

DUPLICATE

IN THE HIGH COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY

NO. CIV-2016-409-000512

UNDER Section 64 of the Trustee Act 1964

IN THE MATTER of an application to vary a Trust Deed for the
MainPower Trust

IN THE MATTER of an application by **ANTHONY JOHN HALL, JOANNE
RACHEL ASHBY, QUENTIN DAVID HUMPHREY DE
HAMEL, RICHARD WILLIAM ALLISON, CATHERINE
MAY MCMILLAN, KEVIN WARREN BROOKFIELD** and
JAMES ROGER ABERNETHY as Trustees of the
MainPower Trust.

Plaintiffs

**ORDER OF ASSOCIATE JUDGE OSBORNE FOR DIRECTIONS AS TO
SERVICE AND ORDER FOR REPRESENTATION
4 July 2016**



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BEFORE ASSOCIATE JUDGE OSBORNE

4 July 2016

After reading the statement of claim dated 15 June 2016, ex parte notice of application for directions as to service and representation, the affidavit of Anthony John Hall dated 15 June 2016, the affidavit of Philip Keith dated 2 June 2016, explanatory note, and the memorandum of counsel dated 15 June 2016, this Court orders:

1. That T C Weston QC be appointed as Counsel for those beneficiaries who oppose, or who may oppose, the application for an order conferring on the trustees the necessary power to amend the Trust Deed sought in this proceeding;
2. That T C Weston QC's costs as counsel are met by the plaintiffs;
3. That leave is reserved to any beneficiary by way of memorandum to notify the Court that he or she wishes to be represented independently, in which event the memorandum should contain an explanation as to the reason for separate representation;
4. That this proceeding is served on:
 - (a) T C Weston QC as counsel for those who oppose, or who may oppose, the application for an order conferring on the plaintiffs the necessary power to amend the Deed of Trust dated 27 January 2016 as sought in this proceeding;
 - (b) MainPower New Zealand Limited;
 - (c) The trustees of the Entitlements Trust.
5. That service of this proceeding on Qualifying Customers, as defined in the Trust Deed, is effected by public notice as follows:
 - (a) Placing a public notice in a form to be approved by the Registrar (**attached** marked "A" as approved by the Registrar) in each of the Christchurch Press, The News and Kaikoura



Star newspapers on two consecutive Saturdays and on the intervening Wednesday giving notice of the application and the places and times at which relevant documents may be inspected;


- (b) Making the statement of claim dated 15 June 2016, the affidavit of Anthony John Hall dated 15 June 2016, the affidavit of Philip Keith dated 2 June 2016, explanatory note, Notice and order of the court directing service and representation (**Documents**) available at the offices of the Waimakariri and Kaikoura District Councils;
- (c) Making the Documents available for inspection during normal business hours at the public libraries at Kaikoura, Oxford, Rangiora, Kaiapoi, Amberley, Cheviot and Hanmer Springs;
- (d) Making the Documents available for inspection during normal business hours at the offices of the MainPower Trust, Koller & Hassall Limited, at 267 High Street, Rangiora;
- (e) Publishing the Documents on the website of the MainPower Trust (www.mainpowertrust.org.nz).

6. That no notice of proceeding be filed and served in this proceeding.

Date: 4 July 2016

Signature:





(Deputy) Registrar
K.G. SMITH

"A"

PUBLIC NOTICE

**MAINPOWER TRUST
PROPOSED AMENDMENTS TO TRUST DEED**

1. The MainPower Trust is currently governed by a Deed of Trust dated 27 January 2016 (**Trust Deed**).
2. Over 95% of the capital of the MainPower Trust Fund comprises shares in MainPower New Zealand Limited (**MainPower**) with the trustees owning 100% of MainPower's ordinary shares.
3. The beneficiaries of the MainPower Trust are:
 - (a) The trustees of the MainPower Foundation, a charitable trust to come into existence for the purpose of receiving a distribution from the MainPower Trust;
 - (b) Qualifying Customers as defined in the Trust Deed. In very general terms, a Qualifying Customer is a customer of MainPower with premises connected to the MainPower distribution network within the geographic boundaries of the North Canterbury Power Board (the predecessor to MainPower). This excludes customers with premises outside that boundary, notably those in the area previously supplied by the Kaiapoi Electricity network; and
 - (c) The trustees of the Entitlements Trust, a trust established by deed dated 8 December 2000.
4. The trustees of the MainPower Trust have identified amendments to the Trust Deed which they consider are required (**Proposed Amendments**).
5. The Proposed Amendments are grouped into two categories (plus consequential amendments):
 - (a) Class one amendments which relate to the process for approving or rejecting Major and Minor Proposals; and
 - (b) Class two amendments which relate to the process and structure of distributions of Trust capital to beneficiaries.
6. The trustees do not have the power to make the Proposed Amendments without a Court order.
7. The trustees have applied to the High Court at Christchurch for an order conferring on the trustees the necessary power to make the Proposed Amendments to the Trust Deed.

8. This is notice to Qualifying Customers of the trustees' application and provides details of how Qualifying Customers can review relevant documents, obtain further information, provide comments or be heard in relation to the application.
9. The Court has ordered that Mr T C Weston QC be appointed to represent those who wish to oppose, or who may oppose, the trustees' application. Mr Weston QC's details are PO Box 3976, Christchurch 8140, Telephone: +64 03 374 5750, Email: tomweston@xtra.co.nz.
10. Copies of the statement of claim, supporting affidavits, Explanatory Note and Order of the Court Directing Service and Representation are available for viewing at the following locations:
 - (a) The Council offices of the Waimakariri and Kaikoura District Councils;
 - (b) The Public Libraries at Kaikoura, Oxford, Rangiora, Kaiapoi, Amberley, Cheviot and Hanmer Springs;
 - (c) The offices of the MainPower Trust, Koller & Hassall Limited, at 267 High Street, Rangiora; and
 - (d) On the website www.mainpowertrust.org.nz.

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