

"COMMUNITY FOUNDATIONS OF NEW ZEALAND INCORPORATED"

CONSTITUTION



Holland Beckett
LAWYERS

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**CONSTITUTION OF
COMMUNITY FOUNDATIONS OF NEW ZEALAND INCORPORATED**

1. Name

- 1.1 The name of the Association is Community Foundations of New Zealand Incorporated.

2. Registered Office

- 2.1 The Registered Office of the Association is 78 First Avenue, Tauranga 3141 or such other place as the Board shall from time to time determine.

3. Objects of Association

- 3.1 The objects of the Association are to:
- (a) Promote the concept of Community Foundations in New Zealand;
 - (b) Provide Community Foundations in New Zealand with a national association of which they can become Members;
 - (c) Establish and maintain high standards of membership of the Association and thereby enhance the credibility and respectability of Community Foundations which are Members;
 - (d) Protect, encourage and promote by all lawful means the interests of the member Community Foundations;
 - (e) Promote the unity, liaison and exchange of information between Members and prospective Members and with overseas Community Foundations.
- 3.2 Notwithstanding clause 3.1:
- (a) The Association shall be limited in furthering or attaining its objects to the advancement of charitable purposes in New Zealand; and
 - (b) No member of the Association shall derive any personal pecuniary gain from membership of the Association.

4. Definitions and Miscellaneous Matters

4.1 In this Constitution:

- (a) "Association" means Community Foundations of New Zealand Incorporated.
- (b) "Association Meeting" means any Annual General Meeting, or any Special General Meeting, but not a Board Meeting.
- (c) "Board" means the Board of management constituted in accordance with clause 5.1.
- (d) "Board Member" means a member of the Board (including the Chairperson) as elected in accordance with clause 7.

- (e) "Chairperson" means the person who is the chairperson of both the Association and the Board and who is elected to this position by the Association at an Annual General Meeting or, in the case of a vacancy by the Board.
- (f) "Delegate" means the delegate appointed by a Member for the purpose of attending Association Meetings in accordance with the provisions of clause 15.
- (g) "Majority vote" means a vote made by more than half of the Members who are present at a Meeting and who are entitled to vote and voting at that Meeting upon a resolution put to that Meeting.
- (h) "Member" means a registered charitable trust that has been accepted as being a Community Foundation and admitted as a Member of the Association.
- (i) "Money or Other Assets" means any real or personal property or any interest therein, owned or controlled to any extent by the Association.
- (j) "Use Money or Other Assets" means to use, handle, invest, transfer, give, apply, expend, dispose of, or in any other way deal with, Money or Other Assets.
- (k) "Written Notice" means communication by post or email.
- (l) It is assumed that:
 - (i) Where a masculine is used, the feminine is included;
 - (ii) Where the singular is used, plural forms of the noun are also inferred;
 - (iii) Headings are a matter of reference and not a part of the rules.

5. Constitution of the Board

- 5.1 The Board shall consist of all of the Board Members as appointed in accordance with the provisions of this Constitution.

6. Role of the Board

- 6.1 Subject to the provisions of this Constitution, the role of the Board is to:

- (a) Administer, manage, and control the Association;
- (b) Carry out the objects of the Association, and Use Money or Other Assets to do that;
- (c) Manage the Association's financial affairs, including approving the annual financial statements for presentation at the Annual General Meetings;
- (d) Set accounting policies in line with generally accepted accounting practice;
- (e) Delegate responsibility where necessary;
- (f) Ensure that all Members comply with this Constitution;

- (g) Decide on the criteria for becoming a Member and continuing to be a Member;
- (h) Decide the times and dates for Association Meetings, and set the agenda for Association Meetings;
- (i) Make recommendations to the Association as to membership fees, including subscriptions and levies;
- (j) Make decisions on matters not covered by this Constitution.

6.2 The Board has all of the powers of the Association, unless the Board's power is limited by this Constitution, or by a majority decision of the Association.

6.3 Decisions of the Board shall bind the Association.

7. Election of Board Members

7.1 The Association shall be governed by a Board consisting of the Chairperson and six other Board Members.

7.2 At the first Annual General Meeting of the Association the Chairperson shall be elected for a term of two years. Thereafter every second year at the Annual General Meeting the Chairperson shall be elected for a term of two years.

7.3 At the first Annual General Meeting of the Association, three Board Members shall be elected for a term of one year and three Board Members shall be elected for a term of two years. At each subsequent Annual General Meeting, Board Members shall be elected for a term of two years.

7.4 Each Member shall have the right to nominate one or more persons as a Board Member. No seconder is required.

7.5 Nominations for Board Members must be made in writing or by email delivered to the Secretary at least 21 days before the Annual General Meeting. In the event that there are insufficient nominations to fill the vacancies on the Board, the Chairperson may call for late nominations at the Annual General Meeting.

7.6 A Board Member who retires due to the term expiring (in accordance with clause 8.1) shall be eligible for re-election. No person shall be a Board Member for more than eight consecutive years without a gap of not less than one year after any eight year period.

7.7 Where any Board Member (including the Chairperson) retires, dies or is removed during the term of office, the Board shall have the right to elect a replacement for the balance of the term.

7.8 For the purposes of interpreting this clause, a term of one year shall be deemed to be from one Annual General Meeting to the next; and likewise two years shall be until the second Annual General Meeting.

8. Retirement of Board Members

8.1 Board Members shall retire at the Annual General Meeting that coincides with the end of their term.

8.2 Any Board Member may be removed at any time by the unanimous resolution of all of the other Board Members if they consider this to be in the best interests of the Association.

8.3 Any Board Member may retire at any time by giving written notice to the Chairperson or Secretary of the Association.

9. **Membership**

9.1 Membership of the Association shall be open to any **organisation registered under the Charities Act 2005 (or any subsequent enactment of similar effect for the time being in force)** that meets and maintains the membership criteria as set by the Board from time to time.

9.2 At the date of adoption of this Constitution the Members who agree and regard themselves as bound by this Constitution and any rules made in accordance with this Constitution shall be:

- (a) Acorn Foundation;
- (b) Advance Ashburton Community Foundation;
- (c) Aoraki Foundation;
- (d) Auckland Communities Foundation;
- (e) Geyser Community Foundation;
- (f) Hawke's Bay Foundation;
- (g) **Momentum Foundation;**
- (h) Nelson Bays Community Foundation;
- (i) Nikau Foundation;
- (j) **Northland Community Foundation;**
- (k) Porirua Foundation.

9.3 To become a Member a community foundation ("the Applicant") must:

- (a) Complete an application form, as prescribed by the Board from time to time;
- (b) Supply any additional information that the Board may require.

9.4 To assist the Board in making a decision about granting membership to the Applicant the Board may interview the representative of any Applicant when it considers Membership applications.

9.5 The Board shall have complete discretion when it decides whether or not to allow the Applicant to become a Member. The Board shall advise the Applicant of its decision, and that decision shall be final.

10. **Renewal of Membership**

- 10.1 Each Member shall complete a renewal of membership form, as prescribed by the Board from time to time, each within the timeframe set by the Board in order to renew its membership.

11. **Register of Members**

- 11.1 Each Member shall promptly give the Secretary the name, postal address and email address of the Member.
- 11.2 Each Board Member shall promptly give the Secretary the name, postal address, email address and telephone numbers of the Board Member.
- 11.3 If the contact details of a Member or Board Member change, that Member or Board Member shall promptly give the new contact details to the Secretary.
- 11.4 The Secretary shall keep a register of Members and Board Members ("the Register"), which shall contain the information supplied by the Members.
- 11.5 Members shall provide such other details as the Board reasonably requires.
- 11.6 Members and Board Members shall have reasonable access to the Register.

12. **Association's Trademarks**

- 12.1 Members may use the Association's trademark(s) to identify themselves as members of the Association.
- 12.2 Upon cessation of Membership in terms of clause 13 the former Member shall:
- (a) Stop all use of the Association's trademark(s);
 - (b) Remove or cover up all and any signage, publications and advertisements that imply an association with the Association;
 - (c) Terminate any registration, record or public entry which indicates any association with the Association.

13. **Cessation of Membership**

- 13.1 Any Member may resign by giving written notice to the Secretary.
- 13.2 If the Board suspects that any Member no longer meets the membership criteria or that the Member has done anything which may bring the Association or any of its other Members into disrepute:
- (a) The Board may notify the Member of its concerns and invite a response;
 - (b) If the Board does not receive a response from the Member within six weeks, or if the Board has received a response and after consideration of the response believes that the Member no longer meets the membership criteria or has done anything which may bring the Association or any of its other

Members into disrepute, then the Board may invite that Member to resign from the Association;

- (c) If the Member does not so resign, the Board may recommend to a General Meeting of the Association that the Member be expelled, and after the Member has been given the opportunity of being heard by or providing written comments to the General Meeting, that Meeting may expel the Member by resolution passed by a two-thirds majority of those present and voting.

- 13.3 If any Member fails to pay any money that is due to the Association (whether for subscription, levy or otherwise), the Secretary may give written notice to the Member of the outstanding amount. If the amount is not paid within two months, the Secretary may give the Member a further written notice requiring payment and advising that if it is not paid within one month, the Board may expel the Member. If the outstanding amount is not so paid within one month, the Board may, entirely at its discretion, expel the Member.

14. Obligations of Members and Board Members

- 14.1 All Members and Board Members shall promote the objects of the Association and shall do nothing to bring the Association into disrepute.

15. Association Meetings

- 15.1 An Association Meeting is either an Annual General Meeting or a Special General Meeting.
- 15.2 The Annual General Meeting shall be held once every year no later than five months after the Association's balance date. The Board shall determine when and where the Association shall meet within those dates.
- 15.3 Special General Meetings may be called by the Board. The Board must call a Special General Meeting if the Secretary receives a written request signed by at least one-third of the Members.
- 15.4 The Secretary shall:
 - (a) Give all Members at least 28 days Written Notice of the time, date and place of the Association Meeting;
 - (b) Give all Members at least 14 days Written Notice of the business to be conducted at any Association Meeting;
 - (c) Additionally, the Secretary will provide, as appropriate:
 - (i) A copy of the Chairperson's Report on the Association's operations and of the Annual Financial Statements as approved by the Board;
 - (ii) Notice of any motions to be discussed.
 - (iii) A list of nominees for Board Members, and a brief profile giving information about those nominees where the Secretary has been provided such information by the nominating Member.

If the Secretary has sent a notice to all Members in good faith, the Meeting and its business will not be invalidated simply because one or more Members do not receive the notice.

- 15.5 It is acknowledged that this is a national association with Members from all parts of New Zealand. There may therefore be cost and time efficiencies in holding meetings by video conference, telephone conference call or some other form of communication device (a "virtual meeting") rather than an "in-person meeting".
- 15.6 Each year the Board will decide whether the Annual General Meeting will be a virtual meeting or an in-person meeting.
- 15.7 Likewise the Board will decide whether a Special General Meeting will be a virtual meeting or an in-person meeting.
- 15.8 Each Member shall appoint a Delegate to attend an Association Meeting. Each Member shall give written notice of the name and contact details of such Delegate to the Secretary; such notice to be given not less than 7 days before the association meeting. **The Chairperson cannot be appointed as a Delegate.**
- 15.9 If for any reason a named Delegate is unable to attend the Association Meeting, the Member who has appointed that Delegate may appoint a replacement Delegate provided that such Member shall give the Secretary written notice of the name and contact details of such replacement Delegate prior to the commencement of the Association Meeting.
- 15.10 Those entitled to participate in a virtual meeting will be the Board Members and Delegates.
- 15.11 Those entitled to attend an in-person meeting will be the:
- (a) Chairperson;
 - (b) Board Members;
 - (c) Delegates;
 - (d) Immediate Past Chairperson;
 - (e) Honorary Life Members of the Association.
- 15.12 Nothing shall prevent the attendance of observers and visitors at an in-person Association Meeting except in those situations declared by the Chairperson to be closed sessions.
- 15.13 The Delegates shall each have the right to vote at any Association Meeting (whether virtual or in-person) so that each Member shall have one vote.
- 15.14 **The Chairperson shall have the right to one vote at any Association Meeting (whether virtual or in-person).**
- 15.15 **Board Members shall not have the right to vote at an Association Meeting unless they are also a Delegate.**
- 15.16 Other persons present at any in-person Association Meeting shall, with concurrence of the Chairperson, have the right to speak but shall have no vote.

15.17 The quorum for Association Meetings shall be two-thirds of the Members as represented by their Delegates.

15.18 All Association Meetings shall be chaired by the Chairperson or, if the Chairperson is absent, the Board Deputy Chairperson shall chair that meeting.

15.19 The business of an Annual General Meeting shall be:

- (a) Reviewing the minutes of the previous Annual General Meeting and of any Special General Meeting that has occurred since;
- (b) Receiving the Chairperson's report on the business of the Association;
- (c) Receiving the Treasurer's report on the finances of the Association and the annual financial statements;
- (d) Election of the Chairperson;
- (e) Election of Board Members;
- (f) Setting the annual subscription;
- (g) Motions to be considered;
- (h) General business.

15.20 If within half an hour after the time appointed for a meeting a quorum is not present the meeting, if convened upon request of Members, shall be dissolved; in any other case it shall stand adjourned to a day, time and place determined by the Chairperson, and if at such adjourned meeting a quorum is not present the meeting shall be dissolved without further adjournments. The Chairperson may with the consent of any Association Meeting adjourn the same from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

16. **Motions at Association Meetings**

16.1 Any Member may request that a motion be voted on ("Member's Motion") at a particular Association Meeting, by giving written notice to the Secretary at least 21 days before that meeting. The Member may also provide information in support of the motion ("Member's Information"). The Board may in its absolute discretion decide whether or not the Association will vote on the motion.

16.2 The Board may also decide to put forward motions for the Association to vote on ("Board Motions") which shall be suitably notified.

17. **Appointment of Board Officers**

17.1 Each year at the first Board Meeting after the Annual General Meeting the Board shall decide who shall be the:

- (a) Deputy Chairperson;
- (b) Secretary;

- (c) Treasurer.

These shall be the officers of both the Board (where appropriate) and of the Association.

- 17.2 The Deputy Chairperson must be a Board Member.
- 17.3 The roles of the Secretary and Treasurer may be combined, and they do not need to be Board Members.
- 17.4 If the position of any officer becomes vacant, the Board may appoint another Board Member to fill that vacancy until the Board Meeting after the next Annual General Meeting.

18. **Roles of Board Officers**

- 18.1 The Chairperson is responsible for:
 - (a) Convening Board Meetings in consultation with the Secretary and establishing whether or not a quorum (four members of the Board) is present;
 - (b) Chairing Board Meetings and Association Meetings, deciding who may speak and when;
 - (c) Overseeing the operation of the Association;
 - (d) Providing a report on the operations of the Association at each Annual General Meeting.
- 18.2 The Deputy Chairperson is responsible for:
 - (a) Assisting the Chairperson in carrying out the responsibilities of the Chairperson;
 - (b) Carrying out the Chairperson's responsibilities in the absence of the Chairperson.
- 18.3 The Secretary is responsible for:
 - (a) Convening Board Meetings and Association Meetings in consultation with the Chairperson;
 - (b) Recording the minutes of Meetings;
 - (c) Keeping the Register of Members;
 - (d) Holding the Association's records, documents, and books except those required for the Treasurer's function;
 - (e) Receiving and replying to correspondence as required by the Board;
 - (f) Forwarding the annual financial statements for the Association to the Registrar of Incorporated Societies upon their approval by the Members at an Annual General Meeting;

- (g) Advising the Registrar of Incorporated Societies of any changes to the Constitution.

18.4 The Treasurer is responsible for:

- (a) Keeping proper accounting records of the Association's financial transactions to allow the Association's financial position to be readily ascertained;
- (b) Preparing annual financial statements for presentation at each Annual General Meeting. These statements should be prepared in accordance with the Association's accounting policies;
- (c) Providing a financial report at each Annual General Meeting;
- (d) Providing financial information to the Board as the Board determines.

19. **Board Meetings**

- 19.1 Board meetings may be held via video or telephone conference, or other formats as the Board may decide.
- 19.2 No Board Meeting may be held unless at least four of the Board Members attend.
- 19.3 The Chairperson shall chair Board Meetings, or if the Chairperson is absent, the Deputy Chairperson shall chair that meeting. The Board shall elect a Board Member to chair the meeting if both the Chairperson and Deputy Chairperson are absent.
- 19.4 Decisions of the Board shall be by majority vote.
- 19.5 The Chairperson or person acting as Chairperson shall have a deliberative vote but not a casting vote.
- 19.6 Only Board Members present at a Board Meeting may vote at that Board Meeting.
- 19.7 Subject to the provisions of this Constitution, the Board may regulate its own practices.
- 19.8 The Chairperson or person acting as Chairperson shall adjourn the meeting if necessary.
- 19.9 Adjourned Meetings: If within half an hour after the time appointed for a meeting a quorum is not present the meeting, if convened upon request of Board Members, shall be dissolved. In any other case it shall stand adjourned to a day, time and place determined by the Chairperson, and if at such adjourned meeting a quorum is not present the meeting shall be dissolved without further adjournments. The Chairperson may with the consent of any Board Meeting adjourn the same from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 19.10 Any resolution signed (or confirmed in writing) by all of the Board Members shall be a valid resolution in the same way as if it had been passed at a Board Meeting.

20. Honorary Life Members of the Association

- 20.1 The Board may recommend any person for an Honorary Life Membership to recognise meritorious service to a Community Foundation or the Association.
- 20.2 An Honorary Life Membership may be awarded by resolution of the Association passed by a two-thirds majority of those present and voting in accordance with such recommendation.
- 20.3 Honorary Life Members shall not be required to pay any subscription.

21. Use of Money and Other Assets

- 21.1 The Association may only use money and other assets if:
- (a) It is for a purpose of the Association;
 - (b) It is not for the sole personal or individual benefit of any Member; and
 - (c) That use has been approved by either the Board or by majority vote of the Association.

22. Subscriptions and Levies

- 22.1 The annual subscription shall be set by the Association at the Annual General Meeting.
- 22.2 An invoice will be sent out to each Member and the subscription shall be payable within one month after the invoice has been sent.
- 22.3 To provide additional funds for any of the objects of the Association, the Association may by a two-thirds majority resolution make a levy of equal amounts on each member; such levy to be payable by each Member by a date determined by the Association.
- 22.4 Any Member failing to pay the annual subscription or any levy by the due date shall be considered as a non-financial and (without being released from the obligations of payment) shall have no membership rights and shall not be entitled to participate in any Association activity until all the arrears are paid. For as long as such arrears are unpaid the voting rights of the Board Member who was appointed by the defaulting Member shall be suspended. This provision shall be without prejudice to the provisions of clause 13.3.

23. Additional Powers

- 23.1 The Association may:
- (a) Employ people for the purposes of the Association;
 - (b) Exercise any power a trustee might exercise;
 - (c) Invest in any investment that a trustee might invest in.

24. **Financial Year**

- 24.1 The financial year of the Association begins on 1 April of every year and ends on 31 March of the next year.

25. **Common seal**

- 25.1 The Board shall provide a common seal for the Association and may from time to time replace it with a new one.
- 25.2 The common seal of the Association shall be retained by the Secretary.

26. **Execution of documents**

- 26.1 Documents shall be executed for the Association pursuant to a resolution of the Board:
- (a) By affixing the common seal witnessed by the Chairperson or Deputy Chairperson and countersigned by one other Board Member; or
 - (b) Where the document is not required by statute to be executed under common seal, by the Chairperson or Deputy Chairperson and some other Board Member signing on behalf of the Association.

27. **Altering the Constitution**

- 27.1 The Association may alter or replace the provisions of this Constitution at an Association Meeting by a resolution passed by a two-thirds majority of those Members present and voting.
- 27.2 Any proposed motion to amend or replace the provisions of this Constitution shall be made by the Board and given in writing to the Secretary at least 21 days before the Association Meeting at which the motion is to be considered, and accompanied by a written explanation of the reasons for the proposal.
- 27.3 At least 14 days before the General Meeting at which any Constitution change is to be considered the Secretary shall give to all Members written notice of the proposed motion.

28. **Winding up**

- 28.1 If the Association is wound up:
- (a) The Association's debts, costs and liabilities shall be paid;
 - (b) Surplus Money and Other Assets of the Association shall be distributed to **further a charitable purpose or purposes as defined in section 5(1) of the Charities Act 2005.**
 - (c) If no such distribution is made then the Surplus Money and Other Assets shall be distributed as the High Court or a Judge thereof directs in the case of a winding up by the High Court or as the Registrar directs in the case of voluntary winding up or in the case of a dissolution by the Registrar.