

**About the petition / referendum**

1. Does WLT/PLT have a preference between these two options (and if so, please provide the reasons):
  - a. competition poll (ref s349 Sale & Supply of Alcohol Act 2012)
  - b. conversion to community trust (ref s356 Sale & Supply of Alcohol Act 2012)

**RESPONSE SENT BY SIMON WICKHAM 08/06/18**

With regard to item 1(a) and (b), this is not a request for information under LGOIMA. It is a matter which the Trusts have not formulated a position on.

**RESPONSE CONSIDERED SATISFACTORY => YES**

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2. What are WLT / PLT's requirements for a petition (ref s349 / 356 Sale & Supply of Alcohol Act 2012)?

**CLARIFICATION REQUESTED BY SIMON WICKHAM 25/05/18**

- i. We cannot give you legal advice under section 349 and 356. However, if you request could be clarified on this matter, we can review it.

**CLARIFICATION SENT BY NICK SMALE 28/05/18**

My request seeks any information held by The Trusts (PLT/WLT/WATS) relating to the requirements for a petition (a request for a competition/conversion poll: s349/s356 S&SoA Act 2012). This may take the form of (but not limited to) documents such as any relevant business processes, guidance notes, memorandums, legal advice or communications from other entities (such as ARLA, other licensing trusts, NZ Licensing Trusts Association or others).

In essence, I recognise that The Trusts are not in a position to provide legal advice regarding the interpretation of the S&SoA Act or Regulations. However, should The Trusts currently hold any information that clarifies the requirements of the Act or Regulations in relation to a petition; we would like to be privy to that information.

**RESPONSE SENT BY SIMON WICKHAM 08/06/18**

With regard to item 2, this is not a request for information under LGOIMA. As you have noted the Sale and Supply of Alcohol Act 2012 (**the Act**) sets out the process for a petition. I note you have referred to other organisations in your clarification of 28 May; you may wish to contact those organisations for information.

**RESPONSE CONSIDERED SATISFACTORY => NO.**

This is a request for information held by PLT/WLT/WATS Ltd. If no such information is held; that should simply be stated.

3. What is WLT / PLT's policy in regard to privacy of petitioners' details?

**RESPONSE SENT BY SIMON WICKHAM 08/06/18**

With regard to item 3, this is not a request for information under LGOIMA. The Trusts have no information with regard to the privacy of petitioners. The Trusts position is that they would comply with the law.

**RESPONSE CONSIDERED SATISFACTORY => YES**

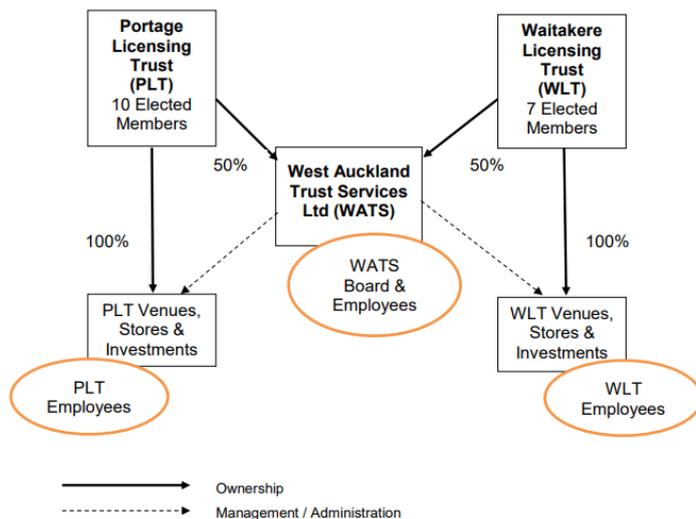
**About Waitakere and Portage Licensing Trusts (WLT/PLT)**

4. Please provide an organisation chart for WLT / PLT

**RESPONSE SENT BY SIMON WICKHAM 08/06/18**

Item 4 of your request relates to the organisational chart of the Trusts. The Trusts do not have an organisational chart as they do not employ any persons. The Trusts established West Auckland Trust Services Limited (WATS) in order to efficiently run the operations of the Trusts. The Trusts each own their own assets and elected members govern each of the Trusts. Item "NSI\_Items 1 and 4\_PLT\_WLT\_WATS Relationship Structure" sets out the structural arrangement that you have requested.

**PLT / WLT / WATS OWNERSHIP STRUCTURE**



**RESPONSE CONSIDERED SATISFACTORY => No.**

The request was for an organisation chart (showing the relationships between employees within the organisations). I did not make a request for the structural arrangement; though I accept that the term 'organisation chart' could be interpreted to mean a legal entity structure diagram. However, given that the response first refers to employees, I infer that the request was interpreted as intended.

The information provided is contradictory. The text in the letter states that The Trusts (presumably referring to the WLT and PLT) "do not employ any persons". Yet the diagram attached (shown above) indicates that there are PLT employees and WLT employees.

5. Please provide itemised lists of the following, showing (separately): costs / amounts distributed / associated promotion costs
- a. grants, donations and scholarships (L5Y)
  - b. sponsorships (L5Y)
  - c. household items gifted (L5Y)
  - d. alcohol harm reduction initiatives undertaken or supported (L5Y)
  - e. any other activity WLT/PLT consider community support (L5Y)

**CLARIFICATION REQUESTED BY SIMON WICKHAM 25/05/18**

- b. Under the heading 5(a)-(e): you have requested the last five (5) years of financial statements. The last year is freely available online ( <https://www.thetrusts.co.nz/how-we-do-things/#1509334116310-3b67b4ef-ff26>); we are able to provide you the information relating to the preceding 4 years that you have requested.
- i. However, your request at (a) to (e) requires substantial collation and review.
  - ii. Can you please identify what information you would like and why you cannot obtain that information directly from the financial statements? We are not able to provide a breakdown beyond that which is in the financial statements.
  - iii. However, if you would like to clarify your request once we provide you with the financial statements, we are happy to review this again. I am also happy to sit with you and go through the information if that might assist.

**CLARIFICATION SENT BY NICK SMALE 28/05/18**

I did not request copies of the financial statements for PLT/WLT. The requests under the heading 5(a)-(e) relate to further details which were not provided in those financial statements. In essence, the request seeks information regarding 'Giving Back' - more specifically the amounts given back in a number of categories (as well as the amounts spent promoting those).

- i) I understand that you are able to charge me a reasonable amount for preparing information for release. If there is substantial effort involved, I am happy to discuss how we can get the information I have requested more efficiently. I certainly don't want to waste anyone's time, effort or money. If an alternative categorisation is more easily available (perhaps one which aligns better with your chart of accounts), I would certainly be open to discussing that. Please also note, I would argue that releasing this information is in the public interest as it facilitates public participation in decision making.
- ii) The requested information is not contained in the financial statements. I believe the original request is sufficiently specific. I do not accept that further details beyond those contained in the financial statements cannot be provided.
- iii) N/A - see above

**RESPONSE SENT BY SIMON WICKHAM 08/06/18**

Item 5 of your request relates to a breakdown of financial information. In your clarification request of 28 May you have suggested this information is not in the financial statements. The Trusts considers this information is contained in each of the Trusts statements. This information is provided as Item "NS2\_Item 5\_WLT and PLT FS". This information is for the 2014-2017 years. The 2017/18 financial statements are now being prepared. The financial year was only concluded on 31 March 2018. We are happy to provide these to you as soon they are available. For assistance, I have also included Item "NS3\_Additional Response" to Item 5. This is information disclosed by email to the television show the Project, which is the breakdown of donations and sponsorships.

**RESPONSE CONSIDERED SATISFACTORY => No.**

The financial statements do not satisfy the information request. In fact, the document provided (“NS3\_Additional Response”) acknowledges that much of the ‘giving back’ figures are reported in the Administrative Expenses line of the income statement. In the Expenses section of the financial statements some further detail is available; however, “sponsorships” figures were provided in 2013/14 and 2014/15 only, and “donations” figures were provided in 2013/14 only. No other figures for giving back activities are available in the published financial statements, nor any figures for associated promotional activity.

I note that some limited information can be gleaned from the “NS3\_Additional Response” document. You provided Mahvash with detail of giving back in four categories.

<b>4 “key ways”:</b>	<b>Info provided to Mahvash</b>
1. The Million Dollar Mission	List of recipients and funds distributed in 2017 and 2018
2. Major Sponsorships	Approximate annual spend and list of those sponsored in 2016 / 2017
3. Minor Sponsorships	Approximate annual spend and example organisation types
4. Donated gifts and prizes	Example gifts and a list of recipients (time period not specified)

The detail available in the “NS3\_Additional Response” document does not satisfy the request.

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**About West Auckland Trust Services Ltd (WATS Ltd)**

6. Please provide an organisation chart for WATS Ltd

**RESPONSE SENT BY SIMON WICKHAM 08/06/18**

Item 6 of your request has been responded to in paragraph 6 above. I refer you to the document labelled NS1\_Items 1 and 4\_PLT\_WLT\_WATS Relationship Structure.

**RESPONSE CONSIDERED SATISFACTORY => No.**

As above, an “organisation chart” most commonly depicts the relationships between employees within an organisation, not the legal entities. The legal entity structure provided does not satisfy the request.

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7. What are the functions of WATS Ltd?

a. Are any of these functions unrelated to WLT / PLT?

**RESPONSE SENT BY SIMON WICKHAM 08/06/18**

Item 7 of your request relates to the functions of WATS. WATS is a shared services entity established to manage the operations of Trusts. The structure allows for one set of staff and associated costs. This is part responded to in the relationship chart NS1. In addition we have provided as “NS4\_Deed of Agreement\_28 March 2000” which established WATS.

With regard to item 7(a) WATS does not perform any function unrelated to WLT/PLT.

**RESPONSE CONSIDERED SATISFACTORY => YES**

8. What are the sources of revenue for WATS Ltd?
- a. Are any of those revenues unrelated to WLT / PLT?

**RESPONSE SENT BY SIMON WICKHAM 08/06/18**

Item 8 of your request relates to sources of funding for WATS. WATS is a cost recovery based management company providing shared services to the Trusts only and only on services required by PLT/WLT. Therefore its sources of revenue comes solely from business undertaken on behalf of PLT/WLT. The primary source of funding is a management fee set by PLT/WLT based on turnover, number of trading sites and number of employees (presently 60 WLT/40 PLT – WLT is the larger Trust with a larger asset base which WATS manages). In addition, WLT and PLT request WATS to promote their businesses. This is advertising which WATS undertakes on behalf of WLT and PLT. Income derived from advertising charges that support PLT/WLT promotion is reverted back to each trust. WATS does not derive an income for its own benefit. Any profit belongs to the Trusts.

The revenue derived by WATS is for and on behalf of WLT and PLT.

**RESPONSE CONSIDERED SATISFACTORY => No.**

The response states that sources of revenue “comes solely from business undertaken on behalf of PLT/WLT” and also that “the primary source of funding is a management fee”. It does not clearly state what the other (non-primary) sources of revenues are and therefore does not satisfy the request.

The request under 8 a) is considered satisfied.

9. Please provide audited financial statements for WATS Ltd (LSY)
- a. If not detailed in the statements, please describe the nature of WATS Ltd assets / liabilities

**RESPONSE SENT BY SIMON WICKHAM 08/06/18**

Item 9 of your request relates to financial statements of WATS. The statements of PLT and WLT outline information relevant to your request regarding assets and liabilities. These are supplied as NS2. WATS does not have any assets or liabilities. It manages the assets and liabilities of PLT and WLT. The assets and liability of WLT and PLT are set out in the statements provided as NS2.

The activities of WATS are not independent of the Trusts. The contracts entered with third parties are for and on behalf of the Trusts.

**RESPONSE CONSIDERED SATISFACTORY => No**

The WLT / PLT financials do not contain the WATS Ltd financial statements; they provide brief extracts from the WATS Ltd financials (example shown below). The information request is therefore not satisfied.

The response is also contradicted by the limited information that is available: "WATS does not have any assets or liabilities"; yet approx. \$12M of assets and liabilities are shown in the extract available in the WLT/PLT financials (as at 31/03/2017).

### 13. Investment in joint venture

The Trust holds a 50% shareholding (2016: 50%) in West Auckland Trust Services Limited (WATS). The original cost of this investment was \$9.00. WATS provides management services and inventory procurement to the Trust and has a 31 March reporting date. Portage Licensing Trust owns the remaining 50% of the equity. Both trusts have resolved that because they own equal but not majority shares that neither trust has control and it is not appropriate to account for this company as a subsidiary.

#### Investment Carrying Value - Summarised financial information

The following table illustrates summarised financial information relating to the Trust's joint venture arrangement:

<b>Extract from the joint venture's statement of financial position:</b>	<b>2017</b>	<b>2016</b>
	<b>\$000</b>	<b>\$000</b>
Current assets	11,853	12,217
Non-current assets	300	346
	<u>12,153</u>	<u>12,563</u>
Current liabilities	12,061	12,465
Net assets	<u>92</u>	<u>98</u>
Share of jointly controlled entity's net assets	<u>46</u>	<u>50</u>
<b>Extract from the joint venture's statement of comprehensive income:</b>		
Revenue	72,755	69,190
Net loss	(7)	(10)
<b>Interest in joint venture - movement in carrying values</b>		
Balance at beginning of period	50	55
Share of total comprehensive loss	(4)	(5)
Balance at end of period	<u>46</u>	<u>50</u>

10. Please provide a copy of the contract(s) between WATS Ltd and PLT/WLT
- a. If not detailed in the contract, please describe the nature of transactions between WLT/PLT and WATS Ltd
  - b. If not detailed in the contract, please provide the policy regarding transfer pricing between WLT/PLT and WATS Ltd
  - c. If not detailed in the contract, please provide the policy regarding any rebates / cashback or other incentives that WATS may receive from its suppliers

**RESPONSE SENT BY SIMON WICKHAM 08/06/18**

Item 10 of your request relates to the contractual arrangements between WATS and the Trusts. Item NS4 referred to in paragraph 7, in response to your request at paragraph 5, sets out the relationship. With regard to the remaining matters under item 10 these are addressed by the Deed of Agreement at NS4.

The activities of WATS are not independent of the Trusts. The contracts entered with third parties are for and on behalf of the Trusts.

**RESPONSE CONSIDERED SATISFACTORY => No**

The deed of agreement (the deed) provided satisfies the primary request under heading 10.

Further information requested under 10 a) and 10 b) regarding transfer pricing and supplier incentives is not contained in the deed. The clauses below indicate that costs may be recovered by any number of mechanisms including mark-up of purchases and that details are to be included in the SCI (statement of corporate intent). It is likely the relevant details could have been taken from the SCI and provided to satisfy the request. The relevant section of the deed is shown below.

5.9 In the event that the company effects purchases in its own name such will be invoiced to the respective Trust at the time of delivery to an outlet at the cost to the company of such supplies without any further markup.

## 6. COST SHARING

6.1 The directors of the company shall determine how the cost of operation of the company are to be met and include that in the SCI.

6.2 Without restricting the generality of that clause, the SCI may provide for costs to be recovered by direct levy, commission on sales, markup of purchases, or otherwise, within a general requirement that the company and each Trust operate a successful and financially viable business.

**Other**

11. Please provide a copy of the report detailing the results of the most recent market research undertaken (the source of “70% favourable” from ‘The Project’ interview)

**RESPONSE SENT BY SIMON WICKHAM 08/06/18**

Item 11 of your request relates to results of market research. You state that this report is the source I quoted with respect to 70% favourable responses. On behalf of WLT and PLT WATS undertakes market research. This is through specific interviews with individuals. Under the Privacy Act 1993 we are required to protect the privacy of those individuals. As a result we are unable to disclose any of these interviews. That is why I referred to the percentage only.

**RESPONSE CONSIDERED SATISFACTORY => No**

The request is not for transcripts of the interviews; nor for the identity of the interviewees. It is for a report (or other similar document) which summarises the methodology and findings. I do not believe the requirements of the Privacy Act preclude such disclosure.

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12. Are there any other subsidiary, JV or associate entities of WLT/PLT or WATS Ltd?  
a. If so, please provide a list and indicate which entities are active / dormant

**RESPONSE SENT BY SIMON WICKHAM 08/06/18**

With regard to Item 12, WATS does not have any joint ventures or subsidiaries. The only joint venture between WLT and PLT is WATS. This shared services model is now a matter being actively promoted in the public sector. There is one company which is registered to WATS. This company is Local Liquor Limited. It is not a trading entity.

**RESPONSE CONSIDERED SATISFACTORY => No**

The request specifically asked if the entities were active or dormant. The response states that Local Liquor Ltd is not trading however its dormancy remains unclear. The request therefore remains unsatisfied.

The response is also unclear regarding the nature of Local Liquor Ltd. It appears from the companies register to be a JV between WLT/PLT (50 shares each); yet the response states that the company is “registered to WATS”. The meaning of this “registration” and the nature of Local Liquor Ltd (JV or subsidiary) is unclear.