

# **Masterton Trust Lands Bill**

Local Bill

## **Explanatory note**

### *General policy statement*

The Masterton Trust Lands Trust is a body corporate that holds certain land for educational purposes and for the purposes of public utility in the Trust district, and the promotion and assistance of such purposes; and, in particular, for the purposes of—

- (a) assisting educational establishments and educational activities in the Trust district:
- (b) assisting libraries in the Trust district:
- (c) the promotion, advancement, or encouragement in or for the Trust district of education, science, literature, art, physical welfare, and other cultural purposes:
- (d) promoting and fostering in the Trust district, or among persons who are, or at some time have been resident within the Trust district, education generally, and the promotion, advancement, encouragement, or imparting of knowledge, proficiency, or skill in education, science, literature, art, technical subjects, physical welfare, and other cultural purposes.

The “Trust district” means all the area within the district of the Borough of Masterton as that district was constituted on 31 October 1989 and all the area for the time being within the Masterton Small Farm Settlement.

The Trust had its origins in a small farm association that was formed in 1853. Its purpose was to settle 100 settlers on each of the 2 chosen sites of Masterton and Greytown.

In 1870 the Wairarapa Town Lands Management Act 1870 vested in trustees, and otherwise made better provision for the management of, certain land in the Townships of Masterton and Greytown. That

land was, before the passing of that Act, vested in Charles Rooking Carter and was,—

- (a) in part, land set apart for the formation of a settlement upon the principle of a small farm association; and
- (b) in part, land set apart for public purposes for the service of the settlement.

The responsibilities of those trustees, in relation to the parts of that land that were in the Township of Masterton, have devolved to the body corporate known as the Masterton Trust Lands Trust (which was constituted under the name of the Masterton Trust Lands Trustees by the Masterton Trust Lands Act 1889).

The Masterton Trust Lands Trust is now constituted under the Masterton Trust Lands Act 1966. This Bill consolidates and amends that Act in order to bring that Act into line with current language and best business practice.

#### *Residence of electors and members*

In addition, the Bill requires both electors and members of the Trust to reside within the Trust district.

#### *Abolition of distinction between “general Trust lands” and “scholarship lands”*

In addition, the Bill abolishes the distinction between “general Trust lands” and “scholarship lands”. Historically, the land owned by the Trust has been in these 2 categories. The current allocations of funds for scholarships and education far exceed the returns from scholarship lands. The distinction between the 2 types of land accordingly has no practical significance and it is proposed that it be abolished by the Bill.

#### *Enlarged powers in relation to disposal of land*

In addition, the Bill enlarges the powers of the Trust in relation to the disposal of land. The Trust’s power to dispose of land is subject to a number of restrictions. For example, the powers conferred on the Trust by section 38 of the Masterton Trust Lands Act 1966 are limited to lands zoned for residential purposes. This Bill would widen that power so that it would apply not only to residential land but also to any other land, including commercial and industrial land. This would enable the Trust to dispose of land in any case where the Trust resolves that the retention of that land is not in the interests of

the Trust. This will also enable the Trust to maintain a more balanced property portfolio.

*Enlarged powers in relation to leasing of land*

In addition, *clause 9* of the Bill enlarges the powers of the Trust in relation to the granting of leases, tenancies, licences, and occupation rights in respect of the Trust lands. Section 27 of the Masterton Trust Lands Act 1966 declares the Trust to be a leasing authority within the meaning of the Public Bodies' Leases Act 1908 and the Public Bodies Leases Act 1969, with some modifications, applies in relation to the power of the Trust to grant leases and tenancies. It is proposed that this provision not be re-enacted and that the Trust cease to be a leasing authority for the purposes of the Public Bodies Leases Act 1969. This change will not affect leases and tenancies that are current when the Bill comes into force.

*Enlarged powers of investment*

In addition, *clause 14* of the Bill enlarges the powers that the Trust has in relation to the investment of money not immediately required for use. The existing powers of investment are set out in section 34 of the Masterton Trust Lands Act 1966.

*Enlarged borrowing powers*

In addition, *clause 15* of the Bill enlarges the Trust's borrowing powers. Those powers are, under sections 40 and 41 of the Masterton Trust Lands Act 1966, subject to a number of restrictions. For example, the powers conferred by section 41 may only be exercised with the consent of the Minister of Finance and upon and subject to such conditions as the Minister thinks fit. The requirement for the consent of the Minister of Finance is not included in the Bill.

*Accounts*

In addition, *clauses 10 and 11* of *Schedule 2* change the provision made by sections 43 and 44 of the Masterton Trust Lands Act 1966 in relation to the accounts of the Trust.

### *Clause by clause analysis*

*Clause 1* sets out the title of the Bill.

*Clause 2* provides that the Bill is to come into force on the day after the date on which it receives the Royal assent.

*Clause 3* provides that the purposes of the Bill are—

- (a) to consolidate and amend the laws relating to the management of the Trust lands; and
- (b) to repeal the Masterton Trust Lands Act 1966.

*Clause 4* defines terms used in the Bill. The terms **general Trust lands** and **scholarship lands** are no longer defined. Instead the clause contains a definition of the term **Trust lands**.

*Clause 5* defines the meaning of the term **public notice**.

### *Masterton Trust Lands Trust*

*Clause 6* ensures the continuity of the body corporate called the Masterton Trust Lands Trust.

### *Trusts*

*Clause 7*, which is based on section 23 of the 1966 Act, sets out the trusts on which the Trust lands are held, and are deemed always to have been held, by the Trust.

*Subclause (1)* provides that, subject to the express provisions of the Bill, the Trust lands are to be held—

- (a) for matters beneficial to the community; and
- (b) for purposes of public utility in the Trust district; and
- (c) for the promotion and assistance of the purposes specified in *paragraphs (a) and (b)*.

*Subclause (2)* provides that **matters beneficial to the community** include, but are not limited to, educational purposes.

*Subclause (3)* provides that, without limiting the generality of *sub-clauses (1) and (2)*, the Trust lands are held by the Trust—

- (a) for the purposes of assisting educational establishments and educational activities in the Trust district;
- (b) for the purposes of assisting libraries in the Trust district;
- (c) for the purposes of the promotion, advancement, or encouragement in or for the Trust district of—
  - (i) education, science, literature, art, and other cultural purposes; and

- (ii) physical welfare:
- (d) for the purposes of promoting and fostering in the Trust district or among persons who are, or at some time have been, resident within the Trust district—
  - (i) education generally; and
  - (ii) the promotion, advancement, encouragement, or imparting of knowledge, efficiency, or skill in education, science, literature, art, and other cultural purposes, and physical welfare:
- (e) for the purposes of undertaking or commissioning research into areas related to the other purposes for which the Trust lands are held by the Trust.

*Subclause (4)* provides that for the purposes of the clause, **assisting** is deemed to include **establishing**.

*Clause 8*, which is based on sections 24 and 47 of the 1966 Act, deals with the application of the income from Trust lands:

*Subclause (1)(k)* is new. It provides that the Trust may apply income from the Trust lands for the purpose of acquiring any land, building, or property, whether within the Trust district or not, for the purpose of maintaining and improving the revenues of the Trust or for the purposes of strengthening or diversifying the asset base owned by the Trust.

#### *Powers*

*Clause 9* empowers the Trust to grant leases and tenancies, and to create licences to occupy and to grant occupation rights, in respect of the Trust lands. The existing provision that requires the Trust to lease land only on terms authorised by the Public Bodies' Leases Act 1908 is not to be re-enacted as the Trust has found that requirement to be too restrictive under current conditions. The Bill accordingly does not contain any provision corresponding to section 27 of the Masterton Trust Lands Act 1966 (which, with certain modifications, applies the Public Bodies' Leases Act 1908 to the Trust and declares the Trust to be a leasing authority within the meaning and for the purposes of that Act).

*Subclause (3)* declares that the Trust ceases, as from the commencement of the Bill, to be a leasing authority for the purposes of the Public Bodies Leases Act 1969.

*Clause 10*, which is based on section 29 of the 1996 Act, authorises the Trust to acquire additional land.

*Clause 11*, which is based on section 30 of the existing Act, authorises the Trust to accept trusteeships.

*Clause 12*, which is based on section 31 of the 1996 Act, sets out the powers of the Trust in relation to publications.

#### *Investment and borrowing*

*Clause 13*, which is based on section 32 of the 1996 Act, provides that the Trust may from time to time out of the income from the Trust lands create, maintain, and add to funds for the purposes of the Trust.

*Paragraph (d)*, which authorises the Trust to create, maintain, and add to a fund for the purpose of purchasing, acquiring, erecting, or constructing additional property for the purposes of the Trust, is wider than the existing provision.

*Clause 14* authorises the Trust to invest money not immediately required for use. The power conferred by the clause is much wider than that conferred by section 34 of the 1996 Act.

*Subclause (2)* provides that the Trust, in exercising the power of investment conferred by the clause, must, in accordance with section 13B of the Trustee Act 1956, exercise the care, diligence, and skill that a prudent person of business would exercise in managing the affairs of others.

*Clause 15* authorises the Trust to borrow money. The power conferred by the clause is much wider than that conferred by sections 40 and 41 of the 1996 Act.

Section 40 of the 1966 Act limits the amount that the Trust may borrow from its bankers by way of overdraft. Under that section, the amount that may be so borrowed may not in any financial year exceed half of the gross rental income of the Trust for the immediately preceding financial year. That limitation is not included in the Bill.

The borrowing power conferred by section 41 of the 1966 Act may be exercised by the Trust only with the consent of the Minister of Finance and upon and subject to such conditions as that the Minister thinks fit. The requirement for the consent of the Minister of Finance is not included in the Bill.

*Subclause (3) of clause 15* provides that the power to borrow conferred by that clause is to be exercised so that the borrowing of the Trust is at all times maintained within prudent levels.

### *Sale and alienation*

*Clause 16: Subclause (1)* authorises the Trust to sell, exchange, or otherwise dispose of any part or parts of the Trust's real or personal property.

*Subclause (2)* provides that the sale or alienation of land and buildings may only be exercised by or in pursuance of a special resolution.

The restrictions on alienation that are contained in sections 35 to 39 of the 1966 Act are not included in the Bill.

Section 35 of the 1966 Act provides that, save as in that Act expressly authorised, the Trust has no power of alienation of the general trust lands, or the scholarship lands, or any part thereof, or any interest therein.

The circumstances in which alienations are permitted are set out in sections 26 to 28 and 36 to 39 of the 1966 Act.

### *Membership of Trust*

*Clause 17*, which is based on section 5 of the 1966 Act, provides that the Trust shall consist of 8 members elected in the manner provided by the Bill.

*Clauses 18 and 19* (which have the same effect as section 6 of the 1966 Act) deal with the term of office of members of the Trust and the rotation of members of the Trust. At each triennial general election of members of local authorities, 4 members of the Trust must be elected to provide successors to the 4 members whose term of office expires with the close of polling day for that election.

### *Electors and elections*

*Clause 20* deals with the qualification of electors. The clause is designed to ensure that a person who is a residential elector in respect of an address in the Trust district will not be an elector of the Trust unless that person's period of residence at the address within the Trust district is part of a continuous period of residence within the Trust district that has equalled or exceeded 1 month.

*Subclause (2)* is equivalent to section 74(2) of the Electoral Act 1993.

*Clause 21* deals with the qualification of members of the Trust. Under section 8A of the 1966 Act, every person who is a Parliamentary elector in respect to any electorate (whether within or outside

the Trust district) is qualified for election or appointment as a member of the Trust.

Under *clause 21* only persons who are **electors** within the meaning of the Bill will be qualified to become members of the Trust. The object is to draw trustees from within the Trust district itself.

*Clause 22*, which is based on section 9 of the 1966 Act, relates to election procedures. The new clause does not contain a provision corresponding to subsection (7) of section 9 of the 1966 Act. That subsection relates to the cost of elections. The subject-matter of that subsection is covered by sections 7K(3) and 118 of the Local Elections and Polls Act 1976.

#### *Disqualification and extraordinary vacancies*

*Clause 23*, which is based on section 10 of the 1966 Act, specifies the persons who are disqualified from being elected or appointed as members of the Trust.

*Clause 24*, which is based on section 11 of the 1966 Act, relates to extraordinary vacancies in the membership of the Trust.

A new provision is *clause 24(1)(e)*. That provision (which is based on section 101X(1)(a) of the Local Government Act 1974) provides that the office of a member will become vacant if the member ceases to be an elector (within the meaning of the Bill) or becomes disqualified for registration as a residential elector in respect of an address within the Trust district.

*Clause 25*, which is based on section 12 of the 1966 Act, relates to the filling of extraordinary vacancies.

#### *Ouster of office*

*Clause 26* relates to ouster of office. This clause has been updated. It is based on section 101Y of the Local Government Act 1974. The corresponding provision of the Masterton Trust Lands Act 1966 is section 13. That section was based on section 62 of the Municipal Corporations Act 1954.

#### *Chairperson and deputy chairperson*

*Clause 27*, which is largely a re-enactment of section 14 of the 1966 Act, deals with the election of the chairperson of the Trust.

*Clause 28*, which is largely a re-enactment of section 15 of the 1966 Act, deals with the appointment of a deputy chairperson of the Trust.



*Proceedings of Trust*

*Clause 29* is new. It provides the provisions of *Schedule 2* have effect in relation to the Trust and its proceedings.

*Transitional provisions*

*Clause 30* is a transitional provision relating to the members of the Trust.

*Clause 31* is a transitional provision relating to the chairperson of the Trust.

*Clause 32* is a transitional provision relating to employees of the Trust.

*Consequential amendment*

*Clause 33* effects a consequential amendment to the Local Authorities (Members' Interests) Act 1968.

*Repeals and savings*

*Clause 34* repeals the Masterton Trust Lands Act 1966 and its amendments.

*Clause 35* is a savings provision.

*Subclause (2)* provides that nothing in the Bill limits the application of the Public Bodies Leases Act 1969 (as modified by section 27 of the Masterton Trust Lands Act 1966) with respect to—

- (a) any lease or tenancy granted by the Trust before the commencement of the Bill and current at the commencement of the Bill; or
- (b) any lease or tenancy granted after the commencement of the Bill in renewal of a lease or tenancy to which *paragraph (a)* applies.

*Schedule 1* gives the legal descriptions of the pieces of land comprising the **Trust lands**.

*Schedule 2* contains provisions relating to the management, administration, and operation of the Trust. Many of these provisions correspond to provisions that are presently contained in the body of the 1966 Act.

*Clause 1*, which is based on section 16 of the 1966 Act, relates to meetings of the Trust. The quorum at meetings of the Trust has been increased from 4 members to 5 members.

*Subclause (6)* is new. It provides that a resolution in writing signed, or assented to by letter, facsimile, or electronic message, by all members of the Trust is as valid and effectual as if it had been passed at a meeting of the Trust duly called and constituted.

*Subclause (7)* is new. It provides for resolutions passed at telephone or video conferences, in accordance with certain conditions, to be as valid and effectual as if they had been passed at a meeting of the Trust duly called and constituted.

*Clause 2* is new. It provides for special meetings of the Trust.

*Clause 3*, which is based on section 17 of the 1966 Act, sets out the procedure in relation to special resolutions of the Trust. This clause follows (with some variations) section 716B of the Local Government Act 1974 (as enacted by section 40(1) of the Local Government Amendment Act (No 2) 1989). The corresponding provision of the Masterton Trust Lands Act 1966 is section 17. That section follows (with some variations) section 77 of the Municipal Corporations Act 1954.

*Clause 4*, which is based on section 18 of the 1966 Act, authorises the Trust to make regulations for the conduct of business and keeping of minutes thereof, for regulating the management of the real and personal property of the Trust, and generally for giving effect to the provisions of the Bill.

*Clause 5* is new. *Subclause (1)* provides that the Trust may establish committees so as to better carry out purposes and functions of the Trust.

*Subclause (2)* provides that sections 114P to 114R of the Local Government Act 1974 apply, with the necessary modifications, in respect of every such committee as if the Trust were a Council within the meaning of that Act.

#### *Employees*

*Clause 6*, which is based on section 20 of the 1966 Act, relates to the appointment of employees of the Trust.

*Clause 7*, which is based on section 21 of the 1966 Act, relates to the provision of superannuation or retiring allowances or retirement gratuities for employees of the Trust.

*Clause 8* is new. It relates to the delegation of the powers under the Act of the Trust and its employees. It applies the provisions of sections 715 and 716 of the Local Government Act 1974.

*General provisions*

*Clause 9*, which is largely a re-enactment of section 42 of the 1966 Act, requires all money belonging to the Trust to be paid into a bank within 7 days after it has been received by the proper officer of the Trust.

*Clause 10* requires the Trust to keep at all times proper financial records recording the financial affairs and transactions of the Trust.

*Clause 10* differs from section 43 of the 1966 Act. That section requires the Trust to keep certain accounts in such manner as may be prescribed by the Audit Office.

*Clause 11* relates to the annual accounts of the Trust. This clause differs from section 44 of the 1966 Act in a number of respects. Under section 44(2) of the 1966 Act, the annual financial statements of the Trust are required to be audited by the Audit Office. That requirement is not included in the Bill. *Clause 11(2)* provides instead that in each year the financial statements of the Trust must be audited by an auditor appointed for the purpose by the Trust, being a person or firm qualified for appointment as an auditor of a company under the Companies Act 1993 and not being a member of the Trust or an employee or agent of the Trust.

*Clause 12*, which is largely a re-enactment of section 45 of the 1966 Act, relates to the annual meeting of the Trust.

*Clause 13*, which is based on section 46 of the 1966 Act, increases the unauthorised expenditure limit of the Trust. Under *clause 13*, the amount that may be expended by the Trust in this way must not exceed in the aggregate 2% of the gross rentals derived during that financial year from the Trust lands. Under section 46 of the 1966 Act the amount that may be expended in this way must not exceed in the aggregate 1% of the gross rentals derived during that financial year from the general Trust lands.

*Clause 14*, which is largely a re-enactment of section 48 of the 1966 Act, relates to the indemnity of members of the Trust.

*Clause 15*, which is largely a re-enactment of section 19 of the 1966 Act, relates to the validity of proceedings.

*Clause 16* is new. It relates to the use of the common seal of the Trust.

---

Georgina Beyer

## Masterton Trust Lands Bill

Local Bill

### Contents

1	Title		<i>Disqualification and extraordinary vacancies</i>
2	Commencement		
3	Purpose		
4	Interpretation	23	Disqualification
5	Public notice defined	24	Extraordinary vacancies
	<i>Masterton Trust Lands Trust</i>	25	Filling of extraordinary vacancies
6	Masterton Trust Lands Trust		<i>Ouster of office</i>
	<i>Trusts</i>	26	Ouster of office
7	Trust on which lands to be held		<i>Chairperson and Deputy Chairperson</i>
8	Application of income from Trust lands	27	Chairperson
	<i>Powers</i>	28	Deputy Chairperson
9	Leasing powers		<i>Proceedings of Trust</i>
10	Powers of acquisition	29	Proceedings of Trust
11	Power to accept trusteeships		<i>Transitional provisions</i>
12	Powers in relation to publications	30	Transitional provision in relation to members
	<i>Investment and borrowing</i>	31	Transitional provision in relation to Chairperson
13	Power to set aside fund out of income	32	Transitional provision in relation to employees
14	Investment of money not immediately required for use		<i>Consequential amendment</i>
15	Power to borrow	33	Amendment to Local Authorities (Members' Interests) Act 1968
	<i>Sale and alienation</i>		<i>Repeals and savings</i>
16	Sale and alienation	34	Repeals
	<i>Membership of Trust</i>	35	Savings
17	Membership of Trust		
18	Term of office		<b>Schedule 1</b>
19	Rotation of members		<b>Trust Lands</b>
	<i>Electors and elections</i>		<b>Schedule 2</b>
20	Qualification of electors		<b>Provisions relating to Trust</b>
21	Qualification of members		
22	Election of members		

### Preamble

- (1) In 1870 the Wairarapa Town Lands Management Act 1870 vested in trustees, and otherwise made better provision for the management of, certain land in the Townships of Masterton and Greytown, being land that was, before the passing of that Act, vested in Charles Rooking Carter and was,— 5
- (a) in part, land set apart for the formation of a settlement upon the principle of a small farm association; and
- (b) in part, land set apart for public purposes for the service of the settlement; and
- (2) The responsibilities of those trustees, in relation to the parts of that land that were in the Township of Masterton, have devolved to the body corporate known as the Masterton Trust Lands Trust (which was constituted under the name of the Masterton Trust Lands Trustees by the Masterton Trust Lands Act 1889); and 10 15
- (3) Under section 23 of the Masterton Trust Lands Act 1966, the Masterton Trust Lands Trust holds, and is deemed always to have held, the land referred to in that Act as the **general trust lands** and the land referred to in that Act as the **scholarship lands** for the purposes specified in that section; and 20
- (4) It is desired—
- (a) to abolish the distinction between general trust lands and scholarship lands; and
- (b) to vary the provisions relating to the election of the members of the Masterton Trust Lands Trust; and 25
- (c) to extend the powers of the Masterton Trust Lands Trust in relation to the assets vested in it; and
- (d) to consolidate and amend the Masterton Trust Lands Act 1966:

**The Parliament of New Zealand therefore enacts as follows:** 30

#### 1 Title

This Act is the Masterton Trust Lands Act 2002.

#### 2 Commencement

This Act comes into force on the day after the date on which this Act receives the Royal assent. 35

### 3 Purpose

The purposes of the Act are—

- (a) to consolidate and amend the laws relating to the management of the Trust lands; and
- (b) to repeal the Masterton Trust Lands Act 1966.

5

### 4 Interpretation

In this Act, unless the context otherwise requires,—

**elector** means any person who, in accordance with **section 20**, is qualified to vote at any election of members under this Act

**financial year** means the period of 12 months ending on 31 March in each year

10

**income**, in relation to any property of the Trust, includes, in relation to any financial year, both—

- (a) income derived from that property in that financial year; and
- (b) any income derived from that property in any previous financial year and not yet applied in accordance with the provisions of this Act

15

**member** means a member of the Trust

**property** means any of the Trust lands and personal property of the Trust

20

**public notice** has the meaning given to it by **section 5**

**special meeting**, in relation to the Trust, means a meeting held in accordance with **clause 2 of Schedule 2**

**special resolution** means a resolution passed at a meeting of the Trust in accordance with **clause 3 of Schedule 2**

25

**Trust** means the Masterton Trust Lands Trust continued by **section 6(1)**

**Trust lands**—

- (a) means, subject to **paragraph (b)**,—
  - (i) the pieces of land described in **Schedule 1**; and
  - (ii) any piece of land acquired in substitution for any of the pieces of land described in **Schedule 1**; and
  - (iii) any piece of land acquired in addition to the pieces of land referred to **subparagraphs (i) and (ii)**; but
- (b) does not include any land described in **paragraph (a)** that is disposed of by the Trust

30

35

**Trust district** means all that area of land within the district of the former Borough of Masterton as that district was constituted on 31 October 1989 and all that area of land for the time being within the Masterton Small Farm Settlement; as the same is more particularly delineated on the plan numbered SO 38307, lodged in the office of the Chief Surveyor at Wellington, and thereon edged black. 5

Compare: 1966 No 27(L) s 2; 1991 No 49 s 32

## **5 Public notice defined**

- (1) Public notice means a notice published in a newspaper circulating generally in the Trust district; and **published** and **publicly notified** have corresponding meanings. 10
- (2) A public notice setting forth the object, purport, or general effect of a document is in any case sufficient notice of that document. 15

Compare: 1966 No 27(L) s 2

### *Masterton Trust Lands Trust*

## **6 Masterton Trust Lands Trust**

- (1) There continues to be a body corporate called the Masterton Trust Lands Trust, which is the same body corporate as that continued by sections 3 and 4 of the Masterton Trust Lands Act 1966. 20
- (2) The Masterton Trust Lands Trust is a body corporate with perpetual succession and a common seal and, subject to this Act and to any other Act or rule of law, has and may exercise, within the scope of its functions, all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity. 25

Compare: 1966 No 27(L) s 4

### *Trusts* 30

## **7 Trust on which lands to be held**

- (1) Subject to the express provisions of this Act, the Trust lands are held, and are deemed always to have been held, by the Trust—
- (a) for matters beneficial to the community; and 35
- (b) for purposes of public utility in the Trust district; and

- (c) for the promotion and assistance of the purposes specified in **paragraphs (a) and (b)**.
- (2) Matters beneficial to the community include, but are not limited to, educational purposes.
- (3) Without limiting the generality of **subsections (1) and (2)**, the Trust lands are held by the Trust—
- (a) for the purposes of assisting educational establishments and educational activities in the Trust district:
- (b) for the purposes of assisting libraries in the Trust district: 10
- (c) for the purposes of the promotion, advancement, or encouragement in or for the Trust district of—
- (i) education, science, literature, art, and other cultural purposes; and
- (ii) physical welfare: 15
- (d) for the purposes of promoting and fostering in the Trust district or among persons who are, or at some time have been, resident within the Trust district—
- (i) education generally; and
- (ii) the promotion, advancement, encouragement, or imparting of knowledge, proficiency, or skill in education, science, literature, art, and other cultural purposes, and physical welfare: 20
- (e) for the purposes of undertaking or commissioning research into areas related to the other purposes for which the trust lands are held by the Trust. 25
- (4) For the purposes of this section, **assisting** is deemed to include **establishing**.

Compare: 1966 No 27(L) s 23

- 8 Application of income from Trust lands** 30
- (1) The Trust may, in every financial year, apply its income from the Trust lands, in such manner as the Trust from time to time decides, to all or any of the following purposes:
- (a) paying and satisfying all the costs and expenses of the conduct and management of the business and affairs of the Trust: 35
- (b) paying to the Chairperson and other members of the Trust salaries, allowances, and travelling expenses under Part IVC of the Local Government Act 1974:



- (c) paying and satisfying the costs and expenses of conducting elections and polls under this Act:
- (d) paying and satisfying the general costs and expenses of the execution of the trusts and powers of this Act:
- (e) for any or all of the purposes mentioned in **section 7**: 5
- (f) for the purpose of founding and endowing scholarships and bursaries tenable at educational establishments in the Trust district, irrespective of the ordinary places of residence of the students to whom such scholarships or bursaries are awarded, or tenable beyond the Trust district by students who are, or have at some time been, resident within the Trust district: 10
- (g) for the purpose of making to students who are, or at some time have been, resident within the Trust district such grants as the Trust thinks fit for the purpose of assisting them in their education, whether at primary, secondary, tertiary, or post-graduate level, or in the study within or beyond the Trust district, and in New Zealand or elsewhere, in arts, literature, sciences, and technical subjects: 15  
20
- (h) for the purpose of erecting or assisting in erecting on land within the Trust district (whether owned by the Trust or not) and on land elsewhere owned by the Trust, buildings and other erections designed for any of the purposes mentioned in **section 7**, or designed for use in connection with or incidental to any such purposes: 25
- (i) for the purpose of improving, maintaining, and keeping in proper order and condition any property of the Trust, and any property in the Trust district (whether or not the property of the Trust) used, or designed for use, for or in connection with any of the purposes mentioned in **section 7**: 30
- (j) for the purpose of maintaining and improving the earning capacity, or the use for any of the purposes mentioned in **section 7**, of any property of the Trust, or rendering any such property more suitable for the purpose of producing revenue, and, in particular, by the erection of buildings for residential or commercial, industrial, or other business purposes, and the addition of improvements and amenities: 35  
40
- (k) for the purpose of acquiring any land, building, or property, whether within the Trust district or not, for the

purpose of maintaining and improving the revenues of the Trust or for the purposes of strengthening or diversifying the asset base owned by the Trust.

- (2) Despite **subsection (1)**, the Trust may retain profits in any financial year and carry the profits so retained or any part of them forward into subsequent financial years, and use the profits so retained or any part of them to or towards the repayment of any debts or obligations that the Trust may have or use the same or any part of them for the establishment of reserve accounts in the books of the Trust, either by way of capital or by way of income. 5 10

Compare: 1966 No 27(L) ss 24, 47; 1985 No 60 s 39(2)

### *Powers*

#### **9 Leasing powers**

- (1) The Trust has power to grant leases and tenancies, and to create licences to occupy and to grant occupation rights, in respect of the Trust lands and may from time to time vary, amend, alter, or accept surrender of any such leases, tenancies, licences, or occupation rights. 15
- (2) The Trust has power to negotiate and enter into such leases, tenancies, licences, and occupation rights for such terms and renewals of terms and upon such conditions as the Trust may determine, and for such purposes the Trust may obtain valuation reports or rental assessments and consult with and obtain advice from property consultants or advisers. 20 25
- (3) The Trust ceases, as from the commencement of this Act, to be a leasing authority for the purposes of the Public Bodies Leases Act 1969.

Compare: 1966 No 27(L) s 26

#### **10 Powers of acquisition** 30

The Trust has power to acquire from time to time, by purchase, by the acceptance of gifts or devises, or otherwise, additional property, and any property so acquired is deemed, as from its acquisition, to be included in the Trust assets.

Compare: 1966 No 27(L) s 29 35

**11 Power to accept trusteeships**

The Trust is at liberty to accept from time to time trusteeships for trusts and purposes not inconsistent with the general purposes of this Act and for such purposes to permit to be or become vested in the Trust any property to be held by the Trust upon and subject to the trusts imposed in respect thereof. 5

Compare: 1966 No 27(L) s 30

**12 Powers in relation to publications**

- (1) The Trust may— 10
- (a) prepare and publish books, handbooks, abstracts, and other publications containing information and matters of interest relative to the history, administration, and affairs of the Trust, and
  - (b) prepare and disseminate information that is designed to educate and instruct the public concerning the activities of the Trust. 15
- (2) The Trust may, in relation to the history, administration, activities, and affairs of the Trust district or of the district surrounding the Trust district or of both,— 20
- (a) assist in, or contribute towards the cost of, the preparation of records of historical matters in whatever form or medium the trustees believe is appropriate:
  - (b) prepare and disseminate information— 25
    - (i) that is designed to educate and instruct the public within the Trust district concerning the administration, activities, and affairs of the Trust district and the district surrounding the Trust district; or
    - (ii) that has for its object the advancement or development of the Trust district. 30

Compare: 1966 No 27(L) s 31

*Investment and borrowing***13 Power to set aside fund out of income**

The Trust may from time to time out of the income from the Trust property create, maintain, and add to a fund or funds for— 35

- (a) any 1 or more of the purposes of the Trust; or
- (b) the improvement of the Trust lands; or

- (c) the repair, renewal, replacement, or improvement of any buildings or other property of the Trust affixed to or situated on the Trust lands or appertaining to the Trust lands; or
- (d) the purpose of purchasing, acquiring, erecting, or constructing additional property for the purposes of the Trust. 5

Compare: 1966 No 27(L) s 33

#### **14 Investment of money not immediately required for use**

- (1) The Trust may from time to time invest— 10
  - (a) any fund established under **section 13**, or any part or parts of any such fund; and
  - (b) all money representing income of the Trust, from time to time remaining unapplied, pending the application of that money. 15
- (2) The Trust, in exercising the power of investment conferred by this section, must, in accordance with section 13B of the Trustee Act 1956, exercise the care, diligence, and skill that a prudent person of business would exercise in managing the affairs of others. 20

Compare: 1966 No 27(L) s 34

#### **15 Power to borrow**

- (1) The Trust may from time to time borrow money for the purposes of the Trust, as defined in **sections 7 and 8**, either with or without security. 25
- (2) For the purpose of securing the repayment of money so borrowed, and the interest thereon, the Trust may appropriate and pledge as security its revenues or any part thereof, or mortgage or charge any of its property.
- (3) The power to borrow conferred by this section is to be exercised so that the borrowing of the Trust is at all times maintained within prudent levels. 30

Compare: 1966 No 27(L) ss 40, 41

### *Sale and alienation*

- 16 Sale and alienation** 35
- (1) The Trust has power from time to time, with or without requiring any payment or other consideration, to sell,

exchange, or otherwise dispose of any part or parts of the Trust's property.

- (2) The sale or alienation of land or buildings may be exercised only by or in pursuance of a special resolution.

Compare: 1966 No 27(L) ss 35–39

5

### *Membership of Trust*

#### **17 Membership of Trust**

- (1) The Trust consists of 8 members elected in the manner provided by this Act.

- (2) The powers of the Trust are not affected by any vacancy in its membership. 10

Compare: 1966 No 27(L) s 5

#### **18 Term of office**

- (1) Every member who is elected comes into office on the later of— 15

(a) the day after polling day; or

(b) the day after the day on which he or she is declared elected.

- (2) Every person who is appointed to fill an extraordinary vacancy comes into office on the day after the day on which that person is appointed. 20

- (3) Except as otherwise provided in this Act, every member who is elected holds office for a term—

(a) commencing with the day on which he or she comes into office; and 25

(b) expiring with the close of polling day of the second triennial general election of members of local authorities held after the member comes into office.

- (4) Every member whose term of office expires with the close of polling day for a triennial general election of members of local authorities is, subject to **section 23**, eligible for re-election. 30

- (5) Every member, unless he or she sooner vacates office under **section 24**, continues in office until his or her successor comes into office, notwithstanding that the term of office of that member may have expired. 35

Compare: 1966 No 27(L) s 6

**19 Rotation of members**

- (1) At each triennial general election of members of local authorities, 4 members of the Trust must be elected to provide successors to the members whose term of office expires with the close of polling day for that election. 5
- (2) If no person is nominated for election or the number of persons nominated is less than 4, any vacancy remaining unfilled is deemed to be an extraordinary vacancy occurring on polling day; notwithstanding that any member or members continue in office pursuant to **section 18(5)**. 10

*Electors and elections***20 Qualification of electors**

- (1) Every person—
- (a) who is qualified as a residential elector of any territorial authority in respect of any address within the Trust district; and 15
  - (b) whose period of residence at the address referred to in **paragraph (a)** is part of a continuous period of residence within the Trust district that has equalled or exceeded one month,— 20
- is qualified as an elector of the Trust.
- (2) Where an election of members of the Trust is to be held, every person—
- (a) who resides in the Trust district on the Monday before polling day; and 25
  - (b) who would, if he or she continued to reside in the Trust district until the close of polling day, have continuously resided in the Trust district for a period equalling or exceeding 1 month,— 30
- is (whether or not that person continues to reside in the Trust district) to be deemed, for the purposes of **subsection (1)**, to have completed on that Monday a period of 1 month's continuous residence in the Trust district.

Compare: 1966 No 27(L) s 8; 1986 No 21 s 12; 1991 No 49 s 33; 1993 No 87 s 74(2)

**21 Qualification of members**

Subject to **section 23**, every person who is an elector is qualified to become a member.

Compare: 1966 No 27(L) s 8A; 1986 No 21 s 12

**22 Election of members**

- (1) An election of members must be held on the day appointed under the Local Elections and Polls Act 1976 for the holding of successive triennial general elections of members of local authorities. 5
- (2) At every election held under this Act the Returning Officer for the Masterton District is the Returning Officer for the Trust district.
- (3) The electoral rolls for the districts that are situated wholly or partly within the Trust district are the electoral rolls for elections under this Act. 10
- (4) It is the duty of the principal administrative officer of the local authority of every district situated either wholly or partly within the Trust district to indicate on the electoral roll for the district of that local authority, by appropriate words, abbreviations, or marks, the persons entitled to vote at elections of members of the Trust. 15
- (5) The poll at every election under this Act must be conducted within the district of every local authority situated wholly or partly within the Trust district by the Returning Officer for the local authority on behalf of the Returning Officer for the Trust district. 20
- (6) After ascertaining the total number of votes recorded in the district for each candidate, the Returning Officer for the local authority must forthwith send particulars of the numbers to the Returning Officer for the Trust district, who must add up the total number of votes received by each candidate and declare the result of the poll. 25
- (7) Subject to the provisions of this Act, the provisions of the Local Elections and Polls Act 1976 apply to every election under this Act. 30

Compare: 1966 No 27(L) s 9(1)–(6), (8); 1991 No 49 s 34

*Disqualification and extraordinary vacancies***23 Disqualification**

- (1) The following persons are not capable of being elected or appointed as a member of the Trust: 35
- (a) any person who is disqualified from election or appointment by section 112 of the Local Elections and Polls Act 1976:

- (b) any person who is convicted of any offence punishable by imprisonment for a term of 2 years or more, unless (in a case of a person seeking election or appointment) the person has obtained a pardon, or has served the sentence or otherwise suffered the penalty imposed: 5
- (c) any person who is, or is deemed to be, subject to a compulsory treatment order made under Part II of the Mental Health (Compulsory Assessment and Treatment) Act 1992:
- (d) any person who is a special patient or a restricted patient within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992. 10

Compare: 1966 No 27(L) s 10; 1986 No 21 s 12

## 24 Extraordinary vacancies

- (1) The office of a member becomes vacant and the vacancy is an extraordinary vacancy, if the member— 15
  - (a) dies; or
  - (b) resigns the office by writing under the member's hand delivered to the Secretary-Manager or Chairperson of the Trust, or is ousted from office; or 20
  - (c) is subject to a compulsory treatment order made under Part II of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
  - (d) is a special patient or a restricted patient within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or 25
  - (e) ceases to be an elector or becomes disqualified for registration as a residential elector in respect of an address within the Trust district; or
  - (f) is convicted of any offence punishable by imprisonment for a term of 2 years or more; or 30
  - (g) is absent without leave from 4 consecutive meetings of the Trust.
- (2) In any case to which **subsection (1)(f)** applies— 35
  - (a) the disqualification does not take effect until the expiration of the time for appealing against conviction and, in the event of an appeal against conviction, until the appeal is determined; and
  - (b) the member concerned is deemed to have been granted leave of absence until the expiration of that time, and is 40



not capable of acting as a member during the period of that leave of absence.

- (3) If any person does any act as a member after the person's office has become vacant under this section (other than under **subsection (1)(c) or subsection (1)(d)** the person commits an offence and is liable on summary conviction to a fine not exceeding \$300. 5

Compare: 1966 No 27(L) s 11; 1986 No 21 s 12

## 25 Filling of extraordinary vacancies

- (1) In the event of an extraordinary vacancy in the office of a member occurring more than 6 months before the date of the election at which a successor to that member is due to be elected under **section 19(1)**, the Trust must, by resolution, appoint a person qualified to be elected a member to fill the vacancy. 10 15
- (2) In the event of an extraordinary vacancy in the office of a member occurring less than 6 months before the date of the election at which a successor to that member is due to be elected under **section 19(1)**, the Trust may, by resolution, either appoint a person qualified to be elected a member to fill the vacancy, or determine that the vacancy not be filled by an appointment under this section. 20
- (3) Subject to **subsection (4)**, every person appointed by the Trust under this section is for all purposes deemed to have been elected to fill the vacancy. 25
- (4) Any person appointed to fill an extraordinary vacancy (other than an extraordinary vacancy to which **section 19(2)** applies) holds office only for the unexpired portion of the term of office of the member's predecessor.
- (5) Despite anything to the contrary in the Local Elections and Polls Act 1976, every resolution of the Trust under this section has effect according to its tenor. 30

Compare: 1966 No 27(L) s 12

### *Ouster of office*

## 26 Ouster of office 35

- (1) Upon proof by affidavit that a member is, or has become, or was at the date of appointment or election, incapable of holding his or her office under this Act, the District Court in the

Trust district, may call upon the person holding the office of member to show cause why he or she should not be adjudged to be ousted of the office.

- (2) If it appears to the Court that the person is or was incapable of holding office, the Court may adjudge that person to be ousted of office, and that person is ousted of office accordingly. 5
- (3) In any such proceedings the District Court may exercise all the powers and authorities which it may exercise in its ordinary jurisdiction in civil cases; and the procedure of the Court is, so far as applicable, to apply generally to the proceedings. 10
- (4) No matter in relation to a disputed appointment or election may be heard by a District Court under this section.
- (5) Where under this section a District Court adjudges that any member be ousted of his or her office,—
  - (a) the decision does not take effect until the expiration of the time for appealing against the decision and, in the event of an appeal against the decision, until the appeal is determined; and 15
  - (b) the person holding the office of member is deemed to have been granted leave of absence until the expiration of that time, and is not capable of acting as a member during the period of that leave of absence. 20
- (6) If any person does any act as a member while on leave of absence pursuant to **subsection (5)**, that person commits an offence and is liable on summary conviction to a fine not exceeding \$500. 25

Compare: 1966 No 27(L) s 13(1)–(4)

### *Chairperson and Deputy Chairperson*

#### **27 Chairperson**

- (1) At its first meeting after every triennial election of members, the Trust must elect 1 of its members to be the Chairperson of the Trust. 30
- (2) During the election of a Chairperson, the Secretary-Manager of the Trust is to preside at the meeting of the Trust. In the case of an equality of votes at any election of a Chairperson, the Secretary-Manager must determine the election by lot in such manner as the Trust directs. 35
- (3) The Chairperson comes into office when elected as Chairperson and, unless the officer sooner vacates the office, holds

office until the election of the Chairperson's successor, but may from time to time be re-elected.

- (4) The Chairperson may resign the office of Chairperson by writing under the Chairperson's hand delivered to the Secretary-Manager of the Trust; and in such case, or in the case of a Chairperson ceasing from any cause to be a member of the Trust, that office becomes vacant and the Secretary-Manager must forthwith convene a meeting of the Trust for the election of another Chairperson.

Compare: 1966 No 27(L) s 14

## 28 Deputy Chairperson

- (1) The Trust may from time to time appoint from among its members a Deputy Chairperson, who shall act as Chairperson of the Trust during the temporary absence or incapacity of the Chairperson.

- (2) While so acting, the Deputy Chairperson may do all acts that the Chairperson as such might do.

- (3) The fact that the Deputy Chairperson exercises any power, duty, or function of the Chairperson is sufficient evidence of the Deputy Chairperson's authority to do so; and no person is to be concerned to inquire whether any occasion has arisen requiring or authorising the Deputy Chairperson so to do, or be affected by notice that no such occasion has arisen.

Compare: 1966 No 27(L) s 15

## *Proceedings of Trust*

## 29 Proceedings of Trust

The provisions of **Schedule 2** have effect in relation to the Trust and its proceedings.

Compare: 1966 No 27 (L) ss 16–21

## *Transitional provisions*

## 30 Transitional provision in relation to members

- (1) Every person who, immediately before the coming into operation of this Act, holds office as a member of the body corporate constituted by the Masterton Trust Lands Act 1966 is, unless that member sooner vacates office under **section 24**, to continue to hold office as a member of the body corporate constituted by this Act.

- (2) The term of office of every member continued in office by **subsection (1)** expires, unless that member sooner vacates office under **section 24**, at the time at which it would have expired under this Act had that member been elected or appointed under this Act. 5
- Compare: 1966 No 27(L) s 7
- 31 Transitional provision in relation to Chairperson**  
The member holding office as Chairman of the Trust immediately before the coming into operation of this Act is, unless that member sooner vacates office, to hold office as Chairperson of the Trust until the election of a successor, but that member may be re-elected as Chairperson. 10
- 32 Transitional provision in relation to employees**  
Every person who, immediately before the coming into operation of this Act, is an employee of the Trust continues, subject to his or her contract of employment and this Act, to be an employee of the Trust. 15

*Consequential amendment*

- 33 Amendment to Local Authorities (Members' Interests) Act 1968** 20  
Part II of the First Schedule of the Local Authorities (Members' Interests) Act 1968 is amended by omitting the item relating to the Masterton Trust Lands Trust, and substituting the following item:
- "The Masterton Trust Lands Trust                      **2002, No 00** (Local)—The Masterton Trust Lands Act **2002**". 25

*Repeals and savings*

- 34 Repeals**  
The following enactments are repealed:
- (a) the Masterton Trust Lands Act 1966:
  - (b) so much of Part II of the Third Schedule of the Local Government Amendment Act 1985 as relates to the Masterton Trust Lands Act 1966: 30
  - (c) so much of the First Schedule of the Local Government Amendment Act 1986 as relates to the Masterton Trust Lands Act 1966:

- (d) sections 32 to 34 of the Local Government Amendment Act 1991.

### 35 Savings

- (1) All Proclamations, Orders in Council, regulations, offices, appointments, resolutions, agreements, leases, licences, lists, rolls, records, documents, and generally all acts of authority that originated under the Masterton Trust Lands Act 1966 and are subsisting or in force at the coming into operation of this Act enure for the purposes of this Act and accordingly are, where necessary, deemed to have originated under this Act. 5 10
- (2) Nothing in this Act limits the application of the Public Bodies Leases Act 1969 (as modified by the Masterton Trust Lands Act 1966) with respect to—
- (a) any lease or tenancy granted by the Trust before the commencement of this Act and current at the commencement of this Act; or 15
- (b) any lease or tenancy granted after the commencement of this Act in renewal of a lease or tenancy to which **paragraph (a)** applies.
- (3) All matters and proceedings commenced under the Masterton Trust Lands Act 1966, and pending or in progress at the coming into operation of this Act, may be continued, completed, and enforced under this Act and, in particular, all rights of borrowing accrued under the Masterton Trust Lands Act 1966 and not fully exhausted continue and may be exercised as though that Act had not been repealed. 20 25
- (4) Every reference to the Trust under the style of “The Masterton Trust Lands Trustees” in any Act, regulation, order, or bylaw, or, any agreement, deed, instrument, certificate of title, lease, licence, application, notice, or document whatsoever, is to continue to be read as a reference to the Trust under the style of “The Masterton Trust Lands Trust”. 30
-

## Schedule 1 Trust Lands

s 4

Area	Reference to Certificate of Title, Wellington Registry		Description	
	Volume	Folio		
3888 square metres	16B	498	3888 square metres, more or less, situate in the Masterton District, being Lot 4, Deeds Plan 137.	5
10.8699 hectares	40D	900	10.8699 hectares, more or less, situate in the Masterton District, being Lots 5,6,7, and 8, Deposited Plan 7702, part Lot 1, Deposited Plan 25355, and part Lot 1, Deposited Plan 10482.	10
3762 square metres	346	114Ltd	3762 square metres, more or less, situate in the Masterton District, being part of Lots 2 and 3 on Deeds Plan 96.	15
6012 square metres	442	29	6012 square metres, more or less, situate in the Masterton District, being part Lot 1, Deposited Plan No. 9945, and closed street.	20
3132 square metres	10B	983	3132 square metres, more or less, situate in the Masterton District, being Lots 1,2,3,6,7,8, and 9, Deposited Plan 10490.	25
4701 square metres	35B	681	4701 square metres, more or less, situate in the Masterton District, being Lot 4 and part Lot 5, Deposited Plan 10488, part Lots 4 and 5, Deposited Plan 13089.	30
4931 square metres	17B	613	4931 square metres, more or less, situate in the Masterton District, being Lot 1, Deposited Plan 45906.	35
5276 square metres	18D	923	5276 square metres, more or less, situate in the Masterton District, being Lot 1, Deposited Plan 48394.	40
4.3606 hectares	38D	369Bal	4.3606 hectares, more or less, situate in the Masterton District, being parts Section 185, Masterton Small Farm Settlement.	
6055 square metres	38B	550	6055 square metres, more or less, situate in the Masterton District, being Lot 4, Deposited Plan 69228.	45
4550 square metres	43B	653	4550 square metres, more or less, situate in the Masterton District, being part Lots 8 and 9 and Lots 10,11,12,13, and 14, Deposited Plan 10491.	50

Area	Reference to Certificate of Title, Wellington Registry		Description	
	Volume	Folio		
1451 square metres	F4	216	1451 square metres, more or less, situate in the Masterton District, being Lot 1, Deposited Plan 25593, part Lots 4 and 5 and the part marked "Right of Way", Deposited Plan 10491.	5
458 square metres	8C	310	458 square metres, more or less, situate in the Masterton District, being Lot 2, Deposited Plan 31818.	10
465 square metres	8C	309	465 square metres, more or less, situate in the Masterton District, being Lot 1, Deposited Plan 31818.	15
3263 square metres	D2	963	3263 square metres, more or less, situate in the Masterton District, being Lot 1, Deposited Plan 25645.	20
1.0641 hectares	16B	158	1.0641 hectares, more or less, situate in the Masterton District, being Lot 1, Deposited Plan 45232.	25
576 square metres	57C	809	576 square metres, more or less, situate in the Masterton District, being Lot 2, Deposited Plan 90153.	30
2436 square metres	57C	810	2436 square metres, more or less, situate in the Masterton District, being Lot 3, Deposited Plan 90153.	35
2033 square metres	660	91	2033 square metres, more or less, situate in the Masterton District, being Lot 5, Deposited Plan 10483.	40
4052 square metres	664	5	4052 square metres, more or less, situate in the Masterton District, being Lots 2, 3, and 4 of Lot C, Deposited Plan 1151, and Lots 1 and 2, Deposited Plan 10489.	45
1837 square metres	19C	269	1837 square metres, more or less, situate in the Masterton District, being Lot 1, Deposited Plan 47210.	50
1908 square metres	56A	103	1908 square metres, more or less, situate in the Masterton District, being Lots 5 and 7 of Lot B, Deposited Plan 1151.	55
1012 square metres	56A	104	1012 square metres, more or less, situate in the Masterton District, being Lot 9 of Lot B, Deposited Plan 1151.	
965 square metres	56A	105	965 square metres, more or less, situate in the Masterton District, being part Lot 11, of Lot B, Deposited Plan 1151.	

## Masterton Trust Lands

Schedule 1

Area	Reference to Certificate of Title, Wellington Registry		Description	
	Volume	Folio		
1588 square metres	56A	106	1588 square metres, more or less, situate in the Masterton District, being Lots 10 and 12 and part Lot 8 of Lot B, Deposited Plan 1151.	5
731 square metres	53C	455	731 square metres, more or less, situate in the Masterton District, being Lot 1, Deposited Plan 85803.	10
30 square metres	8A	316	30 square metres, more or less, situate in the Masterton District, being Lot 11, Deposited Plan 30602.	15
202 square metres	8A	315	202 square metres, more or less, situate in the Masterton District, being Lot 10, Deposited Plan 30602.	20
507 square metres	318	50	507 square metres, more or less, situate in the Masterton District, being part Section 9, Town of Masterton (Deposited Plan 6916).	25
1350 square metres	946	96	1350 square metres, more or less, situate in the Masterton District, Lot 2, Deposited Plan 21918.	
826 square metres	192	27Bal	826 square metres, more or less, situate in the Masterton District being part of Section 2, Town of Masterton.	30
2334 square metres	34C	418	2334 square metres, more or less, situate in the Masterton District, being Lot 1, Deposited Plan 66087.	35
7965 square metres	34C	421	7965 square metres, more or less, situate in the Masterton District, being Lots 1 and 2, Deposited Plan 16921, Lots 1,2,3, and 7, Deposited Plan 23982.	40
313 square metres	35B	675	313 square metres, more or less, situate in the Masterton District, being Lot 1, Deposited Plan 57812.	45
477 square metres	35B	676	477 square metres, more or less, situate in the Masterton District, being Lot 2, Deposited Plan 57812.	50
568 square metres	35B	677	568 square metres, more or less, situate in the Masterton District, being Lot 3, Deposited Plan 57812.	55
432 square metres	35B	678	432 square metres, more or less, situate in the Masterton District, being Lot 4, Deposited Plan 57812.	55



Area	Reference to Certificate of Title, Wellington Registry		Description	
	Volume	Folio		
313 square metres	35B	679	313 square metres, more or less, situate in the Masterton District, being Lot 5, Deposited Plan 57812.	5
298 square metres	35B	680	298 square metres, more or less, situate in the Masterton District, being Lot 6, Deposited Plan 57812.	10
129 square metres	27C	224	129 square metres, more or less, situate in the Masterton District, being Section 184, Masterton Small Farm Settlement.	15
671 square metres	16C	545	671 square metres, more or less, situate in the Masterton District, being Section 198, Masterton Small Farm Settlement.	20
124 square metres	55B	312	124 square metres, more or less, situate in the Masterton District, being part Section 125, Town of Masterton.	
56 square metres	55C	30	56 square metres, more or less, situate in the Masterton District, being Lot 1, Deposited Plan 87767.	25
1171 square metres	55C	31	1171 square metres, more or less, situate in the Masterton District, being part Lot 2, Deposited Plan 10486.	30
2179 square metres	41A	508	2179 square metres, more or less, situate in the Masterton District, being Lot 2, Deposited Plan 74295.	35
1268 square metres	41A	509	1268 square metres, more or less, situate in the Masterton District, being Lot 3, Deposited Plan 74295.	40
1078 square metres	41A	510	1078 square metres, more or less, situate in the Masterton District, being Lot 4, Deposited Plan 74295.	
500 square metres	13B	396	500 square metres, more or less, situate in the Masterton District, being Lot 1, Deposited Plan 41505.	45
5404 square metres	18C	1185	5404 square metres, more or less, situate in the Masterton District, being Lot 2, Deposited Plan 46677.	50
4478 square metres	18C	1186	4478 square metres, more or less, situate in the Masterton District, being Lot 3, Deposited Plan 46677.	55
3648 square metres	18C	1187	3648 square metres, more or less, situate in the Masterton District, being Lot 4, Deposited Plan 46677.	60

## Masterton Trust Lands

Schedule 1

Area	Reference to Certificate of Title, Wellington Registry		Description	
	Volume	Folio		
749 square metres	47A	618	749 square metres, more or less, situate in the Masterton District, being Lot 1, Deposited Plan 80483.	5
743 square metres	47A	619	743 square metres, more or less, situate in the Masterton District, being part Lot 2, Deposited Plan 10484.	10
1843 square metres	47A	620	1843 square metres, more or less, situate in the Masterton District, being part Lot 1, Deposited Plan 74295.	15
872 square metres	56A	785	872 square metres, more or less, situate in the Masterton District, being part Lot 1, Deposited Plan 10488.	20
4123 square metres	39C	616	4123 square metres, more or less, situate in the Masterton District, being Lot 1, Deposited Plan 10485.	
1005 square metres	39C	617	1005 square metres, more or less, situate in the Masterton District, being Lot 1, Deposited Plan 10582.	25
852 square metres	39C	618	852 square metres, more or less, situate in the Masterton District, being Lot 2, Deposited Plan 10582.	30
1910 square metres	39C	619	1910 square metres, more or less, situate in the Masterton District, being Lot 3, Deposited Plan 10582.	35
2471 square metres	F4	217	2471 square metres, more or less, situate in the Masterton District, being Lots 1,2,3 and 7, and part Lot 6, Deposited Plan 10491.	40
839 square metres	41D	335	839 square metres, more or less, situate in the Masterton District, being Lot 1, Deposited Plan 74730.	
1605 square metres	41D	336	1605 square metres, more or less, situate in the Masterton District, being Lot 2, Deposited Plan 74730.	45
1212 square metres	41D	337	1212 square metres, more or less, situate in the Masterton District, being Lot 3, Deposited Plan 74730.	50
1012 square metres	41	20	1012 square metres, more or less, situate in the Masterton District, being part Section 74, Town of Masterton.	55
367 square metres	280	146	367 square metres, more or less, situate in the Masterton District, being part Section 74, Town of Masterton.	60

Area	Reference to Certificate of Title, Wellington Registry		Description	
	Volume	Folio		
2437 square metres	20D	1133	2437 square metres, more or less, situate in the Masterton District, being Lot 1, Deposited Plan 51625.	5
941 square metres	20A	879	941 square metres, more or less, situate in the Masterton District, being Lot 1, Deposited Plan 49947.	10
2177 square metres	DI	856	2177 square metres, more or less, situate in the Masterton District, being Lots 4 and 5, Deposited Plan 23982.	15
890 square metres	408	289Ltd	890 square metres, more or less, situate in the Masterton District, being part Section 68, Town of Masterton.	20
1922 square metres	344	149Ltd	1922 square metres, more or less, situate in the Masterton District, being part Section 68, Town of Masterton.	
1032 square metres	344	150Ltd	1032 square metres, more or less, situate in the Masterton District, being part Section 68, Town of Masterton.	25
1275 square metres	503	208	1275 square metres, more or less, situate in Palmerston North City, being part of Section 800 of the Town of Palmerston North.	30
964 square metres	162	49	964 square metres, more or less, situate in Palmerston North City being part Lot 39, Deposited Plan 1487.	35

## Schedule 2

### Proceedings relating to Trust

s 29

#### 1 Meetings

- (1) Meetings of the Trust are to be held at such times and places as the Trust determines. 5
- (2) At all meetings of the Trust, the quorum necessary for the transaction of business is 5 members.
- (3) All questions arising at any meeting of the Trust must be decided by a majority of the votes cast by the members present at the meeting. 10
- (4) The Chairperson of the Trust is to preside at all meetings of the Trust at which the Chairperson is present. If the Chairperson and the Deputy Chairperson are absent, the members present must appoint 1 of their number to be chairperson of that meeting. 15
- (5) At any meeting of the Trust the Chairperson or other person presiding has a deliberative vote and, in the case of an equality of votes, also has a casting vote.
- (6) A resolution in writing signed, or assented to by letter, facsimile, or electronic message, by all members of the Trust is as valid and effectual as if it had been passed at a meeting of the Trust duly called and constituted. 20
- (7) Where—
- (a) there is held a telephone or video conference of at least 5 members of the Trust; and 25
  - (b) all reasonable efforts have been made to enable every member to participate in the conference; and
  - (c) a resolution is assented to by a majority of the members participating in the conference,—
- the resolution is as valid and effectual as if it had been passed at a meeting of the Trust duly called and constituted. 30
- (8) A minute of the proceedings at a meeting held under **subclause (7)** is sufficient evidence of those proceedings, and of the observance of all necessary formalities, if certified as a correct minute by the person presiding at the meeting. 35
- (9) Except as provided in this Act, the Trust may regulate its procedure at meetings in such manner as it thinks fit.

Compare: 1966 No 27 (L) s 16

## 2 Special meetings

- (1) A special meeting of the Trust may at any time be convened by the Chairperson, and the Chairperson must call a special meeting whenever requested to do so in writing by not less than 2 members of the Trust. 5
- (2) Not less than 7 clear days' notice of every special meeting must be given to each member for the time being in New Zealand.
- (3) The notice, which must be in writing, must specify— 10
- (a) the time and place of the meeting; and
  - (b) the business to be transacted at the meeting.
- (4) No business other than that specified in the notice may be transacted at the meeting.
- (5) The notice must be given to each member either— 15
- (a) personally; or
  - (b) by posting it in a letter addressed to the member at that member's last known place of residence in New Zealand.
- (6) If the notice is posted in accordance with **subclause (5)(b)**, then, in the absence of proof to the contrary, the notice is deemed to have been given to the member to whom the letter was addressed at the time at which the letter would be delivered in the ordinary course of post and, in proving the delivery, it is sufficient to prove that the letter was properly addressed and posted. 20  
25

## 3 Special resolution

- (1) The power given by this Act to do anything by special resolution may be exercised by the Trust only in accordance with **subclauses (2) to (9)**.
- (2) The resolution must be passed— 30
- (a) at a special meeting; or
  - (b) at any ordinary meeting if— 35
    - (i) notice of intention to consider the subject-matter of the resolution has been given to all the members of the Trust in writing at least 7 clear days before the date of the meeting; or
    - (ii) all the members of the Trust are present at the meeting and unanimously agree to discuss the subject-matter of the resolution.

- (3) The resolution must be confirmed at a subsequent meeting (either ordinary or special) held not later than the 70th day after the day of the meeting at which the resolution was passed.
- (4) A copy of the resolution to be confirmed must be deposited at the office of the Trust and must be open for inspection by the public during office hours at that office. 5
- (5) Public notice of—
- (a) the place, date, and time fixed for the subsequent meeting; and 10
- (b) the purport of the resolution and of the times when and the place where a copy of the resolution may be inspected,—
- must be given twice before the date of the subsequent meeting, the first such notice being given not less than 21 days before that date and the second being given not more than 14 nor less than 7 days before that date. 15
- (6) The public notice must call for any objectors who object to the resolution to state their objections in writing to the Trust not later than the day before the subsequent meeting. 20
- (7) The notice to the members of the subsequent meeting or the agenda for that meeting must specify the resolution to be confirmed, and that resolution must be confirmed by way of separate resolution and not as part of the approval of the minutes of the meeting at which the resolution was first passed. 25
- (8) The notice directed to be given by **subclause (7)** or, as the case may be, the inclusion in the agenda of the resolution to be confirmed or a statement containing its purport is sufficient even though the subsequent meeting may be a special meeting. 30
- (9) The Trust must, before confirming the special resolution, consider all objections or representations received pursuant to **subclause (6)**.
- (10) Notwithstanding anything in **subclauses (1) to (9)**, a confirming resolution may modify the resolution being confirmed to such extent as the Trust considers necessary by reason of any representations made to it before the date of the meeting at which the resolution to make the order is confirmed. 35

Compare: 1966 No 27 (L) s 17

40

**4 Management**

- (1) Subject to the provisions of this Act, the Trust may from time to time make regulations for the conduct of business and keeping of minutes for regulating the management of the property of the Trust, and generally for giving effect to the provisions of this Act. 5
- (2) The Trust may from time to time add to, amend, and revoke any regulations made under **subclause (1)** or any of them, and may from time to time make additional or substituted regulations for the purposes set out in that subclause. 10

Compare: 1966 No 27 (L) s 18

**5 Committees**

- (1) The Trust may establish committees so as to better carry out the purposes and functions of the Trust.
- (2) Sections 114P to 114R of the Local Government Act 1974 apply, with all necessary modifications, in respect of every such committee as if the Trust were a council within the meaning of that Act. 15

*Employees*

- 6 Employees** 20
- (1) The Trust may from time to time appoint a Secretary-Manager and such other employees (including acting or temporary or casual employees) as the Trust thinks necessary for the efficient performance and exercise of the functions and powers of the Trust. 25
- (2) Subject to the express or implied terms and conditions of employment and any legislation, the Trust may at any time terminate or suspend the employment of any of its employees.
- (3) Subject to any other Act, the Trust may pay the Secretary-Manager and its other employees, out of the funds of the Trust,— 30
- (a) such remuneration as it thinks fit; and
- (b) such allowances and expenses as it thinks fit, including travelling allowances and travelling expenses in respect of travel by the Secretary-manager or any other employee— 35
- (i) on the business of the Trust; or

- (ii) in respect of attendance by the Secretary-Manager or any other employee at any conference or meeting or any course of study of training that, in the opinion of the Trust, will render the Secretary-Manager or that employee better fitted to carry out his or her duties. 5

Compare: 1966 No 27 (L) s 20

## **7 Superannuation and retirement gratuities**

- (1) For the purpose of providing superannuation or retiring allowances for its employees, the Trust may, out of its funds, make payments to or subsidise any superannuation scheme which is registered under the Superannuation Schemes Act 1989. 10
- (2) The Trust is deemed to be a local authority for the purposes of section 6 of the Finance Act (No 2) 1941. 15

Compare: 1966 No 27 (L) s 21

## **8 Delegation of powers**

- (1) The provisions of sections 715 and 716 of the Local Government Act 1974 apply in respect of the powers under this Act of the Trust and its employees. 20
- (2) The provisions of sections 715 and 716 of the Local Government Act 1974 have effect with all necessary modifications and as if the Trust were a council within the meaning of that Act and each employee of the Trust were an officer of such a council. 25

### *General provisions*

## **9 Money to be paid into bank**

- (1) All money belonging to the Trust must, within 7 days after it has been received by the proper officer of the Trust, be paid into the account of the Trust at such registered bank within the meaning of the Reserve Bank of New Zealand Act 1989 as the Trust from time to time appoints. 30
- (2) No money may be withdrawn from the bank except by authority of the Trust and in such manner as the Trust from time to time directs. 35

Compare: 1966 No 27 (L) s 42



**10 Accounts**

The Trust must keep at all times proper financial records recording the financial affairs and transactions of the Trust.

Compare: 1966 No 27 (L) s 43(1)

**11 Annual accounts**

5

- (1) As soon as practicable after the end of every financial year, the Trust must cause to be prepared financial statements giving a true and fair view of the financial affairs of the Trust for the financial year, and such statements must be presented in a fashion according with the standards of generally accepted good accounting practice. 10
- (2) In each year the financial statements of the Trust must be audited by an auditor appointed for the purpose by the Trust, being a person or firm qualified for appointment as auditor of a company under the Companies Act 1993 and not being a member of the Trust or an employee or agent of the Trust. 15
- (3) The auditor must report to the Trust.
- (4) The auditor must return the financial statements to the Trust with all reasonable speed with a certificate and report written and signed thereon. 20
- (5) The financial statements, bearing the certificate and report, must thereupon be printed, and a copy thereof as so printed must be deposited in the office of the Trust.
- (6) That copy must be available for inspection by any elector during ordinary office hours free of charge at any time up to the date of the holding of the annual meeting of electors. 25
- (7) The Trust must furnish a copy of the financial statements as so printed to any elector requiring the same.
- (8) Public notice must be given that the financial statements have been ordered and printed and are available as aforesaid. 30

Compare: 1966 No 27 (L) s 44

**12 Annual meeting**

- (1) The Trust must in each year call an annual meeting of electors to be held not later than 5 months after the balance date of the Trust. 35
- (2) The Trust must give not less than 7 clear days public notice of the time and place appointed for the holding of the annual meeting.

- (3) At the annual meeting the Chairperson of the Trust or, in his or her absence, the Deputy Chairperson, must preside. If neither the Chairperson nor the Deputy Chairperson is present at the meeting, a member of the Trust appointed by the Trustees must preside. 5
- (4) At the annual meeting the annual report and financial statements for the preceding financial year must be submitted.  
Compare: 1966 No 27 (L) s 45
- 13 Unauthorised expenditure** 10  
The Trust may, in every financial year, expend out of the income of the Trust for purposes not authorised by any other provision of this Act or by any other Act, any sum or sums not exceeding in the aggregate 2% of the gross rentals derived during that financial year from the Trust lands.  
Compare: 1966 No 27 (L) s 46 15
- 14 Indemnity of members of Trust**  
No member—
- (a) is personally liable for any act done or omitted by the Trust, or by any member of the Trust in good faith in the course of the operations of the Trust; or 20
- (b) is answerable for the act of any other member; or
- (c) is answerable for any loss that may arise by reason of any money of the Trust being deposited in any bank, or in the hands of any agent or employee of the Trust; or
- (d) is answerable for any loss in the execution of any of the trusts or powers declared in this Act,— 25  
unless the same happens through the wilful neglect or default of the member.  
Compare: 1966 No 27(L) s 48
- 15 Validity of proceedings** 30  
No act or proceeding of the Trust, or of any person acting as a member of the Trust, is invalidated in consequence of there being a vacancy in the membership of the Trust at the time of the act or proceeding, or of the subsequent discovery that there was some defect with regard to the election of any member of the Trust or of any person so acting or that he or she was or had become disqualified. 35  
Compare: 1966 No 27(L) s 19

**16 Use of common seal**

- (1) The common seal of the Trust may not be affixed to any document except pursuant to a resolution of the Trust.
- (2) The execution of any document sealed with the seal of the Trust must be attested—
  - (a) by 2 members of the Trust; or
  - (b) by the Secretary-Manager of the Trust and 1 member of the Trust.

5