



TECT Consumer Trust

A description of the key proposed variations to the existing deed of trust, on a clause by clause basis

Clause of proposed deed	Description of key changes
Parties to the deed	The trust was originally settled by the original Trustpower entity (the predecessor to the existing Trustpower). This is a matter of historical record and can be removed now as it is not necessary to state this on the front of the deed. Likewise the names of the original Trustees are no longer relevant and can be removed.
Background recitals (the "Whereas" provisions)	The recitals originally described the settling of the trust by the original Trustpower pursuant to the Establishment Plan in 1993. This is also a matter of historical record and can be shortened. The recitals have been updated to do that and to refer to the more recent history of the Trust and the creation of the existing Trustpower entity in 2016.
Clause 1: Definitions and construction	<p>A number of definitions have been updated and redundant ones no longer needed have been removed. Key changes are:</p> <p><u>Chief Executive</u>: This role was not referred to in the original deed but has been added as various tasks have been given to the Chief Executive in the amended deed, in relation to the proceedings of meetings of the Trustees (see clauses 5, 7 and 8 of Schedule 2).</p> <p><u>Code of Conduct</u>: This is no longer needed in this amended deed as the Trustees of the Trust will be the Trustees appointed from time to time under the TECT Community Trust, and that trust deed will contain its own rules for the election and appointment of the trustees.</p> <p><u>Code of Practice</u>: This is no longer needed as the practices of trust administration have developed over the decades since the trust was established and the Trustees will be regulated more clearly by the new Trusts Act 2019. Reflecting that new Act, the amended deed sets out Trustee duties clearly (see Schedule 1).</p> <p><u>Consumer</u>: This has been substantially amended given the purpose of these amendments. See comments below regarding clause 4.2 of the Trust Deed which regulates the identity of the Consumer group.</p> <p><u>Consumer Consultative Procedure</u>: This is mostly unchanged and now located at Schedule 3. Paragraph (f) has been</p>

	<p>changed to permit Trustees to withhold address details of submitters to protect their privacy.</p> <p><u>Directors, Dividends, Other Securities, Securities and Shares:</u> These definitions have all been deleted as they related specifically to the relationship between the Trust and Trustpower. The majority of the Trust’s assets are no longer represented by Trustpower shares and many of these provisions (to which the definitions related) will essentially be redundant if the restructuring proceeds, so have been removed.</p> <p><u>District:</u> this remains a key concept and has been updated to refer to a map which is attached as Schedule 4.</p> <p><u>Effective Date:</u> This is the date of amendment of the Trust Deed.</p> <p><u>Independent Returning Officer:</u> This is no longer needed in this amended deed as the Trustees of the Trust will be the Trustees appointed from time to time under the TECT Community Trust.</p> <p><u>Termination Date:</u> This refers to the final winding up of the Trust. The Trust is expected to continue until the end of 2050, but may be wound up earlier if there is insufficient funds remaining to pay Rebates or if a Consumer Consultative Procedure has been followed in accordance with clause 12.2.</p>
<p>Clause 2: Name of the Trust</p>	<p>The name of the Trust has been modernised to the TECT Consumer Trust, reflecting the name by which it has become known and retaining its focus on the consumers.</p>
<p>Clause 3: Declaration of Trust</p>	<p>This clause has been updated to reflect the present amendments to the Trust Deed but these changes are not material.</p>
<p>Clause 4: Purpose of the Trust and principal meaning of Consumers</p>	<p>Clause 4 is in two parts. The first part, clause 4.1, retains the concept from the original Trust Deed of the Trust existing for the benefit of Consumers, but it has been modernised and simplified.</p> <p>Clause 4.2 then go on to describe who Consumers are:</p> <ul style="list-style-type: none"> • Clause 4.2 provides that a Consumer is a customer of Trustpower on 28 January 2021, being the date the strategic review of its retail consumer business was announced by Trustpower, for such time as that person remains a customer of Trustpower or a third party that may acquire Trustpower’s business of supplying electricity and otherwise satisfies the Eligibility Criteria contained in the Trust’s Rebate Policy. That Rebate Policy is now attached as Schedule 5 of the Trust Deed.

	<ul style="list-style-type: none"> Clause 4.3 provides that those Consumers will continue to be Consumers (and therefore be entitled to Rebates) if another party subsequently buys what was originally Trustpower’s electricity supply business or merges into the entity to which Trustpower sold that business.
Clause 5: Trusts of Income and Capital until Termination Date	<p>Clause 5 now reflects clause 5 and 6 of the existing Trust Deed. Those clauses have been simplified and modernised. Clause 5 now provides for the payment of an annual rebate of \$500 to each Consumer, in accordance with the Procedure set out in Part 2 of Schedule 5 (Rebate Policy).</p> <p>The concept of provision of indirect benefits to Consumers has been removed, as provision of such benefits to the wider community will be the role of the new TECT Community Trust, while the only purpose of the TECT Consumer Trust will be to pay Rebates to Consumers.</p>
Clause 6: Trusts of Income and Capital on the Termination Date	<p>Clause 6 has also been simplified. The clause provides that on the Termination Date (see clause 1.1 above for a description of the Termination Date definition), the Trustees are to distribute whatever is left in the trust fund to the Trustees of the TECT Community Trust. The clause corresponds to clause 6.2 of the existing Trust Deed.</p>
Clause 7: Appointment, retirement and proceedings of Trustees	<p>This clause (which corresponds to clause 7 of the existing Trust Deed) provides that the rules in Schedule 2 govern the appointment and retirement of Trustees, and the proceedings of meetings of Trustees. This is similar to the existing Trust Deed, except that the rules set out in the Schedule have been simplified and modernised:</p> <ul style="list-style-type: none"> In particular, clauses 1 and 2 of Schedule 2 provide that the Trustees will be the same persons who are elected or appointed as the Trustees of the TECT Community Trust. This has enabled the previously detailed rules around appointment and election of Trustees to be removed (those provisions are included in the trust deed of the new TECT Community Trust). The remaining clauses of Schedule 2 address procedural matters such as the regulation of Trustee meetings. These have been modernised and simplified but are not materially different in substance from the existing provisions of the Trust Deed regulating the meetings of Trustees.
Clause 8: Trustees’ powers	<p>Clause 8 corresponds to clauses 8 and 9 of the existing Trust Deed. The clause has been modernised to reflect the new Trusts Act 2019 (which came into force in January 2021). That new Act confirms that trustees of trusts have the same wide powers as a natural person when it comes to ownership and management of trust assets, ensuring that they can manage the trust assets effectively. Clause 8.1 reflects this. Clause 8.2 specifically confirms that the Trustees have the</p>

	<p>power to loan the funds comprising the trust fund to the TECT Community Trust (which will invest the funds and pay an interest rate return to the TECT Consumer Trust).</p> <p>The restrictions in clause 9 of the existing Trust Deed relating to the continued ownership of Shares in Trustpower have been removed from the amended deed. The restrictions will not be necessary or appropriate if the proposed restructuring is undertaken as TECT's shareholding in Trustpower would be settled into the new TECT Community Trust, following the undertaking of the Consumer Consultative Procedure as contemplated by clause 9.</p>
Clause 9: Duties of Trustees	<p>Clause 9 (which corresponds to clause 10 of the existing Trust Deed) has been updated to reflect the provisions of the new Trusts Act, which sets out mandatory and default duties applicable to trustees:</p> <ul style="list-style-type: none"> • Clause 9.1 in particular reflects this and provides that the Trustees are subject to the duties set out in Schedule 1. • Clause 9.2 to clause 9.8 reflect the provisions of the existing Trust Deed but have been modernised and simplified. The Trustees must continue to prepare financial statements and make these available to Consumers (clauses 9.2 to 9.3), and keep confidential information safe (clause 9.8). They must also continue to arrange a general meeting of Consumers, at which the auditor is appointed (clause 9.4 to 9.6). These provisions have not been materially changed in substance from the existing Trust Deed.
Clause 10: Information to Consumers	<p>Certain modernisation or consequential amendments have been made (for example, now refers to information being made available on the Trust's website) but this clause is materially the same as clause 11 of the existing Trust Deed.</p>
Clause 11: Remuneration of Trustees	<p>The Trustees will not be entitled to be remunerated for their services as trustees of the TECT Consumer Trust, under clause 11 of the deed as amended (corresponding to clause 12 of the existing trust Deed). The trustees of the TECT Consumer Trust will be the same as those of the TECT Community Trust and the trustees may be remunerated for their services under the Community Trust. Clause 11 does permit the Trustees of the TECT Consumer Trust to be reimbursed for their expenses.</p>
Clause 12: Variation of trust deed	<p>This clause (corresponding to clause 13 of the existing Trust Deed) has been amended to increase the number of clauses and important terms in the deed which cannot be amended by the Trustees without first undertaking a Consumer Consultative Procedure, to protect the interests of Consumers and reflect that the Trustees will have less discretions in</p>

	managing the Trust Fund following the proposed restructuring.
Clause 13: Winding up of Trust	As noted above, the Trust is expected to continue until the end of 2050. However the Trustees may wind the Trust up earlier if they believe that the Trust Fund is not sufficient to enable the Rebate payment, or if they have followed a Consumer Consultative Procedure. This clause reflects this updated arrangement, and can be compared to clause 14 of the existing Trust Deed.
Clause 14: Liability and Indemnity	The Liability and Indemnity clauses from the existing Trust Deed (clauses 15 and 16), addressing when Trustees are liable for losses caused and when they are entitled to an indemnity out of the assets of the Trust, have been modernised in light of the new Trusts Act and combined. Substantively though the clauses are materially similar to those in the existing Trust Deed. A key provision of the new Trusts Act, which is reflected in these new provisions, is that Trustees may not be indemnified by the Trust if they are grossly negligent (refer clause 14.2).
Clause 15: Notices	This clause is not changed in substance from clause 17 of the existing Trust Deed. Certain modernisation / consequential amendments have been made (for example, the clause now refers to notice being duly given or made by email).

Schedules

Schedule 1: Trustees Duties	Refer comment at clause 9 above.
Schedule 2: Appointment, retirement and proceedings of Trustees	Refer comment at clause 7 above.
Schedule 3: Consumer Consultative Procedure	Refer comment at clause 1.1 above.
Schedule 4: Map of District	Refer comment at clause 1.1 above
Schedule 5: Rebate Policy	Refer to comment at clause 5 above.

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