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HAWKE'S BAY MUSEUMS TRUST

Ruawharo Ta-u-rangi

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CONSTITUTION AND RULES

(adopted 11 May 2010)

**CERTIFICATE OF INCORPORATION
NO. NACT 424776
1 MARCH 1989**

HAWKE'S BAY MUSEUMS TRUST

Ruawharo Ta-u-rangi

CONSTITUTION AND RULES

1. NAME

- 1.1. The name of the Society shall be "Hawke's Bay Museums Trust (Incorporated). The Society is hereafter in these Rules called "the Trust".

2. REGISTERED OFFICE

- 2.1. The registered office of the Trust shall be at the Hawke's Bay Museum & Art Gallery
- 2.2. Art Gallery & Museum Herschell Street, Napier, or at such other place as the Trust shall from time to time decide.

3. GENERAL OBJECTIVES

- 3.1. To hold and protect the regional collection for the people of Hawke's Bay and to provide storage and protection for the collection.
- 3.2. To establish, maintain, operate, and develop Museums, Art Galleries, Theatres, and Museums Centres, for Museums purposes in Hawke's Bay.
- 3.3. To advance and promote the Arts in New Zealand and particularly in Hawke's Bay.
- 3.4. To promote a sense of history and an awareness of the importance of the nation's heritage in New Zealand and particularly in Hawke's Bay
- 3.5. To hold and protect the regional collection for the people of Hawke's Bay and to provide storage and protection for the collection. To provide an exhibition policy and to oversee the maintenance, risk management and quality of the regional collection through a contract for services with the Napier City Council.
- 3.6. To regulate and approve the disposal of collection items.
- 3.7. To administer the bequests that are vested in the Trust.

4. POWERS OF TRUST

- 4.1. The Trust shall have all the powers of a Trust Board under Part II of the Charitable Trusts Act 1957 (hereinafter called “the Act”), and shall have power to acquire by way of gift, bequest, purchase, or exchange, loan or trust and to dispose of in similar manner, any real or personal property, and to generally administer and control the property, assets and funds of the Trust in conformity with the provisions of the Act, these Rules and the conditions of any grant, bequest or trust.
- 4.2. Subject to the Act and these Rules, the Trust shall have full control and absolute discretion as to the governance of the Hawke's Bay Museum & Art Gallery, and any other Museum, Art Gallery, Cultural Centre or institution that may be acquired by the Trust or come under its control including the power to enter into a contract for services with the Napier City Council to provide advice, management services, administration for the carrying out of the Trust's objectives, policies and powers and being indemnified by the Napier City Council accordingly.
- 4.3. The Trust shall have power from time to time to make rules for the internal management of all assets under the control of the Trust and for the transaction of its business provided that such Rules are in conformity with the provisions of the Act and not inconsistent with these Rules.
- 4.4. In addition to the powers implied by the general law of New Zealand or contained in the Trustee Act 1956, the powers which the Board may exercise in order to carry out its charitable purposes are as follows:
- (a) to use the fund of the Trust as the Board thinks necessary or proper in payment of the costs and expenses of the Trust, including the employment of professional advisers, agents, officers and staff as appears necessary or expedient; and
 - (b) to purchase, take on lease or in exchange or hire or otherwise acquire any land or personal property and any rights or privileges which the Board thinks necessary or expedient for the purpose of attaining the objects of the Trust and to sell, exchange, bail or lease, with or without option of purchase, or in any manner dispose of such property, rights or privileges as aforesaid; and
 - (c) to carry on any business; and
 - (d) to invest surplus funds in any way permitted by law for the investment of trusts and upon such terms as the Board thinks fit; and
 - (e) to borrow or raise money from time to time, with or without security, and upon such terms as to priority and otherwise as the Board thinks fit; and
 - (f) to do all things as may from time to time, be necessary or desirable to enable the Board to give effect to and to attain the charitable purposes of the Trust;

and

- (g) to insure Trust property and property under the Trust's care provided that this power shall not impose any obligation to insure.

4.5. Notwithstanding any other provision in this trust document the activities of the Trust shall be limited to New Zealand.

5. TANGATA WHENUA

5.1. In attaining its purposes the Trust shall recognise the mana, views and expectations of Ngati Kahungunu iwi as Tangata Whenua.

6. CONSTITUTION OF TRUST

6.1. The Trust shall consist of five members who shall be appointed as follows:

- (a) One appointed by the Napier City Council;
- (b) One appointed by the Hastings District Council;
- (c) One appointed by the Friends of the Hawke's Bay Museums Trust (Incorporated);
- (d) One by Ngati Kahungunu Iwi (Incorporated).
- (e) The Chairperson who shall be appointed by the Napier City Council and the Hastings District Council jointly.

6.2. Alternative Members:

- (a) Every member may by notice to the Board appoint any person (including any other member), to act as an alternative member in respect of a specified meeting or meetings during the member's absence from a meeting or meetings. Such notice may in the first instance be given verbally including by telephone to the chairperson or deputy chairperson but shall be confirmed in writing (including by fax or email) as soon as possible thereafter;
- (b) At the member's discretion, by notice to the Board, the member may remove the member's alternative member;
- (c) An alternative member may, while acting in the place of the appointing member, represent, exercise and discharge all the powers, rights, duties and privileges (but not including the right of acting as chairperson and signing board resolutions) of the appointing member. The alternative member is subject in all respects to the same terms and provisions as the appointing member, except as regards remuneration and except as regards the power to appoint an alternative member under these rules.
- (d) For the purpose of establishing a quorum of the Board, an alternative member is deemed to be the member appointing him or her, and if the alternative member is a member, he or she can count separately in both

capacities;

- (e) An alternative member does not have a right to attend, speak, or vote at a meeting of the Board while his or her appointing member is present;
 - (f) An alternative member's appointment lapses upon his or her appointing member ceasing to be a member;
 - (g) The Notice of Appointment of an alternative member must include an address for service of notice of meetings of the Board. Failure to give an address will not invalidate the appointment, but notice of meetings of the Board need not be given to the alternative member until an address for service is provided to the Board;
 - (h) An alternative member shall not be the agent of his or her appointer, and shall exercise his or her duties as a member independently of his or her appointer.
- 6.3. The members appointed from time to time pursuant to this clause are hereafter collectively referred to as "the members".
- 6.4. Members shall be appointed for a specified term not exceeding 3 years and shall have the power to appoint individuals to varied terms in order to implement a staggered system for the terms of office of the Members.
- 6.5. Any member, including the chairperson, may be dismissed by the entity which appointed that member.
- 6.6. It shall not be necessary for any member or members nominated by any Local Authority, Society or group to be a member of the Council of the Local Authority, Society, or group by which the member is appointed.

7. ROTATION OF MEMBERS AND VACANCIES

- 7.1. Any member may from time to time be re-appointed, or may at any time resign office by notice in writing addressed to the Trust.
- 7.2. Every member shall come into office on the day on which such member is appointed.
- 7.3. Every member, unless that member sooner vacates office, shall continue to hold office until the successor of that member comes into office.
- 7.4. The powers of the Trust shall not be affected by any vacancy in the membership thereof.

8. CHAIRPERSON AND DEPUTY CHAIRPERSON

- 8.1. The Chairperson, or in his/her absence another member nominated by the Chairperson, shall preside at all meetings.
- 8.2. The Deputy Chairperson shall be appointed by the Chairperson.

9. TRANSACTION OF BUSINESS

- 9.1. Each member shall be entitled to one [1] vote and (subject to any specific provision in these rules) all matters to be decided by the Trust shall be decided by a majority of votes.
- 9.2. In the event of an equality of votes the Chairperson of the meeting shall have a second or casting vote.
- 9.3. The quorum necessary for the transaction of the business of the Trust shall be fixed by the Trust from time to time and unless so fixed shall be four [3].
- 9.4. Subject to the Act and to any specific provision in these rules (or any rules made pursuant to Clause 4.3 hereof), the Trust may meet together for the dispatch of its business, adjourn, or otherwise regulate its meetings as it thinks fit.

10. ANNUAL AND OTHER MEETINGS

- 10.1. The financial year of the Trust shall run from 1 July to 30 June in the following year and accounts for the year immediately past shall be taken as soon as may be conveniently possible following each 30 June.
- 10.2. The Annual General Meeting of the Trust shall be held as soon as convenient after the end of the financial year, but in any event not later than four months thereafter and not less than seven [7] days notice in writing of the Annual General Meeting shall be given by the Secretary to each member.
- 10.3. At the Annual General Meeting a report on the activities of the Trust shall be presented to the meeting together with an audited statement of income and expenditure, assets and liabilities of the Trust in respect of the financial year then passed.
- 10.4. The Trust shall otherwise meet on a quarterly basis.
- 10.5. A Special General Meeting may be convened at any time on receipt by the Secretary of a written requisition signed by the Chairperson or not less than three [3] members and not less than seven [7] days notice of such meeting shall be given to each member. The written requisition shall state the business to be transacted at the meeting and the notice of the meeting given to each member shall state such business.

11. DELEGATION

- 11.1. The members may, as they think fit, from time to time, and either specifically or generally, delegate any functions or powers to any Committee (including an executive committee) or to the Napier City Council pursuant to a contract for services.
- 11.2. Subject to any directions given, the Committee or the Chief Executive Officer to which any such delegation is made may exercise or perform the delegated functions or powers in the same manner and with the same effect as the Members.
- 11.3. Any delegation may be revoked by the Members at any time, but until revoked it shall continue in force.
- 11.4. Any person may be appointed a member of a Committee notwithstanding that such person is not a member of the Trust.
- 11.5. Subject to any directions given by the Members, every Committee may regulate its own procedure.

12. INCOME, BENEFIT OR ADVANTAGE TO BE APPLIED TO CHARITABLE PURPOSES

- 12.1. Any income, benefit or advantage shall be applied to the charitable purposes of the Trust.
- 12.2. No member of the Trust or person associated with a member of the Trust shall participate in, or materially influence, any decision made by the Trust in respect of the payment to or on behalf of that member or associated person of any income, benefit or advantage whatsoever, except where that income, benefit or advantage is derived from:
 - (a) Professional services to the Trust rendered in the course of business charged at no greater rate than current market rates; or
 - (b) Interest on money lent at no greater rate than current market rates.
- 12.3. Any such income paid shall be reasonable and relative to that which would be paid in an arms length transaction (being open market value).
- 12.4. The provisions and effect of this clause shall not be removed from this document and shall be included and implied into any document replacing this document.

13. APPLICATION OF FUNDS

- 13.1. The income and property of the Trust from whatever source shall be applied solely towards the promotion of the objects of the Trust, and no portion of the said funds shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise to members of the trust except by way of honorarium to persons entitled thereto (if any) in accordance with these Rules provided that these are no greater than open market rate.
- 13.2. Funds entrusted to the Trust by gift or bequest shall be used as directed by the donor.

14. DISSOLUTION AND WINDING UP

- 14.1. The Trust may be wound up pursuant to the provision of the Charitable Trusts Act 1957.
- 14.2. If after winding up or a dissolution of the Trust, and after the satisfaction of all the debts and liabilities thereof, there remain any funds or property whatsoever available, the same shall be paid or distributed pursuant to the requirements of the Charitable Trusts Act 1957 or any Court Order made pursuant to such Act.
- 14.3. The Trust may at a General Meeting of the Trust at or before winding up or dissolution, make a recommendation as to the body or institution of a charitable nature within New Zealand to whom such funds or property should in the opinion of the Trust be transferred, to the intent that such recommendation shall be available for consideration when distribution is being made pursuant to the preceding Clause 15.2 hereof.

15. NOTICES

- 15.1. A notice may be served by the Trust upon any member, either personally or by

sending it through the post in a prepaid letter addressed to such member at the member's last known address. Any notice sent by post shall be deemed to have been served one day after posting. Notices may also be sent by email or by fax to an email address or fax number nominated by the member.

16. ALTERATION TO RULES

- 16.1. These rules may be altered, added to, replaced, or amended, provided such alteration, addition, replacement or amendment shall not detract from the exclusively charitable nature of the Trust, by a resolution passed by majority of not less than three-fourths of the total members of the Trust present and entitled to vote at any Annual General or Special General Meeting provided that at least seven [7] days notice of such resolution shall be given to every member of the Trust.

17. COMMON SEAL

- 17.1. The Trust shall have a common seal which shall only be affixed to documents pursuant to a resolution of the members and shall be attested by at least two members of the Trust one of whom shall be the Chairperson or Deputy Chairperson.

18. INCORPORATION

- 18.1. The Trust is empowered to apply for incorporation as a Trust Board pursuant to the Charitable Trusts Act 1957.

19. LIABILITY

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- 19.1. No member, officer or committee member shall be liable for the acts, receipts, neglects or defaults of any other member, officer or committee member of the Society for any loss occasioned by any error of judgment or oversight on their part or for any other loss, damage or misfortune whatever which shall happen in the execution of their duties or in relation thereto unless the same happens through their own recklessness, willful default or dishonesty.