

INTRODUCTION

This by-election covers the extraordinary vacancy for one member of the Ashburton Licensing Trust. The extraordinary vacancy has arisen from the recent resignation of Mr James Lischner.

A full candidate handbook was produced for the recently concluded 2016 local body elections. A base description of the role of a member, the remuneration levels, meeting frequency etc are included in this information sheet. Details about campaigning requirements, electoral offences etc are included in the 2016 local body election handbook. A copy of that handbook is available by request from the election helpline on 0800 666 029. It can also be viewed online at: www.ashburtontrust.co.nz

ELECTORAL OFFICER DETAILS

The Electoral Officer for this by-election is Anthony Morton. Anthony is based in Christchurch and works for election management company electionz.com Ltd. The Electoral Officer can be contacted by: Phone 0800 666 029 or email iro@electionz.com.

Angela Trott will be the contact person in the Trust office handling by-election enquiries and administration. Angela can be contacted by phone on (03) 307 5911 or email to angela@ashtrust.co.nz

SUMMARISED BY-ELECTION TIMETABLE

Tuesday 6 June 2017	Public Notice of By-election NOMINATIONS OPEN PRELIM ROLL OPEN FOR INSPECTION
Tuesday 4 July 2017	NOMINATIONS CLOSE (NOON) PRELIM ELECTORAL ROLL CLOSURES
ASAP after Tuesday 4 July 2017	Further public notice of By-election
IF ELECTION REQUIRED	
Tuesday 8 August 2017	DELIVERY OF VOTING DOCUMENTS COMMENCES Progressive roll scrutiny Early processing period starts Special voting period starts
Tuesday 29 August 2017	Last day to appoint scrutineers (noon)
Wednesday 30 August 2017	ELECTION DAY Voting closes noon – counting commences Preliminary results available as soon as practicable
By Monday 4 September 2017	Official declaration
By Monday 4 September 2017	Public notice of declaration of results
By Monday 30 October 2017	Return of electoral expense forms

ROLE OF ELECTED MEMBERS

Board Member Duties

The Ashburton Licensing Trust (ALT) is a community owned business that operates in the property/hospitality industry within the Ashburton District. This area is defined by boundary lines drawn on historic parliamentary electorate boundaries. In broad terms, it embraces the Ashburton District territorial area excluding a strip from Methven through Rokeby, Rakaia, Chertsey and Dorie to the coast.

Following the result of the 2004 community vote the Trust's historic trading position changed and as a consequence, the Trust can own and trade in businesses outside its geographical boundaries.

If elected as a member of the Ashburton Licensing Trust Board, you are entitled to a present fee of \$280 less Withholding Tax for every official

meeting. An official meeting is deemed to be a meeting where minutes are kept. The President, who is elected by the members of the Board, receives a present honorarium of \$20,000. The fees are prescribed by the Licensing Trust Act.

Meetings are presently held on a monthly basis, normally on the third Thursday with a commencement time of 4:30pm. There may be need, from time to time, to address issues outside this time frame and notice of an additional meeting will be communicated in due course.

As a public entity, the Trust is subject to public audit requirements. The Auditor General or agent must annually provide an audit certificate. This ensures robust policies and financial and management systems are in place as well as placing transparency and accountability on Board members.

The Trust, as a community owned business rewards its owners (the Ashburton District community as outlined by the geographical area outlined above) by way of distributing to community projects or causes.

If elected to the ALT Board you will also automatically (unless you decline to do so) become involved with the Lion Foundation's Net Proceeds Committee (NPC). The Lion Foundation Net Proceeds Committee ensures that all profits derived from the proceeds of gaming machines operated by the Lion Foundation in the Ashburton area are made to the various organisations, clubs events etc in accordance with the Lion Foundation 2008 Trust deed and NPC Committee policy but always subject to Government policy as specified in the Gambling Act 2003. No fees are paid to members for their contributions to NPC activities.

In May 2007, the Ashburton Licensing Trust established a further charitable entity- Braided Rivers Trust. The objective of this Trust is to 'ring-fence' some ALT assets and in the medium and longer term to provide another source of community funding. Braided Rivers Trust owns two subsidiary charitable companies namely Braided Rivers Limited- established to develop the Hotel Ashburton's subdivision, and Somerset Ashburton Limited which developed the new building on the Somerset Hotel site.

As a Board Member of the ALT, you will be automatically be appointed a Trustee of the Braided Rivers Trust and be appointed a Director on the Boards of Braided Rivers Limited and Somerset Ashburton Limited. You retain the right to decline to be a Trustee or Director of either or both companies should you so wish. As these are regarded as charitable entities, no fees are presently paid to Directors.

Since the result of the 2004 community vote, much greater commercial pressure has been placed on ALT activities. This has resulted in the elected members becoming, in essence, the Board of Directors of the Trust's trading and business operation. If elected, it may possibly be your first role as a 'company Director'.

A set of guidelines is outlined below to assist you.

In addition to the Licensing Trust Act, there are many other duties and responsibilities placed on Directors as a result of important legislation. The legislation includes, but is not limited to, The Income Tax Assessment Act, the Trade Practices Act and the Resource Management Act. This is in addition to The Employment Act and associated OSH and ACC requirements. It is highly recommended that Directors should consider seeking specialist advice in responding to legislative obligations.

Members must act honestly, or to put it another way, in good faith, and in the best interests of the Trust. In this context, the Trust means the shareholders or members as a whole. No special consideration should be given to any particular interest group of the Trustees or other stakeholders unless there is general agreement amongst the Trustees (members) to that effect. This is both a general law duty as well as a statutory duty. (The Courts have repeatedly confirmed that Directors owe their duty to the company as a whole and not to any particular interests or group of shareholders). *Note: This contrasts with an earlier belief when elected Trust Board Members believed that they had a responsibility to a particular constituency within the electors. No such sectional interests or influences can be allowed in today's environment.* Members must use the powers vested in them properly and for the best interests of the Trust.

They cannot allow a conflict of duty and interest to arise. Conflicts can arise not merely because Members choose to further their own interests at the expense of the Trust, but also if they favour outside interests at the expense of the interests of the Trust. Where there is potential conflict in legitimate business dealings between the company and a member in a personal capacity, The Member must withdraw from the decision making process. Conflicts of interest are a particularly sensitive issue and one which is attracting a great deal of focus during the audit process. Members must not use their position for their own or a third party's possible advantage (or to the possible detriment of the Trust) unless this course of action is consented to by the Trust. This consent can only be given after full disclosure of all the relevant facts have been made to the Trust and the affected Member(s) have withdrawn from the decision making process. The law can require the Members to account to it for any gain made from the relevant authority.

Members must not use confidential information obtained by them in their capacity as Members improperly, unless, of course, consent in the same terms as the previous rule is provided by the Trust. This rule prohibits Members from disseminating such information to outsiders unless they are given permission by the Trust to do so. This obligation to confidentiality overrides any perceived sectional obligation individual Members may believe they have to individuals or groups.

Members must exercise their powers with appropriate care and diligence that is reasonable in all of the circumstances. Some organisations have introduced an important safe harbour for Members known commonly as the 'business judgment rule' which can excuse Members from liability in relation to a transaction/action.

If members can demonstrate their decisions are made in:

- (a) good faith
- (b) they have no personal interest in the subject matter of the relevant decision, they appropriately inform themselves about the relevant subject matter
- (c) rationally believe that the decision is taken in the best interests of the Trust.

then this can be referred to as a business judgement.

In all of their activities, the Members of course may rely on, and often do rely on, the expertise of financial and other employees of the Trust. Members are entitled to seek information in relation to the Trust's activities and business decisions. These requests should be made at Board meetings and care needs to be exercised when seeking information that the governance / management roles are not compromised. The information is provided to Members on the basis understanding that they will keep the information confidential and will not disseminate it to the public either verbally or through the printed or electronic press. Any dispute or difference of opinion between Members should be raised with the Board and debated by the Board in a full meeting environment.

CANDIDATE PROFILE STATEMENT AND PHOTO REQUIREMENTS

The Local Electoral Act allows for candidate profile statements (CPS) to be provided by each candidate with the nomination paper. If an election is required these are then collated by the Electoral Officer and forwarded to electors in a sheet or booklet with the voting papers. Refer also to the notes listed in Appendix 1 of the Candidate Handbook.

Candidate profile statements are limited to 150 words and should be provided electronically via e-mail or on a CD or other digital media storage device, as a MS Word document that has been spell checked.

Candidate profile statements are governed by Sections 61 and 62 of the Act. Profiles must be provided at the same time as the nomination document, but should also be emailed to nominations@electionz.com

CANDIDATE PHOTOS

Candidates may also submit a photograph for inclusion with the candidate profile statement in the sheet to accompany the voting papers. Photos must be recent (taken within the last 6 months), be submitted in JPEG format and be provided on CD/digital media storage device or hard copy format at the same time as the candidate profile statement (and nomination paper), but should also be emailed to nominations@electionz.com with the profile statement.

Note: The onus is on the candidate to ensure that all nomination documents including the profile and photo are submitted to the Electoral Officer by 12 noon on Tuesday 4 July 2017.

CANDIDATE ELIGIBILITY

Full eligibility criteria for this by-election are detailed on the reverse of the nomination form. In summary, candidates must reside within the Ashburton Licensing Trust area, must be a NZ citizen and enrolled as a parliamentary elector somewhere in New Zealand and be nominated by two electors within the Ashburton Licensing Trust area.

CAMPAIGNING

Full details on the limitations associated with campaigning for this by-election are listed in the handbook. All candidates should refer to the handbook to familiarise themselves with those restrictions. The following is a summary of the main criteria to be aware of:

1. Campaigning can commence anytime but must cease by the close of voting day, i.e. 12 noon Wednesday 30 August 2017.
2. No election material can contain any untrue statement defamatory of any candidate and calculated to influence the vote of any elector or include an imitation voting paper which has the names of the candidates with any direction or indication as to the candidate a person should vote for, or in any way contains such direction or indication likely to influence the voter.

ELECTION ADVERTISING

Election advertising, using any media, must identify the person under whose authority they have been produced, as per Sections 113-115 of the Local Electoral Act 2001.

This means that for hoardings, posters and adverts etc, each candidate must have a sentence at the bottom saying that it is authorised by the candidate (or their agent), i.e. "Authorised by Bill Citizen, 20 Main St, Sampletown." Please note that the address listed must be a physical address i.e. it cannot be a PO Box or rural delivery number.

ELECTION HOARDINGS

Further details on the election signage requirements are listed in the 2016 Candidate Handbook. Any candidate intending to use election hoardings as part of their campaign strategy is encouraged to contact the Ashburton District Council Planning Department on (03) 307 7700.

CAMPAIGNING EXPENDITURE LIMITS

At the end of the election period, all candidates are required to submit to the Electoral Officer a summary of donations received and expenditure made on campaigning for the by-election. For this by-election the total election expenses must not exceed \$14,000 (inclusive of GST).

LODGE MENT OF NOMINATION FORMS

Completed nomination forms for this by-election must be lodged at the Ashburton Licensing Trust office, Level 2, Somerset House, Cnr East & Burnett Streets, Ashburton on or before midday on Tuesday 4 July 2017. Please note the Trust's office hours are 9am to 3pm Monday to Thursday.

Along with the nomination form, each candidate must also:

- Pay the \$200 (inclusive of GST) election deposit
- Submit the candidate profile statement of up to 150 words to be used for this by-election
- Submit the photo to be used for this by-election.

Election Helpline 0800 666 029

TERM OF OFFICE

The successful candidate at this by-election will hold office until the next triennial local body elections in 2019.