value of those investments which means the [Trust’s] beneficiaries will suffer from that loss of value.”
- 6.7 It submits that “[t]he rules on the release of confidential information have been developed over a long period of time and are prescribed in a combination of the Companies Act and the Financial Reporting Act. These rules are designed to provide a good balance of providing relevant information to business owners (shareholders) while still providing enough protection to protect the business operations from vexatious scrutiny. The detailed financial information made available by the Trust is subject to independent audit and all [sic] complies with the requirements of the Financial Reporting Act.”
- 6.8 The Trust has given extensive detail of its investments and the “rationale behind them”. Expressly in relation to Energy Options Limited and DEL Property Investments Limited, it expresses the belief that “full disclosure of the individual financial results/performance of this business” should not be disclosed under clause 6.4.

6.9 It states that “when preparing the annual Financial Statements, investments have traditionally been valued at cost, in compliance with generally accepted accounting principles ... this has now changed with New Zealand adopting the International Accounting standards [and from 2008 the] Consolidated Financial statements will value its investments at their market value....”

6.10 Its summary of submissions includes:

“However, it is just not possible to make full disclosure of the individual financial results/performance of some of the investments to the Power Society or any other beneficiary because of the commercial sensitivity of this information as detailed above. The release of detailed financial information on some of the trading investments would impact on the value of that investment to the detriment of the beneficiaries. The Trust believes it has the right under clause 6.4 of the ETNZ Guidelines to not provide this information.”

6.11 The precise information sought by the Society is specific but very extensive. It is set out in a spreadsheet as part of its submissions. The spreadsheet also sets out its (the Society’s) perception of the Trust’s response.

6.12 The extensive nature of the request is highlighted by such expressions as:

“Value of Trust’s investment”

“Payment or agreement to payment for intellectual property rights”

“**Full details** of assets”

“**Complete financial details** including Cash Flow Projections”

“Return on trust’s investment”

“**Impact on local businesses** selling a similar products”

“Expected return from the purchase [of two properties]”

“**Complete details** – financial, operating, directorate, staff numbers, payroll for [two companies]”

**“Absolute financial details** including expected and actual returns to the Trust on [purchase of properties and investment]”

**“All encompassing information** on setup and activities”

(emphasis added)

6.13 The information sought is of three categories which I deal with now:

### **Parkwood Pellet Fires**

6.13.1 On 26 May, 2006 one Ida Rose wrote to the Trust concerning an investment she named as “Parkwood Pellet Fires”. The Trust has made the point that this is not a request, and does not in any way purport to be a request, on behalf of the Society. I do not know if Ms Rose is a member of the Society (although correspondence does refer to her at times as the Secretary). The Society has included in its request for information reference to that letter and I am prepared to deal with it.

6.13.2 In her letter Ms. Rose has referred to three companies, Parkwood Administration Limited, Parkwood Investments Limited, and Parkwood Enterprises Limited. Because the Trust has stated that it has no shareholding in Parkwood Administration Limited or Parkwood Enterprises Limited I disregard questions concerning those companies.

6.13.3 Some of the detail in that letter is ambiguous and is unclear as to whether the information sought relates to the three companies named or to a joint venture between them. What the letter sought, and the Society now seeks, is:

- “the value of the Trust’s shareholding in the company,
- any payment or agreement for payment relating to associated intellectual property rights,

- the date the investment in each venture was approved,
- full details of [company] assets,
- complete financial details including cash flow projections,
- commencement date of sales,
- number of units sold to date,
- return on the Trust's investment,
- impact on local businesses selling similar products”

6.13.4 There has now been supplied at my request the Trust's estimate of the value of the shareholding of Development Enterprises Limited in Parkwood Investments Limited (see para 5.3 above).

6.13.5 The Trust replied to Ms Rose's letter on 15 June, 2006 which included:

“... detailed information regarding Parkwood Pellet Fires or Parkwood Investments Limited will not be made available for public viewing as these are subsidiaries of Development Enterprises Limited, and such information is commercially sensitive [referring to clause 6 of the Guidelines]”

6.13.6 That theme is repeated in the Trust's response to this Review. It outlines that Energy Options Limited (referred to below), which is a 100% subsidiary of Development Enterprises Limited, was “looking to source a wood pellet fire to add to the range of energy efficient products they were selling”. A joint venture was established and Parkwood Investments Limited, wholly owned by Development Enterprises Limited was incorporated as the joint venture partner.

6.13.7 In its reply submissions the Trust says that:

“[Developments Enterprises Limited] is bound by the Partnership Agreement to keep the financial and other matters in relation to the business confidential as the release of any information would be making public confidential information to the JV Partner”.

6.13.8 I accept that submission. The amount of information sought by Ms Rose and the Society is significantly extensive and the disclosure of this can properly be claimed to be commercially sensitive. The Trust has its shares in Development Enterprises Limited which in turn has its shares in Energy Options Limited and Parkwood Investments Limited. The latter company has chosen to enter into a joint venture and it has its obligations to the joint venture partner under the joint venture agreement and to make the joint venture work. The disclosure of the information sought could well play into the hands of competitors and so work to the detriment of the joint venture partners and therefore Parkwood Investments Limited and the Trust.

6.13.9 As to accountability, there are legal requirements imposed on the various parties and that will provide the information to which the Trust is entitled and therefore in due course to the beneficiaries including the members of the Society. The involvement of Parkwood Investments Limited in the joint venture is several steps removed from the Trust and the interests of Society members. Intervening are the shareholding by the Trust of shares in Development Enterprises Limited and the shareholding by that company of shares in Parkwood Investments Limited. In each case the respective shareholders have certain, but limited, rights to information about the activities of the company and the respective directors have responsibilities to the shareholders. These entitlements and obligations are governed by the relevant principles of law.

## Energy Options Limited

6.13.10 The Society wrote to the Trust on 10 May, 2007 expressing first its view that the “lack of cooperation... to [its] requests for detailed background information on the Trust’s investments and acquisitions has a detrimental effect on the working relationship [the Society was] working hard to establish...”

6.13.11 It sought significantly complex and detailed information concerning two companies, Energy Options Limited and Energy Options Charitable Co Limited. The letter sought “complete details”, “absolute financial details”, and “all encompassing information” on aspects concerning those two companies, purchase of properties by the Trust, a stated “investment in Comvita”, Development Enterprises Limited and Parkwood Pellet Fires. There were then further requests for information concerning Parkwood Pellet Fires.

6.13.12 The Society was not able to point to any express response to that letter, except that on 15 October, 2007 the Trust wrote to the Society concerning “continuing requests for information regarding the Trust’s investments” and referring to an arrangement to “make a presentation” which apparently occurred on 26 July, 2007, in respect of which the Trust sent its summary of minutes of that meeting.

6.13.13 That record contains quite extensive reference to exchanges that have occurred at that meeting on 26 July, 2007 regarding the Trust’s investments and Development Enterprises Limited.

6.13.14 So far as Energy Options Limited and Energy Options Charitable Co Limited are concerned, the response from the Trust to this Review contains certain information. Essentially Energy Options Charitable Co Limited was set up on advice but has since been superseded by Energy Options Limited to which the whole of the business has been sold. Energy Options Limited is a 100% subsidiary of Development Enterprises Limited.

6.13.15 The Trust states that all profits generated by the business of Energy Options Limited contributes to the overall income of the Trust. It claims again that:

“... if full financial details of [the] business were to be made available to the Trust’s beneficiaries, these details would ultimately make their way into the hands of the [business’s] competitors and this would have the potential to undermine the financial performance of the business and would hurt its profitability and its value as an investment of the Trust.”

6.13.16 The Trust claims that for these reasons it is “limited to only disclosing the individual financial information on this business that is required under the Financial Reporting Act.”

6.13.17 In this regard too I have come to the same conclusion namely that the extent of information sought by the Society can only inevitably impact on the commercial sensitivities of the activities of the companies in question and therefore in turn on the profitability and return to the Trust and its beneficiaries.

## Properties purchased

6.13.18 There are entries in the Schedule supplied by the Society which refer to “two properties purchased by the Trust”.

6.13.19 Information concerning this was requested in an undated letter from the Society to the Trust. That letter refers to:

“ ... the two properties the Trust recently purchased and the expected return to the Trust”.

6.13.20 In its Schedule the Society says that it had received no response to the request for those details. I could not find express reference to this in the Trust’s response in this Review.

6.13.21 In the absence of any further information concerning the properties, I was left until the request by me for information and the telephone conference referred to at paragraph 5 with the impression that this may be speculation on the part of the Society. The reference to the “expected return” was also quite unclear – I did not know if this was referring to any income return such as from rental or to some capital return such as from resale.

6.13.22 Because of the imprecise nature of this request I formed the preliminary view that the Trust is not obliged to supply that information.

6.13.23 The information now provided is that there were two properties purchased and the price of them has been given. The actual return to the Trust must be known now and therefore issues of “the expected return” have become irrelevant; but my view is that the actual return, if not available from other sources, should remain confidential on the grounds of commercial sensitivity.

## 7. Summary

- 7.1 Under the Guidelines the Trust is obliged to supply certain minimal information. It is also, subject to stated exceptions, to supply other information on request.
- 7.2 The Society represents persons who are not strictly beneficiaries under the Trust but are recognised by the Trust as entitled to make the request for such information.
- 7.3 I do not accept the Society's statement that the trust funds "[belong] entirely to consumers as beneficiaries of the Trust". The owner of trust funds is the trustee. Beneficiaries in a normal trust have certain rights and trustees owe certain obligations to them. That does not mean that the beneficiaries own the trust funds. In this Energy Trust situation the strict beneficiary of the Trust is "energy related purposes for consumers". The consumers of energy in the district indirectly benefit and have certain rights to request information.
- 7.4 The Trust must strike a balance between supplying reasonably requested information to the beneficiaries and consumers of energy on the one hand and maintaining its business efficiency and profitability on the other. That is recognised by the various subclauses of clause 6.4 of the Guidelines which refer to commercial activities, obligations of confidence, commercial negotiations, and prejudice to commercial positions.
- 7.5 In my view the Trust is endeavouring to reach that balance in its activities and its exchanges with the Society and its members. It publishes newsletters and various community material. It produces Plans. It circulates financial statements and it attends meetings with Society members to provide reasonable information.

7.6 The Trust and the companies in which it has interests must get on with the job of commercial activity and, while it has obligations to disclose certain information to consumers and beneficiaries, it also has an obligation to ensure that its business activities are profitable.

7.7 The position of trustees in the Trust is open to election and any person who considers they should have more of an involvement in the decision making process for the Trust can stand for election.

## 8. **Conclusion**

8.1 Having investigated the complaint from the Society, and having given the Society and the Trust the opportunity to provide written submissions, I have come to the opinion that I uphold the Trust's decision not to disclose the information sought on the grounds advanced by the Trust.

Dated at Auckland this 14th day of December 2007

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David M. Carden  
Reviewer