



TRUST WAIKATO
TE PUNA O WAIKATO

10 June 2016

Email submission to societies@mbie.govt.nz.

Ministry for Business, Innovation and Employment
WELLINGTON

Dear Sir or Madam,

Submission on the Incorporated Societies Bill Exposure Draft

Trust Waikato wishes to make a submission the Incorporated Societies Bill Exposure Draft. This submission was approved following the Trust's 9 June 2016 meeting and has been duly authorised by the Chair and Chief Executive on behalf of Trust Waikato.

1 Trust Waikato (the Waikato Community Trust)

Trust Waikato was established by government statute in 1988 to hold the shares of Trust Bank Waikato. These shares were sold in 1996 and the Trust now holds a range of international and domestic investments. Each year the Trust distributes a percentage of its profits generated from the global investment portfolio.

Trust Waikato's purpose is to help organisations carry out charitable, cultural, philanthropic and recreational projects of benefit to people in the Greater Waikato. Our funding area includes the districts of Thames/Coromandel, Hauraki, Matamata Piako, Waipa, Waikato, South Waikato, Waitomo, Otorohanga, Ruapehu and Hamilton city.

Our vision is for resilient and vibrant communities and, since 1989, the Trust has donated over \$160million dollars to the greater Waikato community.

Our strategic areas of focus support our aims of investing wisely and donating effectively.

We focus on projects, programmes and organisations which contribute to the well-being of communities. We've traditionally had funding priorities around increasing participation in community activities; youth development; preserving our history and cultural identity and encouraging groups to work together and to share facilities for community benefit. We also have a particular focus on working with Maori, Pacific peoples and ethnic communities and their supporters.

As a funder, our interest is in having well-governed organisations. One of our key areas of focus is 'strengthening community groups'. We recognise that great work in the community requires strong and viable organisations.

invest
wisely

The Waikato Community Trust (Inc), 2 London Street, PO Box 391, Hamilton 3240
Tel 07 838 2660 Fax 07 838 2661 Freephone 0800 436 628 Email twinfo@trustwaikato.co.nz

Apply online at www.trustwaikato.co.nz

donate
effectively

The Trust does fund the management and operational infrastructure of groups. We work alongside organisations to improve their capacity and sustainability. We encourage groups to use accountability and evaluation as a platform for learning. We would therefore support the establishment of minimum standards or requirements across a range of organisations to support good governance, without over-burdening the smaller or under-resourced groups.

Trust Waikato is a member of the Combined Community Trusts of New Zealand and Philanthropy New Zealand (PNZ).

2 Participation in Consultative Seminar

Thank you for arranging the Consultative Seminar on 30 March 2016, in Hamilton, with representatives of Hui E! Community Aotearoa, the Ministry of Business, Innovation and Employment (MBIE) and the Department of Internal Affairs (DIA). In preparing our written submission we have taken note of the discussion and information shared at this hui, which was attended by Trust Waikato staff.

3 Trust Waikato's comments on the exposure draft

In 2011, Trust Waikato submitted on the Law Commission's Issues Paper.

We agreed with other commentators at the time that the three main problems with the 1908 Act are: a lack of clarity about officers' obligations, that the statute says little about dispute resolution, and that much of what is legally necessary for the running of incorporated societies is also not set out in the Act.

It is pleasing to see that "The main purpose of the draft Bill is to remove uncertainty about those matters."

Trust Waikato acknowledges that the Exposure Draft explains the five main characteristics of an incorporated society, sets out the duties of officers, procedures for resolving conflicts, and brings up to date the financial reporting requirements.

We agree with the Ministry's statement that "...the most important additions are:

- Clauses 48-55 relating to officers' duties – Officers of incorporated societies already have duties under the common law. Clauses 48-55 are aimed at being clear about what those duties are and to whom they are owed.
- Clauses 56-65 relating to conflicts of interest – There is nothing about conflicts of interest in the 1908 Act. The purpose of these provisions is to define a conflict of interest is, and make it clear what an officer needs to do if his or her duties of loyalty to the society come into conflict with a competing personal interest.
- Clauses 31-32 and Schedule 2 relating to dispute resolution – Whether they realise it or not, all societies already have obligations under the common law to resolve, or participate in the resolution of disputes or grievances that may arise within their society. The main aim with Schedule 2 is to provide a set of simple rules for resolving disputes fairly."

Many of the points Trust Waikato raised in its 2011 submission have been covered by the proposed changes to the Act. Examples include:

- That the distribution of assets to members on the dissolution of a society should not be allowed.
- Society rules should include... a procedure for resolving disputes... a process by which committee members must disclose conflicts of interest...

It is also pleasing to see that the Trust's requests for 'a phase-in period' and providing 'resources to assist societies to make the transition' have been included in the upcoming process. The decision to have standard provisions for constitutions set by the Registrar (if the society is unable to complete this by 2022), rather than having a model constitution, or a default set of rules, in the regulations is sensible, because of the huge variety and diversity of associations.

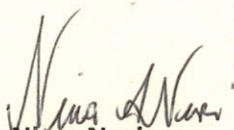
We do note, however, that the minimum number of members of a society has been reduced to 10 (from 15). Our suggestion (in our 2011 submission) that there should be a requirement for a governance committee (to be appointed by the membership) therefore becomes even more critical. This appears to be well-covered in Clauses 48-53, which describes the officers' duties and responsibilities in detail.

Although Trust Waikato is generally in support of the proposed new Act, we continue to be mindful of the increasing burden of compliance placed on the non-profit sector through a number of recent changes in legislation. This adds to the 'cost of accountability' for a sector which contributes much to New Zealand society, yet is often under-valued and under-resourced.

Thank you for the opportunity to make these comments. Trust Waikato understands that MBIE intends to publish all submissions on its website, other than submissions that may be defamatory, and we confirm that we have no objection to the release of any information contained in our submission.

Please contact our Chief Executive if you wish to discuss any matter raised in this letter.

Yours sincerely


Niwa Nuri
Chair


Dennis Turton
Chief Executive
dennis@trustwaikato.co.nz