

21 May 2021

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Ref: 100414205/8410545.11

Dear TECT Consumer

TECT – NOTICE OF COURT APPLICATION NOTICE OF THE TRUSTEES’ APPLICATION TO THE HIGH COURT

Chapman Tripp acts for the TECT Trustees.

As a Consumer of TECT, you will be aware of the TECT Trustees’ proposal to change TECT’s structure. On 18 February 2021, TECT put forward a proposal for consultation that outlined those proposed changes. The Trustees sought your views on the proposed new structure for TECT.

The Trustees have considered all the feedback received during the consultation process, and have unanimously resolved to proceed with the changes. The letter that accompanies this notice sets out a summary of the changes.

The Trustees explained during consultation that any changes proposed will be reviewed by the High Court, which will be asked to endorse the proposal and process. To that effect, on 14 May 2021, the Trustees filed an application in the Tauranga High Court seeking orders under section 133 of the Trusts Act 2019 that it is lawful and proper for the Trustees to implement the proposed changes to TECT.

The Trustees also made an interlocutory application for orders from the Court about how this proceeding should be served on interested parties including Consumers, and to seek a direction appointing Independent Counsel. The Court made those orders on 19 May 2021.

You are receiving this notice because you have an interest in the orders being sought from the Court. You have a right to access the Court documents. You have the right to participate in the High Court process and have your views heard, including by formally opposing the application should you wish to do so. Consumers wishing to participate in the High Court process are encouraged to seek legal advice.

Accessing the Court documents

You can access the Court documents in the following ways:

- by accessing or viewing the documents at: www.tect.org.nz
- by visiting the TECT office in person at The Collective, 145 17th Avenue, Tauranga
- by requesting a copy of the Court documents by:
 - emailing info@tect.org.nz



- calling 07 578 5094
- writing to TECT at The Collective, DX Box HP40007, Tauranga 3112

Representation – independent counsel

The Trustees considered it appropriate to seek orders appointing an Independent Counsel in this proceeding, and the High Court has appointed Jane Anderson QC as Independent Counsel. Ms Anderson's role as Independent Counsel is to assist the Court, rather than acting for any Consumer, by ensuring that a complete and balanced view is before the Court when determining this proceeding, including any relevant information and/or legal arguments in opposition to the orders sought by the Trustees. That is, to the extent Ms Anderson considers it appropriate in order to fulfil the independent counsel role, the information put before the Court may identify, for the Court's benefit, perspectives that contradict the Trustees' position that the proposed changes to TECT are lawful and proper exercises of their powers.

Ms Anderson has been provided with publicly available information about TECT and the Trustees' proposal, including the Trust Deed, notice of the proposal and Consumer Information Memorandum, and a complete set of written submissions received during the consultation process. Ms Anderson will receive all documents filed in the Court proceeding.

Ms Anderson's role as Independent Counsel requires her to form her own view about the information and arguments that she should present to the Court. In forming that view, Ms Anderson will have regard to Consumers' views opposing the proposed changes, as set out in their written and verbal submissions. Ms Anderson is not, however, instructed to represent any particular Consumer or group of Consumers, or advance every possible ground of opposition made during the consultation process.

Independent legal advice

As we have said, Chapman Tripp acts for the Trustees of TECT. Chapman Tripp does not act for any Consumer or group of Consumers. You are entitled to appoint your own lawyers to take steps in this proceeding on your behalf if you wish to do so. A company or other corporation that wants to take steps in this proceeding or appear at any hearing must consult a solicitor immediately because:

- it can only carry on a proceeding in the court by a solicitor; and
- it cannot appear to conduct a proceeding except by counsel (unless there are exceptional circumstances).

If you cannot afford to meet the cost of taking steps in the proceeding, you may be entitled to assistance under the Legal Services Act 2011 and regulations made under that Act. The plaintiffs are not in receipt of legal aid for the purposes of this proceeding.

If you do instruct a lawyer to act in this matter, Chapman Tripp will communicate directly with that lawyer / law firm.

Key dates

The Court has directed a full day hearing in the Tauranga High Court to hear the Trustees' application for orders approving the changes to TECT. The exact date has yet to be set. It



will be the first available date after 20 September 2021. The hearing date will be notified on TECT's website.

If you wish to oppose the Trustees' application, you must file in the Tauranga High Court a notice of appearance or a statement of defence and any affidavit(s) by 2 July 2021. Note that the registry hours of the court are from 9 am to 5 pm, except on court holidays.

Any documents you file in the Tauranga High Court must also be served on TECT by emailing the documents to both of michael.arthur@chapmantripp.com and liora.bercovitch@chapmantripp.com. Provided that the documents are served by email, documents may also be:

- posted to Chapman Tripp at PO BOX 2206, Shortland Street, Auckland 1140; or
- hand delivered to Level 34 PwC Tower, 15 Customs Street West, Auckland 1010; or
- posted or hand delivered to the TECT office at The Kollektive, 145 17th Avenue, Tauranga.

The Trustees must then file and serve any further evidence by 23 August 2021.

Yours sincerely

Michael Arthur
Partner