



NZARBTM

New Zealand **Arboricultural** Association Inc.

Constitution
of the
New Zealand Arboricultural Association
Incorporated

New Zealand Arboricultural Association
Incorporated (NZARB)
www.nzarb.org.nz

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1. Name

The name of the society is:

New Zealand Arboricultural Association Incorporated

(In this Constitution referred to as the "Society").

2. Definitions, references & interpretation

2.1 Use of Capital Letters

Defined words and expressions are indicated in this Constitution by capital letters for convenience only. The absence of initial capital letters shall not imply that the word or expression is used with a different meaning from that given by its definition.

2.2 Defined Terms

In this Constitution, unless the context requires otherwise, the following words and phrases have the following meanings:

- | | |
|-------------------------------|---|
| Act | means the Incorporated Societies Act 2022 or any Act which replaces it (including amendments to it from time to time), and any regulations made under the Act or under any Act which replaces it. |
| Annual General Meeting | means a meeting of the Members of the Society held once per year which, among other things, will receive and consider reports on the Society's activities and finances, and " AGM " has the same meaning; |
| Associated Person | means a person who: <ul style="list-style-type: none">(a) may obtain a financial benefit from any matter being dealt with by any Member (as a Board Member, or in any General Meeting, or otherwise for the Society) where that person is the spouse, civil union partner, de facto partner, child, parent, grandparent, grandchild, or first cousin of that Member;(b) may have a financial interest in a person to whom any matter being dealt with by any Member (as a Board Member, or in any General Meeting, or otherwise for the Society) relates;(c) is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom any matter being dealt with by any Member (as a Board Member, or in any General Meeting, or otherwise for the Society) relates; or(d) may be interested in the matter because the Society's constitution so provides. |

but no such Member shall be deemed to have any such interest:

- (i) merely because that Member receives an indemnity, insurance cover, remuneration, or other benefits authorised under this Act; or
- (ii) if that Member's interest is the same or substantially the same as the benefit or interest of all or most other members of the Society due to the membership of those members; or
- (iii) if that Member's interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence that Member in carrying out that Member's responsibilities under this Act or the Society's constitution; or
- (iv) if that Member is an officer of a union and that Member's interest is merely as an employee that will benefit from the union acting in the ordinary course of promoting its members' collective employment interests.

Bylaws	shall mean, unless the context otherwise clearly requires a different meaning, any written direction of the Board regulating its relationship with Members or the relationship between Members or standards of conduct of Members the subject of which are within the powers of the Board contained in this Constitution.
Clear Days	means complete days, excluding the first and last named days (for instance, excluding the date a Notice of meeting is posted or sent to Members and the date of the meeting);
Board	means the Society's governing body;
Board Member	means a member of the Board who is elected to office or who holds an office which is filled at the direction of the Board pending the next Annual General Meeting of Members, including the President, Secretary and Treasurer;
Constitution	means the rules in this document;
Dispute	has the meaning described in section 38 of the Incorporated Societies Act 2022;
General Meeting	means either an Annual General Meeting or a Special General Meeting of the Society.
Matter	means (a) the Society's performance of its activities or exercise of its powers; or (b) an arrangement, agreement, or contract (a transaction) made or entered into, or proposed to be entered into, by the Society;
Member	means a person properly admitted to the Society who has not ceased to be a member of the Society;
Notice	to Members includes any notice given by post, courier or email;

President	means the Board Member responsible for, among other things, overseeing the governance and operations of the Society and chairing General Meetings;
Register of Interests	means the register of interests of Board Members kept under this Constitution;
Register of Members	means the register of Members kept under this Constitution;
Registered Contact	has the meaning described in clause 5.2(ii);
Secretary	means the Board Member responsible for, among other things, keeping the Register of Members, the Register of Interests, and recording the minutes of General Meetings and Board meetings;
Special General Meeting	means a meeting of the Members, other than an Annual General Meeting, called for a specific purpose or purposes;
Special Resolution	means a resolution of Members passed by 75% of Members attending or voting by proxy at a meeting of Members;
Treasurer	means the Board Member responsible for, among other things, overseeing the finances of the Society; and
Vice President	means the Board Member elected or appointed to deputise in the absence of the President.

2.3 Accounting Terms

Unless otherwise expressly defined in the Constitution, expressions or descriptions used in the Constitution concerning accounting or reporting functions shall, where not prescribed by law, bear the meanings ascribed to those expressions according to the Financial Reporting Standards and otherwise in accordance with the generally accepted accounting principles as applied in New Zealand and where applicable as defined in Statements of Standard Accounting Practice issued by Chartered Accountants Australia and New Zealand (CAANZ) and in force at the date of the Constitution or subsequently brought into force.

2.4 General interpretation

In the Constitution unless the context otherwise requires:

- (a) Words (including words defined in the Constitution) denoting the singular number only shall include the plural and vice versa;
- (b) Words denoting any gender shall include all other genders;
- (c) Any period shall (unless the contrary is expressly stated) include the whole of the day on which the period commences and the whole of the day on which it expires. Any times or dates are references to times and dates in New Zealand;
- (d) Any reference to legislation, statute, regulation, ruling, code, rules or ordinance includes reference to any modification, substitute for, consolidation or re-enactment of it and any regulation, order in committee or

other instrument from time to time made or issued there under;

- (e) A document or agreement between the Society and any other party includes such document or agreement as modified, varied, supplemented, novated, replaced or substituted from time to time; and
- (f) References to recitals, clauses, subclauses, schedules or annexures in the Constitution are references to the recitals, clauses, subclauses, schedules and annexures of the Constitution.

2.5 Headings

Headings, marginal notes and the table of contents are included for convenience only and shall not affect the interpretation of the Constitution.

3. Objects and Powers

3.1 Primary Object

The primary objects of the Society are to:

- (a) To encourage, foster, improve and educate Members and others in all aspects of arboriculture throughout New Zealand;
- (b) To conserve, promote and advance the interests and welfare of arborists operating in New Zealand, and their industry;
- (c) To encourage a high standard of service, workmanship and honourable practice in arboriculture, and to promote relations between arborists and others connected with or affected by the industry;
- (d) To promote and facilitate a high standard of training within the industry and to provide recognition of arborists whose work is of good quality;
- (e) To provide for and encourage the planting protection and preservation of indigenous and exotic trees;
- (f) To uphold and maintain any just claims of Members of the Society individually and collectively where the Society sees that as appropriate, and in such manner as the Society shall think fit; and
- (g) To promote or oppose bills, legislation or other measures or by-laws affecting the interests of Members or the industry.

3.2 Other Objects

In addition to the primary objects, the Society also has the following objects (to the extent that such objects are incidental or conducive (directly or indirectly) to the attainment of the primary objects):

- (a) To use the funds of the association in such manner as the Society may consider proper and expedient for the payment of the costs and expenses of the Society, for generally furthering the interests of the Society and for carrying out the objects of the Society or any of them and without limitation to the generality of the foregoing the Society may employ counsel, solicitors, agents, officers and employees as shall appear necessary or expedient;
- (b) To co-operate with and/or subscribe to become a member of any other associations whether incorporated or not and whether within New Zealand or not whose objects are altogether or in part similar to those of this Society and to procure from and communicate to any such other associations such information as is in the opinion of the Society likely to promote the objects of

this Society;

- (c) To purchase, exchange or otherwise acquire, to take on lease, and to hire any real or personal property and any rights or privileges which the Society shall think necessary or expedient for the purposes of attaining the objects of the Society or any of them or promoting the interests of the Society or its Members and to sell, exchange, mortgage, let on bail or lease with or without option of purchase or in any manner dispose of any such property rights or privileges as aforesaid;
- (d) To borrow or raise money;
- (e) To give security over all or any of the Society's property on such terms as the Board think fit;
- (f) To lend money to any person, body or society whether incorporated or not on such terms as the Board may think fit and to guarantee the performance of contracts by such persons but only in furtherance of the objects of this Society;
- (g) To arrange insurance cover, including by way of public liability and indemnity insurance, for all risks associated with the operation of the Society;
- (h) To carry on any business or transaction capable of being conducted so as to directly or indirectly benefit the Society, and for that purpose to take or otherwise acquire and hold and dispose of shares in any company and without limitation to the generality of the foregoing the Society may supply components, equipment and other similar goods to Members of the Society and/or to the industry;
- (i) To invest all or any of the monies held by the Society which are not required for immediate operations of the Society in such securities and upon such terms as the Board shall think fit and are not contrary to the objects of the Society.;
- (j) To produce or publish or maintain any newsletters, writings or other media of communication, and to engage in activities such as meetings, demonstrations and models, lectures and conferences in order to promote the Society or to disseminate knowledge for the benefit of members of the Society and/or the industry or otherwise in furtherance of the objects;
- (k) To construct, improve, alter or maintain any building or works necessary or convenient for the purposes of the Society;
- (l) To fundraise in any manner, and to solicit and accept donations and gifts and any transfer or conveyance of real or personal property whether subject to any trust or not for any one or more of the objects of the Society;
- (m) To establish, patronise, promote or control any charitable organisation whether incorporated or not where the Board considers that such action will directly or indirectly further the objects of this Society or any of them, and without limitation to the generality of the foregoing the Society may take any such action with respect to any charity or proposed charity that will have the effect in the opinion of the Board of promoting knowledge of and interest in the objects of this Society, of bringing about good publicity or public relations for the Society or the industry, or of promoting good relationships within the industry;
- (n) To have regard to the principles of the Treaty of Waitangi in the manner that any powers are exercised to achieve the objects of the Society;
- (o) To make, alter, rescind and enforce regulations to advance the attainment

of any of the above objects; and

- (p) Do any act or thing incidental or conducive to the attainment of any of the above objects.

4. Act and Regulations

Nothing in this Constitution authorises the Society to do anything which contravenes or is inconsistent with the Statute, any regulations made under the Statute, or any other legislation.

5. Membership

5.1 Minimum number of members

The Society shall maintain the minimum of ten (10) Members as required by the Act.

5.2 Types of members

The classes of membership and the method by which Members are admitted to different classes of membership are as follows:

- (i) **Individual Member:** A Member is an individual who is working in the arboricultural industry admitted to membership under this Constitution and who has not ceased to be a Member.
- (ii) **Corporate Member:** A Corporate Member is an arboricultural company, utility company or municipal group with at least one employee who is a qualified arborist with a NZQA Level 4 Qualification (or equivalent). A Corporate Member can nominate duly qualified arborists within its organisation, each of whom (referred to as a "Registered Contact") will be entitled to individual voting rights equivalent to an Individual Member's voting rights, provided however that if the Registered Contact is also an Individual Member then they shall have a single vote only. The Corporate Member itself shall not have voting rights.
- (iii) **Student Member:** A Student Member is a person who is currently enrolled in NZQA registered arboricultural qualifications. A person may only be a Student Member for a maximum of 3 years. A Student Member shall have all the rights, privileges and duties of an Individual Member except those of paying subscriptions and voting rights.
- (iv) **Associate Member:** An Associate Member is a person who is not a qualified arborist, including professionals from other industries who have an interest in arboriculture but are not qualified. An Associate Member shall not have voting rights.
- (v) **Life Member:** A Life Member is a person honoured for highly valued services to the Society elected as a Life Member by resolution of a General Meeting passed by a two-thirds majority of those Members present and voting. A Life Member shall have all the rights and privileges of a Member and shall be subject to all the same duties as an Individual Member except those of paying subscriptions. There shall not be more than 15 Life Members of the Society at any one time.
- (vi) **Honorary Member:** An Honorary Member is a person honoured for services to the Society or in an associated field elected as an Honorary Member by resolution of a General Meeting passed by a two-thirds majority of those present and voting. An Honorary Member has no membership rights, privileges or duties.

Within each class of membership, sub-classes may be further defined. Sub-classes may (for example) be based on how many Registered Contacts are nominated by a Corporate Member, or how long an individual has been a qualified arborist. The Board may add or remove membership sub-classes provided that they fit within the membership classes described in this Constitution.

5.3 **Becoming a member: consent**

Every applicant for membership must consent in writing to becoming a Member.

5.4 **Becoming a member: process**

An applicant for membership must complete and sign any application form, supply any information, and/or attend an interview, as required by the Board.

The Board shall have an unfettered discretion whether to accept or decline an application for membership. The Board must advise the applicant of its decision (but is not required to provide reasons for that decision).

Any person applying for membership shall elect one of the four classes of membership (i) – (iv) set out above.

5.5 **Obligations and rights of Members**

- (a) Every Member shall provide the Society with that Member's name and contact details (including postal address, telephone number(s), and any email address) and promptly advise the Society of any changes to those details.
- (b) Membership does not confer on any Member any right, title, or interest (legal or equitable) in the property of the Society.
- (c) All Members (including Board Members) shall promote the interests and purposes of the Society and shall do nothing to bring the Society into disrepute.
- (d) A Member is only entitled to exercise the rights of membership (including attending and voting at General Meetings, accessing or using the Society's premises, facilities, equipment and other property) if all subscriptions and any other fees have been paid to the Society by due date, but no Member is liable for an obligation of the Society by reason only of being a Member.
- (e) Any Member that is a body corporate shall provide the Secretary with the name and contact details of the person who is the organisation's authorised representative, and that person shall be deemed to be the organisation's proxy for the purposes of voting at General Meetings.
- (f) The Board may decide what access or use Members may have of or to any premises, facilities, equipment or other property owned, occupied or otherwise used by the Society, including any conditions of and fees for such access or use.

5.6 **Subscriptions and fees**

The annual subscription and any other fees for membership for the then current financial year shall be set by resolution of a General Meeting (which can also decide that payment be made by periodic instalments).

5.7 **Ceasing to be a Member**

A Member ceases to be a Member:

- (a) On death (or if a corporate entity on liquidation, or if a partnership on

dissolution of the partnership);

- (b) By resignation from that Member's class of membership by notice to the Secretary;
- (c) By being struck-off the Register of Members;
- (d) By expulsion; or
- (e) On termination of a Member's membership following a Dispute resolution process under this Constitution,

with effect from the death of the Member or the date of receipt by the Secretary, or any subsequent date stated in the notice of resignation, or the date of termination of membership following a Dispute resolution process under this Constitution.

5.8 **Striking off – non-payment of fees**

- (a) Any Member failing to pay their/its annual subscription (including any periodic payment), any levy, or any capitation fees, within 2 calendar months of the date the same was due for payment shall be considered as "unfinancial".
- (b) Any Member who is considered unfinancial shall (without being released from the obligation of payment) have no membership rights and shall not be entitled to participate in any Society activity or to access or use the Society's premises, facilities, equipment and other property until all the arrears are paid. In addition, if a Corporate Member is unfinancial, then its Registered Contact(s) shall have no voting rights.
- (c) If such arrears are not paid within 3 months of the due date for payment, the Board may terminate the Member's membership (without being required to give prior notice to that Member).

5.9 **Expulsion of Members**

If the Board considers that any Member has prejudiced the achievement of the objects of the Society or has engaged in any conduct injurious to the Society or its interests, or shall have gained entry to the Society by misrepresentation or false statements, the Board shall have power, after due enquiry, to expel such Member by resolution approved by at least two-thirds of the Board Member's present and eligible to vote at the next Board Meeting. Such expulsion shall be communicated to the Member in question in writing.

5.10 **Obligations on resignation**

A Member who resigns, is struck off, expelled or whose membership is terminated under this Constitution:

- (a) Remains liable to pay all subscriptions and other fees to the Society's next balance date;
- (b) Shall cease to hold himself, herself or itself out as a Member of the Society;
- (c) Shall return to the Society all material provided to Members by the Society (including any membership certificate, badges, handbooks and manuals); and
- (d) Shall cease to be entitled to any of the rights of a Society Member.

5.11 **Becoming a member again**

Any former Member may apply for re-admission in the manner prescribed for new applicants and may be re-admitted only by resolution of the Board.

However, if a former Member's membership was terminated following a Dispute resolution process, the applicant may be re-admitted only by resolution of Members in a General Meeting on the recommendation of the Board.

6. General meetings

6.1 Annual General Meetings

An Annual General Meeting ("AGM") shall be held once a year on a date and at a location determined by the Board within six months following the end of the Society's financial year and no later than 15 months after the previous AGM.

6.2 Annual General Meetings: business

The business of an Annual General Meeting shall be to:

- (a) confirm the minutes of previous Society Meeting(s);
- (b) adopt the annual report on Society business;
- (c) adopt the Treasurer's report on the finances of the Society, and the annual financial statements;
- (d) set any subscriptions for the current financial year;
- (e) elect Board Members pursuant to clause 7.5 of this Constitution;
- (f) consider any motions; and
- (g) consider any general business.

The Board must, at each Annual General Meeting, present the following information:

- (i) an annual report on the affairs of the Society during the most recently completed accounting period,
- (ii) the annual financial statements for that period, and
- (iii) notice of any disclosures of conflicts of interest made by Board Members during that period (including a brief summary of the matters, or types of matters, to which those disclosures relate).

No motion to alter this Constitution, or to suspend or discontinue the Society's activities (or a substantial part of them), or to wind up or dissolve the Society, shall be considered at an AGM unless the motion was included in the Notice of the General Meeting sent in advance of the AGM.

6.3 Special General Meetings

Special General Meetings ("SGM") may be called at any time by the Board by resolution. The Board must call a Special General Meeting if the Secretary receives a written request signed by at least 10 per cent of Members. Any resolution or written request must state the business that the Special General Meeting is to deal with.

The rules relating to the procedure to be followed at General Meetings shall apply to a Special General Meeting, and a Special General Meeting shall only consider and deal with the business specified in the Board's resolution or the written request by Members for the Meeting.

6.4 **Procedure for giving Notice of AGMs & SGMs**

The Board shall give all Members at least 25 Clear Days' Notice of any General Meeting and of the business to be conducted at that General Meeting.

The General Meeting and its business will not be invalidated simply because one or more Members do not receive the Notice.

6.5 **General Meetings – Voting, Conduct and Quorum**

All financial Members (i.e. Members who are not “unfinancial” as described in clause 5.8(a) of this Constitution) holding voting rights may attend, speak and vote at General Meetings:

- (a) in person;
- (b) by a signed original written proxy (an email or copy not being acceptable) in favour of another Member entitled to be present at the meeting and received by, or handed to, the Secretary no later than 24 hours before the commencement of the General Meeting; or
- (c) through the authorised representative of a body corporate as notified to the Secretary.

No other proxy voting shall be permitted.

No General Meeting may be held unless at least 20 financial Members holding voting rights attend. This will constitute a quorum. If one or more Registered Contacts from a Corporate Member attend, then this constitutes attendance by a single Member for quorum purposes.

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 President of the Society, and if at such adjourned meeting a quorum is not present those present in person or by proxy shall be deemed to constitute a sufficient quorum. Any decisions made when a quorum is not present are not valid.

General Meetings may be held at one or more venues using any real-time audio, audio and visual, or electronic communication that gives each Member a reasonable opportunity to participate.

All General Meetings shall be chaired by the President. If the President is absent, the Vice President will chair the meeting.

Any person chairing a General Meeting has a deliberative and, in the event of a tied vote, a casting vote.

Any person chairing a General Meeting may:

- (i) With the consent of that General Meeting adjourn the General Meeting 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.
- (ii) Direct that any person not entitled to be present at the Meeting, obstructing the business of the Meeting, behaving in a disorderly manner, being abusive, or failing to abide by the directions of the chairperson be removed from the Meeting, and
- (iii) In the absence of a quorum or in the case of emergency, adjourn the Meeting or declare it closed.

The Board may put forward motions for the Society to vote on, which shall be notified to Members with the Notice of the General Meeting.

Any Member may request that a motion be voted on at a General Meeting, by giving notice to the Secretary at least 30 Clear Days before that meeting. The Member may also provide information in support of the motion.

6.6 **Resolution in lieu of meeting**

A resolution in writing signed by not less than 75% of the Members who would be entitled to vote on that resolution at a General Meeting is as valid as if it had been passed at a General Meeting of those members.

A Member may give their approval by:

- (a) Signing the resolution; or
- (b) Giving their approval to the resolution by email.

A resolution in writing in lieu of a meeting may consist of several documents (including letters, emails or other similar means of communication) in a similar form each approved by or on behalf of 1 or more of the Members entitled to vote.

6.7 **Minutes**

Minutes are the duty of the Secretary and must be recorded at each General Meeting. Additional record keeping requirements (if any) shall be as specified in the Regulations.

7. **Board Structure and Governance**

7.1 **General**

The control and conduct of the Society's formal, obligatory, and day-to-day business shall be assigned to the Board Members as set down below and in the Constitution and Bylaws.

7.2 **Composition of the Board**

The Board will consist of up to 9 Board Members who are:

- (a) Members; and
- (b) Natural persons; and
- (c) Not disqualified by this Constitution or under section 47(3) of the Act.

The Society shall be governed by a Board, membership of which shall consist of at least 4 members and will include:

- (i) The President;
- (ii) The Vice President;
- (iii) A Secretary;
- (iv) A Treasurer; and
- (v) Up to 5 other Board Members.

The Board shall comprise of a maximum of 9 persons in total.

7.3 **Consent to be a Board Member**

Prior to election or appointment, a nominated Member must consent in writing to be a Board Member and certify in writing that they are not disqualified from being appointed or holding office as a Board Member by this Constitution or under section 47(3) of the Act. Written consent and certification documents shall be retained by the Society's records.

7.4 **Powers**

The Board shall be responsible for directing the affairs of the Society and shall (in furtherance of the Society's objects) have various powers and authorities including, but not limited to, the following:

- (a) To decide in what form and manner monies are to be brought into the Society including, in the Board's discretion, through:
 - (i) Fees on Members, to be raised by membership subscriptions;
 - (ii) Accepting donations, sponsorship or loans from third parties;
 - (iii) Any other activity by which the objects of the Society are furthered.
- (b) To control, invest and dispose of the Society's monies in whatever manner the Board may decide, including the power to:
 - (i) Borrow and/or raise money on the Society's behalf in a manner that ensures the Society has monies to conduct the necessary business and activities of the Society, subject to limitations imposed by statute or by this Constitution;
 - (ii) Invest surplus monies;
 - (iii) Make disbursements from any property or fund of the Society, if in the opinion of the Board, it will further the objects of the Society;
 - (iv) Pay the current salaries, wages, honorariums, and other disbursements of the Society;
 - (v) Pay instalments of purchase money, rent or hire charges, or maintenance costs on any real and personal property of the Society;
 - (vi) Effect and pay for insurance to cover all risks associated with the Society's operation, including (to the extent permitted by the Act) insurance cover for Board Members;
 - (vii) Allocate and pay monies to operate the Secretary; and/or
 - (viii) Pay any accounting, legal, auditing and other professional fees and costs incurred by the Society.
- (c) To acquire any real or personal property in whatever manner the Board may determine, including to:
 - (i) Purchase, lease, exchange or hire such property (or any corresponding rights and privileges in connection with such property), and manage or develop the same;
 - (ii) Construct, alter, improve or demolish the Society's buildings and/or premises, provided a clear right to do so exists; and/or
 - (iii) Purchase any goods, chattels or equipment needed to further the objects of the Society.

- (d) To dispose of the Society's property in such a manner that ensures it best satisfied the objects of the Society, including:
 - (i) Trading, exchanging or otherwise using the property in barter; and or
 - (ii) Selling by private tender or auction, with or without reserve.
- (e) To enter into agreement with any Member, provided that any transactions between the Society and its Members shall be chargeable at arms-length market rates and any interests have been disclosed in advance.
- (f) To deal with and regulate (through Bylaws) any matter not provided for in this Constitution.
- (g) To adopt and update (from time to time) a Code of Conduct applicable to Members, which establishes standards of professional conduct, provided it is not inconsistent with the Act or this Constitution.
- (h) Enter into contracts on behalf of the Society or delegate such power to a Board Member, sub-committee, employee, or other person.

The Board has the ability to delegate any of its powers as it thinks fit.

7.5 **Election or appointment**

The election of Board Members (including Vice President, Secretary and Treasurer) shall be conducted as follows:

- (a) All nominations for the Board must be notified to the Secretary in writing no less than twenty (20) Clear Days before the Annual General Meeting.
- (b) At least seven (7) Clear Days before the date of the Annual General Meeting, the Secretary shall give Notice to all Members containing such information (not exceeding one side of an A4 sheet of paper) as may be supplied to the Secretary by or on behalf of each nominee, in support of the nomination.
- (c) The failure for any reason of any Member to receive such Notice shall not invalidate the election.
- (d) Only financial Members (i.e., Members who are not "unfinancial" as described in clause 5.8(a) of this Constitution) who are not disqualified from being appointed or holding office as a Board Member by this Constitution or the Act may stand for election and vote in elections.
- (e) If there are insufficient valid nominations received under this Rule, but not otherwise, further nominations may be received from the floor at the Annual General Meeting, provided that no Member will be elected who has not consented to being nominated.
- (f) Votes shall be cast in such a manner as the chairperson of the Annual General Meeting shall determine.
- (g) Two Members (who are not nominees) or non-Members appointed by the chairperson of the Annual General Meeting shall act as scrutineers for the counting of the votes and destruction of any voting papers.

At Board elections, Members will be reminded of the desirability of having Board Members drawn from throughout New Zealand with different expertise, experience and backgrounds.

In the event of any vote being tied the tie shall be resolved by the incoming Board (excluding those in respect of whom the votes are tied).

Should any office become vacant in between Annual General Meetings, the Board may appoint the unsuccessful candidate recording the highest number of votes for that office at the previous Annual General Meeting, If the candidate is no longer willing to take such office, the Board may (without obligation) appoint a Member to fill the vacancy until the following Annual General Meeting, provided they have consented to being a Board Member.

7.6 **Term of Board Members**

The term of office for all Board Members shall be 2 year(s), expiring at the end of the Annual General Meeting in the year corresponding with the last year of each Board Member's term of office.

No Board Member shall serve for more than 3 consecutive terms.

No President shall serve for more than 2 consecutive years as President.

7.7 **President**

The President shall be the person elected Vice President (President-Elect).

The Vice President shall accede to the position of President on the President completing their term or resigning or being removed from office.

The President shall chair meetings of the Board and shall represent the Society in public affairs. The President may delegate the role of President for any meetings of the Board.

If there is no Vice President available at the time of a vacancy in the office of President, for whatever reason, then the first order of business at the next Board meeting shall be the election of a President.

7.8 **Vice President**

The Vice President shall deputise for the President in the event of the President's absence from any meeting of the Board or upon any temporary incapacity of the President.

If there is a vacancy in the office of Vice President, for whatever reason, then the first order of business at the next Board meeting (after any required election of a President) shall be the election of a Vice President to hold office until the next Annual General Meeting.

7.9 **Secretary – Duties and Responsibilities**

The Secretary's responsibility shall be to create and maintain accurate records of the Society's membership, policies and proceedings.

The Secretary shall at all times maintain an up-to-date Register of the Interests disclosed by Board Members.

If there is no Secretary, the Board shall be vested with the powers of the Secretary.

7.10 **Treasurer – Duties and Responsibilities**

The Treasurer's responsibility shall be the accurate recording and management of the Society's financial affairs, which includes (without limitation):

- (a) The preparation of the financial report for Board meetings;
- (b) The preparation of budgets and updates;
- (c) The payment of creditors;

- (d) Ensuring the completion of year-end financial accounts and statutory reporting, including maintaining records of all income and expenditure and any other financial transactions necessary to enable to preparation of the balance sheet and statement of income and expenditure for the Society, to be submitted to the Annual General Meeting;
- (e) Keeping track of the authorities for any Board Member to act as a signatory on any financial instrument of the Society, including any bank authority;
- (f) Maintaining necessary statutory records relating to the financial transactions of the Society for such period as may be required by law; and
- (g) Ensuring the proper preparation and filing of financial documents and returns required to comply with financial reporting and regulatory compliance (including wage and salary returns, GST, ACC, and reporting requirements for Incorporated Societies).

If there is no Treasurer, the Board shall be vested with the powers of the Treasurer.

7.11 Removal of Board Members

Voting Members may at any General Meeting of the Society, by ordinary resolution, remove any one or more of the Board Members.

Any resolution that proposes removal of specific Board Members shall name those Board Members proposed to be removed in the proposed resolution.

Notice of any motion to remove Board Members must be recorded as an item of business on the Notice of the General Meeting and may not be raised under general business.

In the event that all of the Board Members are removed, the voting Members at the General Meeting shall, as its next order of business, conduct elections for the positions of Board Members.

Where a complaint is made about the actions or inaction of a Board Member (and not in the Board Member's capacity as a Member of the Society) the process set out clause 14 (Dispute Resolution) shall be followed.

7.12 Board Members grounds for removal

A person ceases to be a Board Member of the Society if the person:

- (a) Resigns in writing;
- (b) Is removed from office in accordance with clause 7.11;
- (c) Becomes disqualified from being a Board Member under section 47(3) of the Act;
- (d) Dies; or
- (e) Reaches the end of their term as Board Member and is not validly re-elected, or ceases to be a Member.

7.13 Contracts with Board Members

Provided it is in the category of permitted interests in accordance with section 24 of the Act, no Member of the Board shall be disqualified from office by contracting with the Society, provided that any interests are declared prior to contracting and payment for services are on arms-length terms.

Prior to contracting with a Board Member for any contract with the Society, the Board shall:

- (i) Offer the opportunity to, and seek to obtain alternative proposals from, non-Board Members;
- (ii) Comply with any Society procurement procedures established in Bylaws; and
- (iii) Have regard to the Board's duties in clause 8 of this Constitution, when determining the recipient of the contract with the Society.

7.14 **Functions**

From the end of each AGM until the end of the next AGM, the Society shall be governed by the Board, which shall be accountable to the Members for the advancement of the Society's purposes and the implementation of resolutions approved by any General Meeting.

7.15 **Sub-committees and Working Groups**

The Board may appoint sub-committees and working groups consisting of such persons (whether or not Members of the Society) and for such purposes as it thinks fit. Unless otherwise resolved by the Board:

- (i) The quorum of every sub-committee and working group is half the members of the sub-committee or working group;
- (ii) The sub-committee and working group shall have power to co-opt additional members;
- (iii) A sub-committee and working group must not commit the Society to any financial expenditure without express authority;
- (iv) The authority of the sub-committee and working group shall be limited to the terms of reference specified by the Board;
- (v) A sub-committee and working group must not further delegate any of its powers; and
- (vi) A working group must disband after completion of the task or purpose resolved by the Board.

Sub-committees and working groups shall act in accordance with the Constitution.

8. Board Member Duties

8.1 **Duties owed to the Society**

A Board Member, when exercising powers or performing duties, must act in good faith and in what the Board Member believes to be the best interests of the Society.

8.2 **Powers to be exercised for proper purpose**

A Board Member must exercise a power for a proper purpose.

8.3 **Board Members to comply with Act and Constitution**

A Board Member must not act, or agree to the Society acting, in a manner that contravenes the Act or this Constitution.

8.4 **Board Member's duty of care**

A Board Member, when exercising powers or performing duties as a Board Member, must exercise the care, diligence, and skill that a reasonable person with

the same responsibilities would exercise in the same circumstances taking into account, but without limitation:

- (a) The nature of the Society;
- (b) The nature of the decision; and
- (c) The position of the Board Member and the responsibilities undertaken by them.

8.5 Duty relating to activities that create a substantial risk of loss to creditors

A Board Member must not cause or allow or agree to the activities of the Society being carried on in a manner likely to create a substantial risk of serious loss to the Society's creditors.

8.6 Duty in relation to obligations

A Board Member must not agree to the Society incurring an obligation unless the Board Member believes at that time on reasonable grounds that the Society will be able to perform the obligation when it is required to do so.

8.7 Use of information and advice

A Board Member of the Society, when exercising powers or performing duties as a Board Member, may rely on reports, statements, and financial data and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:

- (a) An employee of the Society whom the Board Member believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
- (b) A professional advisor or expert in relation to matters which the Board Member believes on reasonable grounds to be within the person's professional or expert competence; and
- (c) Any other Board Member, sub-committee or working group of Members upon which the Board Member did not serve in relation to matters within the Board Member's, sub-committee's or working group's designated authority.

9. Conflicts of interest

9.1 Interests Register

- (a) A Board Member, after becoming aware of the fact that they are interested (as defined in section 62 of the Act) or related to an Associated Person who is interested in a transaction or proposed transaction with the Society, must disclose the details and nature of the interest to the Board and/or sub-committee and an interests register must be kept.
- (b) A Board Member of the Society may inspect the interests register at any reasonable time.
- (c) If the Society becomes aware of a Board Member's interest in a transaction that has already completed, which was not disclosed or entered on the interests register, the Society must notify the Members as soon as becoming aware of the failure.
- (d) A transaction entered into by the Society in which a Board Member of the Society is interested may be avoided by the Society at any time before the

expiration of three months after the transaction is notified to the Members, provided however that the Society cannot avoid the transaction if the Society receives fair value under it.

9.2 **Consequences of being interested**

A Member of the Board and/or sub-committee who is interested in a transaction entered into, or to be entered into, by the Society:

- (a) Must not vote or take part in the decision of the Board and/or sub-committee relating to the matter; and
- (b) Must not sign any document relating to the entry into a transaction or the initiation of the matter; but
- (c) May take part in any discussion of the Board and/or sub-committee relating to the matter and be present at the time of the decision of the Board and/or sub-committee (unless the Board and/or sub-committee decides otherwise); and
- (d) May still be counted for the purpose of determining whether there is a quorum at any meeting at which the matter is considered.

Where 50% or more of Board Members are prevented from voting on a matter because they are interested in that matter, a General Meeting must be called to consider and determine the matter, unless all non-interested Board Members agree otherwise.

Where 50% or more of the Members of a sub-committee are prevented from voting on a matter because they are interested in that matter, the Board shall consider and determine the matter.

10. **Board meetings**

10.1 **Frequency**

The Board shall meet at least quarterly at such times and places and in such manner (including by audio, audio and visual, or electronic communication) as it may determine and otherwise where and as convened by the President or Secretary.

10.2 **Procedure**

- (a) The quorum for Board meetings is at least two-thirds of the number of Board Members.
- (b) The Board shall regulate its own procedures subject to this Constitution and any applicable laws.
- (c) All resolutions will be decided by approval of the Board Members by a verbal vote, show of hands, telephone conference call, written ballot conducted by email, electronic voting system or by mail.
- (d) If voting is tied then the President shall have a casting vote.
- (e) Any Member ceasing to be a Member of the Society shall immediately relinquish their position on the Board.
- (f) The Secretary shall ensure that a minute book is maintained and which, for each meeting of the Board, records:
 - (i) The names of the Board Members present;

- (ii) All decisions made during the Board meeting; and
- (iii) All other matters discussed in the Board meeting.

10.3 **Absence from Board Meeting**

Where a Board Member is absent for three out of four successive Board meetings then the Board may resolve that the absent Board Member shall cease to be a Board Member, and such resolution will have immediate effect.

11. **Records**

11.1 **Register of members**

All Members shall be on the register of Members of the Society.

The Secretary shall keep an up-to-date register of all Members ("Register of Members") of the Society recording each Member's:

- (a) Name;
- (b) Last known contact details;
- (c) Addresses;
- (d) The date they became a Member;
- (e) Occupation; and
- (f) Any other information required by this Constitution or prescribed by regulations under the Act.

Every Member shall promptly advise the Secretary of any change of their contact details.

Membership of the Society as recorded in the register shall be available to all Members for review by application to the Secretary, subject to provisions of the Privacy Act 2020 and as regulations may prescribe.

12. **Access to information**

12.1 **Request for information**

- (a) A Member may at any time make a written request to the Society for information held by the Society.
- (b) The request must specify the information sought in sufficient detail to enable the information to be identified.
- (c) The Society must, within a reasonable time after receiving a request:
 - (i) Provide the information;
 - (ii) Agree to provide the information within a specified period;
 - (iii) Agree to provide the information within a specified period if the Member pays a reasonable charge to the Society (which must be specified and explained) to meet the cost of providing the information; or
 - (iv) Refuse to provide the information, specifying the reasons for the refusal.

- (d) If the Society requires the Member to pay a charge for the information, the Member may withdraw the request, and must be treated as having done so unless, within 10 Clear Days after receiving notification of the charge, the Member informs the Society—
 - (i) That the Member will pay the charge; or
 - (ii) That the Member considers the charge to be unreasonable.

12.2 Refusing a Request

Without limiting the reasons for which the Society may refuse to provide the information, the Society may refuse to provide the information if:

- (a) Withholding the information is necessary to protect the privacy of natural persons, including that of deceased natural persons;
- (b) The disclosure of the information would, or would be likely to, prejudice the commercial position of the Society or of any of its Members;
- (c) The disclosure of the information would, or would be likely to, prejudice the financial or commercial position of any other person, whether or not that person supplied the information to the Society, or
- (d) Withholding the information is necessary to maintain legal professional privilege or obligations of confidentiality;
- (e) The disclosure of the information would, or would be likely to, breach an enactment;
- (f) The burden to the Society in responding to the request is substantially disproportionate to any benefit that the Member (or any other person) will or may receive from the disclosure of the information; or
- (g) The request for the information is frivolous or vexatious.

Nothing in this clause limits Information Privacy Principle 6 of the Privacy Act 2020.

13. Finances

13.1 Balance date

The Society's financial year shall commence on the first day of July and end on the last day of June in the following year unless otherwise resolved by the Board (the latter date being the Society's balance date).

13.2 Control and management

The funds and property of the Society shall be:

- (a) Controlled, invested and disposed of by the Board, subject to this Constitution; and
- (b) Devoted solely to the promotion of the purposes of the Society.

The Board will decide the following:

- (i) How money will be received by the Society;
- (ii) Who will be entitled to produce receipts;
- (iii) What bank accounts will operate for the ensuing year, including the purposes of each account and who will have access to them; and

- (iv) What type of investment will be permitted by the Society and related policies concerning the investment of Society money.

13.3 **Inspection of books**

Any Member may inspect the books and accounts of the Society at the office of the Society at any reasonable time on making application to and receiving approval (which shall not be unreasonably withheld) from the Secretary or Treasurer.

13.4 **Pecuniary gain**

The Society does not have the purpose of making a profit for Members and prohibits distribution of property in any form to Members.

No Member shall derive any pecuniary gain from the monies or the financial dealings, or from transaction involving the real or personal property, of the Society except as provided for in section 24 of the Act. Any such payments or transaction as allowed by section 24 of the Act must be reasonable and relative to that which would be paid in an arms-length transaction (being open market value).

14. **Dispute resolution**

14.1 **Raising a Dispute**

A Member of the Society may make a complaint by giving the Secretary notice in writing that:

- (a) States that the Member is raising a Dispute for resolution in accordance with the dispute resolution procedure set out in the Constitution; and
- (b) Sets out the allegation to which the Dispute relates and (if applicable) to whom the allegation is against, which must contain sufficient details to inform the Society of all material information relating to the Dispute, and (if applicable) to enable the person to whom the Dispute relates to prepare a response.

The Society may make a complaint involving an allegation against a Member by giving to the Member a notice in writing that:

- (c) States that the Society is raising a Dispute for resolution in accordance with the dispute resolution procedure set out in the Constitution; and
- (d) Sets out the allegation to which the Dispute relates, which must contain sufficient details to fairly advise the allegation and enable the Member to prepare a response.

14.2 **Right to be Heard**

A Member who makes a complaint has a right to be heard before the complaint is resolved or any outcome is determined.

If the Society makes a complaint, the Society will have the right to be heard before the complaint is resolved or any outcome is determined, and one or more Board Members may exercise that right on behalf of the Society.

If a Member, a Board Member, or the Society makes a complaint, they must be given:

- (a) An oral hearing if the decision-maker considers that an oral hearing is needed to ensure an adequate hearing;
- (b) Reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and

- (c) The right to have their written statement or submissions (if any) considered by the decision-maker.

If a complaint is made against a Member, a Board Member or the Society, they will have the right to be heard before a complaint is resolved or any outcome is determined (one or more Board Members may exercise the right on behalf of the Society).

If a Member, Board Member or the Society is involved in a complaint alleging they have:

- (d) Engaged in misconduct;
- (e) Breached, or is likely to breach, a duty under this Constitution, the Bylaws, the Code of Conduct or the Act; or
- (f) Damaged the rights or interests of a Member or the rights or interests of Members generally,

then they must be given:

- (i) Sufficient details and time to enable them to prepare a response to the complaint;
- (ii) An oral hearing if the decision-maker considers that an oral hearing is needed to ensure an adequate hearing;
- (iii) Reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
- (iv) The right to have their written statement or submissions (if any) considered by the decision-maker.

When investigating and determining any Dispute, the decision-maker shall have sole discretion to decide whether an oral hearing is required. If the decision-maker decides an oral hearing is required, the decision-maker has sole discretion to determine whether to hold that meeting in person, or by use of audio or audio-visual methods, or a combination of these methods.

14.3 Investigating a Dispute

The Society, as soon as is reasonably practicable after receiving or becoming aware of a complaint made in accordance with clause 14.1 ensure that the Dispute is investigated and determined.

The Society may refer a complaint to:

- (1) A sub-committee or an external person to investigate and report to the Board; or
- (2) A sub-committee, arbitral tribunal, or external person to investigate and make a decision.

The decision-maker may investigate and determine a Dispute by:

- (i) Holding an oral hearing;
- (ii) Holding meetings with the complainant and respondent (and support persons); or
- (iii) Requesting written submissions from the complainant and respondent.

The decision-maker must have regard to the complainant and respondent's right to be heard as set out in clause 14.2.

The decision-maker may decide not to proceed further with a complaint if:

- (a) The complaint is trivial;
- (b) The complaint does not appear to disclose or involve any allegation of the following kind:
 - (i) That a Member or a Board Member has engaged in material misconduct;
 - (ii) That a Member, Board Member or the Society has materially breached, or is likely to breach, a duty of this Constitution, the Bylaws, the Code of Conduct or the Act;
 - (iii) That a member's rights or interests or members' rights or interest generally have been materially damaged;
- (c) The complaint appears to be without foundation or there is no apparent evidence to support it;
- (d) The person who makes the complaint has an insignificant interest in the matter;
- (e) The conduct, incident, event, or issue giving rise to the complaint has already been investigated and dealt with under this Constitution; or
- (f) There has been an undue delay in making the complaint.

A Member may not make a decision on, or participate as a decision-maker for a Dispute, if two or more Board Members, or two or more Members of a sub-committee dealing with a Dispute, consider that there are reasonable grounds to believe that the person may not approach the complaint impartially, or without a predetermined view.

14.4 **Resolving Disputes**

The decision-maker may:

- (a) Decide not to proceed further with a complaint;
- (b) Reprimand, suspend or expel the Member or Board Member; or
- (c) Make any decision which the decision-maker thinks appropriate in order to resolve the Dispute.

The decision of the decision maker shall be made in the sole discretion of the decision maker, and shall be final. The decision may be published in the Society's newsletter or other publication.

15. **Winding up**

15.1 **Process**

The Society may be wound up, or liquidated, or removed from the Register of Incorporated Societies in accordance with the provisions of the Act.

The Secretary shall give Notice to all Members of a proposed motion to wind up the Society, or remove it from the Register of Incorporated Societies and of the General Meeting at which any such proposal is to be considered, of the reasons for the proposal, and of any recommendations from the Board in respect to such notice of motion.

Any resolution to wind up the Society or remove it from the Register of Incorporated Societies must be passed by a two-thirds majority of all Members present and voting.

15.2 **Surplus assets**

If the Society is wound up, or liquidated, or removed from the Register of Incorporated Societies, no distribution shall be made to any Member.

On the winding up or liquidation or removal from the Register of Incorporated Societies of the Society, its surplus assets after payment of all debts, costs and liabilities shall be vested in one or more charitable organisations with similar objectives to the Society or for purposes as defined in section 5(1) of the Charities Act 2005.

However, on winding up by resolution under this rule, the Society may approve a different distribution to a different entity from that specified above, so long as the Society complies with this Constitution Rules in all other respects.

16. **Alterations to the Constitution**

16.1 **Amending this Constitution**

The Society may amend or replace this Constitution at a General Meeting by a resolution passed by a two-thirds of majority of those Members present and voting.

Any notice of motion proposing to amend or replace this Constitution, either in whole or in part, may only be considered at a General Meeting if:

- (a) The motion is given in writing to the Secretary at least 30 Clear Days before the General Meeting at which the motion is to be considered;
- (b) The motion is accompanied by a written explanation of the reasons for the proposal; and
- (c) There are no changes to the pecuniary gain clause (13.4) or the surplus assets clause (15.2) in this Constitution, and no other changes are proposed which would allow personal pecuniary profits to be given to any Members. The provisions and effect of this clause 16.1(c) shall not be removed from this Constitution and shall be included and implied into any replacement Constitution.

At least 10 Clear Days before the General Meeting at which any amendment is to be considered the Secretary shall give to all Members notice of the proposed motion including the reasons for the proposal, and any recommendations the Board has.

When an amendment is approved by a General Meeting it shall be notified to the Registrar of Incorporated Societies in the form and manner specified in the Act for registration, and shall take effect from the date of registration.

16.2 **Minor or technical amendments of the Constitution**

Notwithstanding clauses 6.2 and 16.1 of this Constitution, the Society may amend the Constitution if the amendment has no more than a minor effect, corrects errors or makes similar technical alterations.

The Board must ensure that written notice of the minor or technical amendment to the Constitution is sent to every Member of the Society, which includes:

- (a) The text of the amendments; and
- (b) Member's rights to object to the amendment.

If no objection by a Member is received by the Board or Secretary within 20 working days after the notice was sent, the Society may make the amendment.

However, if an objection is received from a Member, the Society may not make the amendment.

17. Miscellaneous

17.1 Common seal

The common seal of the Society must be kept in the custody of the Secretary.

The common seal may be affixed to any document:

- (a) by resolution of the Board, and must be countersigned by two Board Members or by one Board Member and the Secretary; or
- (b) by such other means as the Board may resolve from time to time.

17.2 Registered office

The Registered Office of the Society shall be at such place in New Zealand as the Board from time to time determines, and changes to the Registered Office shall immediately be notified to the Registrar of Incorporated Societies in a form and as required by the Statute.

17.3 Serving of Notices

Any Notice required to be given by this Constitution shall (unless otherwise set out in this Constitution) be in writing and given by either:

- (i) Delivery to the person required to receive it;
- (ii) Posted, in the case of notices by Members to the Society or the Board Members, to the registered office of the Society. Delivery shall be deemed to have occurred after 5 Clear Days have elapsed from the date of posting;
- (iii) Posted, in the case of notices to Members to the Member's last address as recorded in the Register of Members or as given by the Member to the Secretary to be recorded in the Register of Members. Delivery shall be deemed to have occurred after 5 Clear Days have elapsed from the date of posting; or
- (iv) By email to the recipient's last known email address as recorded in the Register of Members or as given by the Member to the Secretary to be recorded in the Register of Members. Delivery shall be deemed to have occurred on sending provided that no non-delivery notice is subsequently received.

Accidental omission to give notice of any meeting, or the non-receipt of such notice, shall not invalidate the proceedings at any meeting.

17.4 Contact person

The Society's contact person must be:

- (i) At least 18 years of age;
- (ii) A Board Member;
- (iii) At all times be resident in New Zealand;
- (iv) Not disqualified under the Statute from holding that office; and

shall be appointed by the Board.

Any change in that contact person or that person's name or contact details shall be advised to the Registrar of Incorporated Societies within 25 Clear Days of that change occurring, or the Society becoming aware of the change.

17.5 Contracts by the Society

Any contracts entered into by the Society shall be in writing and must be approved by ordinary resolution of a Board meeting. The President is authorised to sign any approved contract or any class of contract on behalf of the Society.

17.6 Board the final arbiter

Subject to the Act, this Constitution and the resolutions of General Meetings, the decisions of the Board on the interpretation of this Constitution and all matters dealt with by it in accordance with this Constitution and on matters not provided for in this Constitution shall be final and binding on all Members.

17.7 Entrenched provisions of the Constitution

The following provision of the Constitution may only be changed by Special Resolution of Members at a general meeting:

Clause 7 Board Structure and Governance

17.8 Bylaws

The Board from time to time may make and amend bylaws, and policies for the conduct and control of Society activities and codes of conduct applicable to Members, but no such bylaws, policies or codes of conduct applicable to Members shall be inconsistent with the Act, regulations made under the Act, or this Constitution.

17.9 Code of Conduct

The Board from time to time may adopt a Code of Conduct to implement professional conduct standards applicable to Members, provided that the Code of Conduct is not inconsistent with the Act, regulations made under the Act, or this Constitution.

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