

CONSTITUTION RULES

WHANGAPOUA COMMUNITY ASSOCIATION

**WILSON MCKAY
SOLICITORS
AUCKLAND**

Constitution Rules

1. Name

- 1.1 The name of the society is **WHANGAPOUA COMMUNITY ASSOCIATION** (in these **Rules** referred to as the '**Society**').

2. Definitions

- 2.1 In these **Rules**, 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.

'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.

'Associated Person' means a person who:

- (a) may obtain a financial benefit from any matter being dealt with by any **Member** (as a **Committee 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 **Committee 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 **Committee Member**, or in any **General Meeting**, or otherwise for the **Society**) relates;
- (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:

- (e) merely because that **Member** receives an indemnity, insurance cover, remuneration, or other benefits authorised under this Act; or
- (f) 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

- (g) 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
- (h) 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.

'Chair' means the **Committee Member** responsible for, among other things, overseeing the governance and operations of the **Society** and chairing **General Meetings**.

'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).

'Committee' means the **Society's** governing body having not less than 3 **Committee Members**.

'Committee Member' means a member of the **Committee**, including the **Chair**, **Secretary** and **Treasurer**.

'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 any person/s properly admitted to the **Society** who has not ceased to be a member of the **Society** and being a registered proprietor of real property within **Whangapoua** (whether or not that registered proprietor is liable to pay rates to the Thames – Coromandel District Council or any successor or substitute body in respect of that property). At the Committee's unfettered discretion, included in the definition of member is a permanent resident, or tenant, or the person nominated as a member by multiple registered proprietors of a property. A registered proprietor of two or more properties within **Whangapoua** shall only be entitled to one membership.

'Notice' to Members includes any notice given by post, courier, or email; the failure for any reason of any Member to receive such Notice or information shall not invalidate any meeting or its proceedings or any election.

‘Register of Interests’ means the register of interests of **Committee Members** kept under these **Rules**.

‘Register of Members’ means the register of **Members** kept under these **Rules**.

‘Rules’ means the rules in this document.

‘Secretary’ means the **Committee Member** responsible for, among other things, keeping the **Register of Members**, the **Register of Interests**, and recording the minutes of **General Meetings** and **Committee** meetings.

‘Special General Meeting’ means a meeting of the **Members**, other than an **Annual General Meeting**, called for a specific purpose or purposes.

‘Treasurer’ means the **Committee Member** responsible for, among other things, overseeing the finances of the **Society**.

“Whangapoua” means Whangapoua Beach, its surrounds and approaches including New Chums Beach, the hinterland behind both beaches and the headlands at either end, and the Te Rerenga settlement.

3. Purposes

3.1 The primary purposes of the **Society** are to:

- (a) Conserve, safeguard, promote and advance the interests and welfare (material, cultural and social) of the owners, occupiers, and residents of properties in and near **Whangapoua**.
- (b) Protect, preserve, conserve, improve, beautify, and enhance the amenities of **Whangapoua** for the benefit of not only the owners, occupiers, and residents, but also guests and visitors, tourists from other regions and countries, and the public in general.
- (c) Liaise and collaborate in good faith with local iwi in respect of matters which touch upon **Whangapoua**.
- (d) Assist special interest groups, societies and other associations who desire to preserve, maintain, and protect areas of special significance within **Whangapoua**.
- (e) Represent the interests of such groups by making submissions to Government, Councils, or other such bodies.

3.2 The **Society** must not operate for the purpose of, or with the effect of:

- (a) any **Member** of the **Society** deriving any personal financial gain from membership of the **Society**, other than as may be permitted by law; or
- (b) returning all or part of the surplus generated by the **Society's** operations to **Members**, in money or in kind; or
- (c) conferring any kind of ownership in the **Society's** assets on **Members**;

but the **Society** will not operate for the financial gain of **Members** simply if the **Society**:

- (i) engages in trade for matters that are incidental to the purposes of the **Society**; and
- (ii) pays a **Member** of the **Society** that is a body corporate that is not, or are the trustees of a trust that are not, carried on for the private pecuniary profit of any individual; and
- (iii) reimburses a **Member** for reasonable expenses legitimately incurred on behalf of the **Society** or while pursuing the **Society's** purposes; and
- (iv) provides benefits to members of the public and those persons include **Members** or their families; and
- (v) pays a **Member** a salary or wages or other payments for services to the **Society** on arm's length terms (terms reasonable in the circumstances if the parties were connected or related only by the transaction in question, each acting independently, and each acting in its own best interests; or are terms less favourable to the Member than those terms); and
- (vi) pays any **Member** interest at no more than current commercial rates on loans made by that **Member** to the **Society**; and
- (vii) provides a **Member** with incidental benefits (for example, trophies, prizes, or discounts on products or services) in accordance with the purposes of the **Society**.

3.3 No **Member**, or **Associated Person**, is allowed to take part in, or influence any decision made by the **Society** in respect of payments to, or on behalf of, the **Member** or **Associated Person** of any income, benefit, or advantage.

3.4 Any payments made to a **Member** or **Associated Person** must be for goods and services that advance the charitable purpose and must be reasonable and relative to payments that would be made between unrelated parties.

4. Act and Regulations

- 4.1** Nothing in this Constitution authorises the Society to do anything which contravenes or is inconsistent with the Act, or any other legislation.

5. Registered Office

- 5.1** The Registered Office of the **Society** shall be at such place in New Zealand as the **Committee** 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 Act.

6. Powers of a natural person

- 6.1** Subject to the Act, and to these rules, the Society has the power to do every lawful thing a natural person is capable of doing.

7. Powers to Borrow Money

- 7.1** The **Society** has the power to borrow money and shall be required to obtain approval from the Members via a General Meeting for borrowings over \$5,000.00.

8. Other Powers

- 8.1** In addition to its statutory powers, the **Society**:

- (a) may use its funds to pay the costs and expenses to advance or carry out its purposes, and to employ or contract with such people as may be appropriate; and
- (b) may invest in any investment in which a trustee may lawfully and prudently invest.

- 8.2** The Society shall only use funds received for the purposes set out in clause 3.1 of these Rules, and to use such funds wholly or principally within New Zealand. The purpose of this clause is to ensure that the Society qualify for donee status under the New Zealand Income Tax Act legislation.

Members

8.3 Minimum Number of Members

- 8.3.1** The **Society** shall maintain the minimum number of **10 Members** required by the **Act**. There is no maximum number.

8.4 Types of Members

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

- (a) **Member:** A **Member** is an individual admitted to membership under these **Rules** and who or which has not ceased to be a **Member**. In the case of a member which comprises two or more people they shall nominate one person as the **Member** or their proxy for the purpose of exercising the voting rights and complying with the obligations of a **Member**, and that person shall be recognised as the **Member** in respect of the property in question.
- (b) **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 a **Member** except those of paying subscriptions.
- (c) **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.

8.5 Becoming a Member: (consent of applicant).

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

8.6 Becoming a Member: (process)

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

8.6.2 The **Committee** may accept or decline an application for membership. No applications for membership of the **Society** will be entertained where in the case of Whangapoua there is more than one Member per property, or where the beliefs and aspirations of the incoming Member are not consistent with the objects of the **Society**, or if for any other reason it is not the best interests of the **Society** to admit the candidate to membership.

8.6.3 The **Committee** must advise the applicant of its decision (but is not required to provide reasons for that decision). For the avoidance of doubt, the **Committee** shall preside over any dispute concerning any entitlement to membership, the rights and obligations that attach to it, whether a property is within **Whangapoua**, who is registered proprietor or proprietors of a property, who is a permanent resident, or tenant, who is the person nominated by multiple registered proprietors, and any similar issue and the Committee's decision will be final.

8.7 Obligations and Rights

8.7.1 Every **Member** shall provide the **Society** with that **Member's** name, their physical address within Whangapoua and their contact details (including inter alia email addresses and telephone number(s)) and promptly advise the **Society** of any changes to those details.

8.7.2 Membership does not confer on any **Member** any right, title, or interest (legal or equitable) in the property of the **Society**.

8.8 Other Obligations and Rights

8.8.1 All **Members** (including **Committee Members**) shall support the interests and purposes of the **Society** and shall do nothing to bring the **Society** into disrepute.

8.8.2 A **Member** is only entitled to exercise the rights of membership (including attending and voting at **General Meetings**, accessing or using (to the extent there is any) 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** or Life **Member** or Honorary Member is liable for an obligation of the **Society** by reason only of being a **Member**.

8.8.3 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**.

8.8.4 The **Committee** 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.

8.9 Subscriptions and Fees

8.9.1 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), or that there shall be no annual subscription. Unless the Committee determines otherwise, a **Member** joining the Association at any time during a current subscription year shall be required to pay a pro rata proportion of the annual subscription and any additional or special levies payable in respect of that subscription year, calculated on a monthly basis.

8.9.2 If at any time the **Committee** decides that the Society requires extra funds, the Committee may propose a special levy to the Members which shall be in addition to the annual subscription. The Committee shall submit any such proposal to the vote of the Members either at a General Meeting, or by postal ballot or by electronic means.

8.9.3 Any **Member** failing to pay the annual subscription (including any periodic payment), any levy, or any capitation fees, within one (1) calendar month of the date the same was due for payment shall be considered as unfinancial and 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. If such arrears are not paid within three (3) months of the due date for payment of the subscription, any other fees, or levy, the **Committee** may terminate the **Member's** membership (without being required to give prior notice to that **Member**).

8.9.4 The **Society's** subscription year shall commence on the first day of February in each year and shall end on the last day of January in the following year. The **Member** shall be invoiced for all subscriptions or levies due to the **Society** as soon as possible after the **General Meeting** or ballot at which those subscriptions are approved.

Ceasing to be a Member

8.9.5 A **Member** ceases to be a **Member**:

- (a) on death (or if a partnership on dissolution of the partnership); or
- (b) by resignation from that **Member's** class of membership by notice to the **Secretary**; or
- (c) on termination of a **Member's** membership following a dispute resolution process under these **Rules**; or
- (d) in the case of multiple registered proprietors of a property, the nominated **Member** is withdrawn as the nominee/proxy or is replaced by another nominee/proxy as the person to be recognised as the **Member** in respect of the property in question.
- (e) The **Committee** may in its absolute sole discretion terminate a membership of the **Society** any time after the **Member** in question:
 - (i) fails to pay the relevant annual subscription or any other sum payable to the **Society** after being requested in writing to do so by the **Secretary** or **Treasurer**; or
 - (ii) does not comply with any provision of these **Rules** or any regulation or bylaw made by the **Committee** pursuant to these **Rules** after being requested in writing to do so by the **Secretary** or **Treasurer**; or
 - (iii) ceases to meet the relevant criteria for membership in the opinion of the **Committee** (in its absolute discretion); or

- (iv) does anything that in the opinion of the **Committee** (in its absolute discretion) is likely to seriously prejudice the Society or the achievement of its objects;

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 termination of membership.

8.9.6 Member's right to explain conduct prior to termination of membership

A **Member** advised by the **Committee** of their termination as a **Member** of the **Society** shall be given a reasonable opportunity to explain their conduct before the **Committee** reaches its decision.

8.10 Obligations on Resignation

8.10.1 A Member who resigns or whose membership is terminated under these Rules:

- (a) remains liable to pay all subscriptions and other fees to the **Society's** next balance date; and
- (b) shall cease to hold themselves out as a **Member** of the **Society**; and
- (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 **Member**.

8.11 Becoming a member again

8.11.1 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 **Committee**. However, if a former **Member's** membership was terminated following a dispute resolution process, the applicant may be re-admitted only by a **General Meeting** on the recommendation of the **Committee**.

9. General Meetings

9.1 Annual General Meetings

9.1.1 An **Annual General Meeting** shall be held once a year at **Whangapoua** during the time when the majority of the Members take their summer holidays, and on a date and at a location determined by the **Committee** and consistent with any requirements in the **Act**, and the **Rules** relating to the procedure to be followed at **General Meetings** shall

apply. Subject to Members and their families and guests being entitled to attend and speak at General Meetings, only financial **Members** may vote at **General Meetings**.

9.2 Annual General Meetings: business

9.2.1 The business of an **Annual General Meeting** shall be to:

- (a) confirm the minutes of previous **Society** Meeting(s); and
- (b) adopt the annual report on **Society** business; and
- (c) adopt the **Treasurer's** report on the finances of the **Society**, and the annual financial statements; and
- (d) set any subscriptions for the current financial year; and
- (e) consider any motions; and
- (f) elect the **Committee**; and
- (g) consider any special or general business.

9.2.2 The **Committee** must, at each Annual General Meeting, present the following information:

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

9.3 Special General Meetings

9.3.1 **Special General Meetings** may be called at any time by the **Committee** by resolution. The **Committee** must call a **Special General Meeting** if the **Secretary** receives a written request signed by at least 10% of the current membership of the Society or 15 **Members**, (whichever is the greater). Any resolution or written request must state the business that the **Special General Meeting** is to deal with.

9.3.2 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 **Committee's** resolution or the written request by **Members** for the Meeting.

9.4 Procedure

- 9.4.1** The **Committee** shall give all **Members** at least fifteen (15) **Clear Days'** Notice of any **General Meeting** and of the business to be conducted at that **General Meeting**.
- 9.4.2** The **General Meeting** and its business will not be invalidated simply because one or more **Members** have not received the **Notice**.
- 9.4.3** Only financial **Members** may vote at **General or Special General Meetings**:
- (a) in person; or
 - (b) by a signed original written proxy (via email to the Committee) in favour of some individual entitled to be present and who the Member nominates to vote on their behalf and received by, or handed to, the **Secretary** before the commencement of the **General Meeting**; or
 - (c) through the authorised representative of a body corporate as notified to the **Secretary**; and
 - (d) no other proxy voting shall be permitted.
- 9.4.4 Voting method and polling**
At **General Meetings**, votes shall be taken by the method of voices for and against, but if after using that method there is no clear indication of the outcome of the motion, then the vote shall be taken by a show of hands. At any time prior to the vote being taken, or immediately after the result is announced, a poll may be demanded either by the **Chair**, or by five members present in person or by proxy. If a poll is demanded, it shall be taken in such manner and at such stage during the **General Meeting** as the **Chair** may direct.
- 9.4.5** No **General Meeting** may be held unless at least ten **Members** of all eligible financial **Members** attend. This will constitute a quorum.
- 9.4.6** 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 **Chair** 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.
- 9.4.7** **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.
- 9.4.8** All **General Meetings** shall be chaired by the **Chair**. If the **Chair** is absent, then those **Members** present in person shall elect one of their number to serve as the Chair of the **General Meeting**.

- 9.4.9** The Chair chairing a **General Meeting** has a deliberative and, in the event of a tied vote, a casting vote. A simple majority shall be sufficient to pass any **Members Resolution**.
- 9.4.10** The Chair chairing a **General Meeting** may with the consent of a majority of members attending the **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.
- 9.4.11** The Chair may 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 Chair be removed from the Meeting; and
- 9.4.12** In the absence of a quorum or in the case of emergency, the Chair may adjourn the Meeting or declare it closed.
- 9.4.13** The **Committee** may put forward motions for the **Society** to vote on (**'Committee Motions'**), which shall be notified to Members with the notice of the **General Meeting**.
- 9.4.14** Any **Member** may request that a motion be voted on (**'Member's Motion'**) at a **General Meeting**, by giving notice to the **Secretary** at least fourteen (14) **Clear Days** before that meeting. The **Member** may also provide information in support of the motion (**'Member's Information'**).
- 9.4.15** Instead of holding a General Meeting (other than the **Annual General Meeting**) the **Members** may pass valid resolutions by means of a postal ballot conducted by the **Secretary**. All members who are entitled to receive notice of **General Meetings** and to vote at **General Meetings** must be invited to participate in the postal ballot, but any accidental omission to issue the invitation to any **Member** entitled to receive it, shall not invalidate any resolutions passed pursuant to the postal ballot. A postal ballot shall not be effective unless at least 15 **Members** entitled to vote respond within the prescribed time. In all other respects a postal ballot shall be conducted as close as possible in accordance with the requirements for **General Meetings**.
- 9.4.16** Provided the **Committee** is satisfied there are sufficient safeguards to verify the privacy and authenticity of the votes that are cast, a postal ballot may be conducted by facsimile, email, or any other (including electronic) method of communication approved by the Committee.

9.5 Minutes

- 9.5.1** Minutes must be kept by the **Secretary** of all **General Meetings**.

10. Committee

10.1 Composition

10.1.1 The **Committee** will consist of not less than 3 people elected by the Members at the Annual General Meeting, or under rule 10.3.1 of these **Rules** being **Committee Members** who are:

- (a) **Members**; and
- (b) natural persons; and
- (c) not disqualified by these **Rules** or the **Act**.

The **Committee** will include:

- (a) a **Chair**; and
- (b) a **Secretary** and a **Treasurer**, who may be the same person.

10.2 Qualifications

10.2.1 Prior to election or appointment, every **Committee Member** must consent in writing to be a **Committee Member** and certify in writing that they are not disqualified from being appointed or holding office as a **Committee Member** by these **Rules** or the **Act**.

10.2.2 The following persons are disqualified from being appointed or holding office as a **Committee Member**:

- (a) unless otherwise approved at a General Meeting, a person who is not a financial member, or who has a relationship to a person who is also on the Committee; or
- (b) a person who is under 16 years of age; or
- (c) a person who is an undischarged bankrupt; or
- (d) a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under the Companies Act 1993, the Financial Markets Conduct Act 2013, or the Takeovers Act 1993; or
- (e) a person who is disqualified from being a member of the **Committee** of a charitable entity under section 31(4)(b) of the Charities Act 2005; or
- (f) a person who has been convicted of any of the following, and has been sentenced for the offence, within the last 7 years:
 - (i) an offence under subpart 6 of Part 4 of the Crimes Act 1961; or

- (ii) a crime involving dishonesty (within the meaning of section 2(1) of the Crimes Act 1961); or
- (iii) an offence under section 143B of the Tax Administration Act 1994; or
- (iv) an offence, in a country other than New Zealand, that is substantially similar to an offence specified in subparagraphs (i) to (iii); or
- (v) a money laundering offence or an offence relating to the financing of terrorism, whether in New Zealand or elsewhere; or
- (g) a person subject to:
 - (i) an order under section 108 of the Credit Contracts and Consumer Finance Act 2003; or
 - (ii) a forfeiture order under the Criminal Proceeds (Recovery) Act 2009; or
 - (iii) a property order made under the Protection of Personal and Property Rights Act 1988, or whose property is managed by a trustee corporation under section 32 of that Act.

10.3 Election or Appointment

10.3.1 The election of **Committee Members** shall be conducted as follows:

- (a) **Committee Members** shall be elected during **Annual General Meetings**. However, if a vacancy in the position of any **Committee Member** occurs between **Annual General Meetings**, that vacancy shall be filled by resolution of the **Committee** (and any such appointee must, before appointment, supply a signed consent to appointment and a certificate that the nominee is not disqualified from being appointed or holding office as a **Committee Member** by these **Rules** or the **Act**).
- (b) A candidate's written nomination, accompanied by the written consent of the nominee (who must be a financial member) with a certificate that the nominee is not disqualified from being appointed or holding office as a **Committee Member** by these **Rules** or the **Act**, shall be received by the **Secretary** at least twenty-one (21) **Clear Days** before the date of the **Annual General Meeting**. If there are insufficient valid nominations received, further nominations may be received from the floor at the **Annual General Meeting**.
- (c) Votes shall be cast in such a manner as the person chairing the Meeting determines. In the event of any vote being tied, the tie shall be resolved by the incoming **Committee** (excluding those in respect of whom the votes are tied).

- (d) Two **Members** (who are not nominees) or non-**Members** appointed by the **Chair** shall act as scrutineers for the counting of the votes and destruction of any voting papers.
- (e) The failure for any reason of any financial **Member** to receive such **Notice** shall not invalidate the election.

10.4 Removal

10.4.1 Where a complaint is made about the actions or inaction of a **Committee Member** (and not in the **Committee Member's** capacity as a Member of the **Society**) the following steps shall be taken:

- (a) The **Committee Member** who is the subject of the complaint, must be advised of all details of the complaint.
- (b) The **Committee Member** who is the subject of the complaint, must be given adequate time to prepare a response.
- (c) The complainant and the **Committee Member** who is the subject of the complaint, must be given an adequate opportunity to be heard, either in writing or at an oral hearing by the **Committee** (excluding the **Committee Member** who is the subject of the complaint) if it considers that an oral hearing is required.
- (d) Any oral hearing shall be held by the **Committee** (excluding the **Committee Member** who is the subject of the complaint), and/or any oral or written statement or submissions shall be considered by the **Committee** (excluding the **Committee Member** who is the subject of the complaint).

If the complaint is upheld the **Committee Member** may be removed from the **Committee** by a resolution of the **Committee** or of a **General Meeting**, in either case passed by a two-thirds majority of those present and voting.

10.5 Cessation of Committee Membership

10.5.1 A **Committee Member** shall be deemed to have ceased to be a **Committee Member** if that person ceases to be a **Member**, resigns, or loses capacity to perform the duties required of a **Committee Member**, or is removed from office by a majority vote of the **Members**.

10.5.2 Each **Committee Member** shall within five (5) **Clear Days** of submitting a resignation or ceasing to hold office, deliver to the **Secretary** all books, papers and other property of the **Society** held by such former **Committee Member**.

10.6 Functions

10.6.1 From the end of each **Annual General Meeting** until the end of the next, the Society shall be governed by the **Committee**, 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**.

10.7 Officers' Duties Mandatory

10.7.1 At all times, each **Committee Member**:

- (a) shall act in good faith and in what he or she believes to be the best interests of the **Society**; and
- (b) must exercise all powers for a proper purpose; and
- (c) must not act, or agree to the **Society** acting, in a manner that contravenes the Act or this Constitution; and
- (d) when exercising powers or performing duties as a **Committee Member**, must exercise the care and diligence that a reasonable person with the same responsibilities would exercise in the same circumstances taking into account, but without limitation, the nature of the **Society**, the nature of the decision, and the position of the **Committee Member** and the nature of the responsibilities undertaken by them; and
- (e) must not 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** or to the **Society's** creditors, or cause or allow the activities of the **Society** to be carried on in a manner likely to create a substantial risk of serious loss to the **Society** or to the **Society's** creditors; and
- (f) must not agree to the **Society** incurring an obligation unless he or she believes at that time on reasonable grounds that the **Society** will be able to perform the obligation when it is required to do so.

10.8 Powers

10.8.1 Subject to these **Rules** and any resolution of any **General Meeting** the **Committee** may:

- (a) exercise all the **Society's** powers, other than those required by the **Act** or by these **Rules** to be exercised by the **Society** in **General Meeting**; and
- (b) enter into contracts on behalf of the **Society** or delegate such power to a **Committee Member**, sub-committee, employee, or other person.

10.9 Sub-Committees

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

- (a) the quorum of every sub-committee is half the members of the sub-committee; and
- (b) no sub-committee shall have power to co-opt additional members; and
- (c) a sub-committee must not commit the **Society** to any financial expenditure without express authority; and
- (d) a sub-committee must not further delegate any of its powers.

10.10 General Issues

10.10.1 The **Committee** and any sub-committee may act by resolution approved during a telephone conference call or through a written ballot conducted by email or electronic voting system and any such resolution shall be recorded in the minutes of the next **Committee** meeting.

10.10.2 Other than as prescribed by the **Act** or these **Rules**, the **Committee** or any sub-committee may regulate its proceedings as it thinks fit.

10.10.3 Subject to the **Act**, these **Rules** and the resolutions of **General Meetings**, the decisions of the **Committee** on the interpretation of these **Rules** and all matters dealt with by it in accordance with these **Rules** or on matters not provided for in these **Rules** shall be final and binding on all **Members**.

10.11 Conflicts of Interest

10.11.1 A member of the **Committee** and/or of a sub-committee is interested in a matter if the member of the **Committee** and/or sub-committee:

- (a) may obtain a financial benefit from the matter; or

- (b) is the spouse, civil union partner, de facto partner, child, parent, grandparent, grandchild, or first cousin of a person who may obtain a financial benefit from the matter; or
- (c) may have a financial interest in a person to whom the matter relates; or
- (d) is a partner, director, member of the **Committee** and/or sub-committee, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates.

However, a member of the **Committee** and/or sub-committee is not interested in a matter:

- (i) merely because the member of the **Committee** and/or sub-committee receives an indemnity, insurance cover, remuneration, or other benefits authorised under the **Act**; or
- (ii) if the member of the **Committee's** and/or sub-committee's interest is the same or substantially the same as the benefit or interest of all or most other **Members** due to the membership of those **Members**; or
- (iii) if the member of the **Committee's** and/or sub-committee's interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member of the **Committee** in carrying out the member of the **Committee's** and/or sub-committee's responsibilities under the **Act** or the **Rules**; or

10.11.2 (iv) A member of the **Committee** and/or sub-committee who is interested in a matter relating to the **Society** must disclose details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified):

- (a) to the **Committee** and/or sub-committee; and
- (b) in an interests register kept by the **Committee**.

10.11.3 Disclosure must be made as soon as practicable after the member of the **Committee** and/or sub-committee becomes aware that they are interested in the matter.

A member of the **Committee** and/or sub-committee who is interested in a matter:

- (a) must not vote or take part in the decision of the **Committee** 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 **Committee** and/or sub-committee relating to the matter and be present at the time of the decision of the

Committee and/or sub-committee (unless the **Committee** and/or sub-committee decides otherwise).

However, a member of the **Committee** and/or sub-committee who is prevented from voting on a matter may still be counted for the purpose of determining whether there is a quorum at any meeting at which the matter is considered.

10.11.4 Where 75% or more of **Committee Members** are prevented from voting on a matter because they are interested in that matter, a **Special General Meeting** must be called to consider and determine the matter, unless all non-interested members agree otherwise, and where 50 per cent or more of the members of a sub-committee are prevented from voting on a matter because they are interested in that matter, the **Committee** shall consider and determine the matter.

10.12 Committee Meetings

10.12.1 Frequency

The **Committee** shall meet as required 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 **Chair** or **Secretary**.

10.12.2 Procedure

The quorum for Committee meetings is 3 **Committee** Members present at the **Committee Meeting**.

Validity of acts done by committees or subcommittees

Provided that there was a quorum in each such case, all acts done and decisions taken by the **Committee** or any subcommittees of the **Committee** shall be valid notwithstanding the fact that there is any defect. **Members** of the **Committee** or its subcommittees may participate in the conduct of their business notwithstanding the fact that they may be interested in the outcome of that business in another capacity, if they act in good faith and in the best interests of the Society.

11. Records

11.1 Register of Members

11.1.1 The **Secretary** shall keep an up-to-date **Register of Members**, recording for each **Member** their name, contact details, physical address within Whangapoua, the date they became a **Member**, and any other information required by these **Rules** or prescribed by Regulations under **the Act**.

11.1.2 Contents of Register of Members

The information contained in the **Register of Members** shall include each **Member's**:

- (a) name; and
- (b) physical address within Whangapoua; and
- (c) phone number (landline and/or mobile); and
- (d) email address; and
- (d) the date the **Member** became a **Member**.

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

11.2 Access to Register of Members

11.2.1 With reasonable notice and at reasonable times, the **Secretary** shall make the **Register of Members** available for inspection by **Members** and **Committee Members**. However, no access will be given to information on the **Register of Members** to **Members** or any other person, other than as required by law.

11.3 Register of Interests

11.3.1 The **Secretary** shall at all times maintain an up-to-date register of the interests disclosed by **Committee Members**.

11.4 Access to Other Information

11.5 A **Member** may at any time make a written request to the Society for information held by the Society.

11.6 The request must specify the information sought in sufficient detail to enable the information to be identified.

11.7 The **Society** must, within a reasonable time after receiving a request:

- (a) 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
- (b) refuse to provide the information, specifying the reasons for the refusal.

11.8 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; or
- (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**; or
- (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
- (e) the disclosure of the information would, or would be likely to, breach an enactment; or
- (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.

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 ten working days after receiving notification of the charge, the **Member** informs the **Society**:

- (a) that the **Member** will pay the charge; or
- (b) that the **Member** considers the charge to be unreasonable.

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

12. Finances

12.1 Control and Management

12.1.1 The funds and property of the **Society** shall be:

- (a) controlled, invested, and disposed of by the **Committee**; and
- (b) subject to these **Rules**, devoted solely to the promotion of the purposes of the Society; and
- (c) in the case of any bank account of the Society require that any two current **Committee Members** approved by Committee resolution, be signatories on the account.

Balance Date

12.1.2 The **Society's** balance date for each financial year shall be 31 October in each year. Unless required to do so by a resolution carried at a General Meeting, the accounts of the Society do not need to be audited.

13. Dispute Resolution

13.1 Raising Disputes

13.1.1 Any grievance by a **Member**, and any complaint by anyone, is to be lodged by the complainant with the **Secretary** in writing and must provide such details as are necessary to identify the details of the grievance or complaint. All **Members** (including the **Committee**) are obliged to cooperate to resolve disputes efficiently, fairly, and with minimum disruption to the **Society's** activities.

13.1.2 The complainant raising a grievance or complaint, and the **Committee**, must consider and discuss whether a grievance or complaint may best be resolved through informal discussions, mediation, or arbitration. Where mediation or arbitration is agreed on, the parties will sign a suitable mediation or arbitration agreement.

13.2 Investigating Disputes

13.2.1 This rule concerns any grievances of Members relating to their rights and interests as **Members**, and any complaints concerning the alleged conduct or discipline of Members, collectively referred to as "disputes."

These disputes procedures are designed to enable and facilitate the fair, prompt and efficient resolution of grievances and complaints.

13.2.2 Rather than investigate and deal with any grievance or complaint, the **Committee** may:

- (a) appoint a sub-committee to deal with the same; or
- (b) refer the same to an external arbitrator, arbitral tribunal, or external visitor (or referee), so long as minimum standards of natural justice and the following requirements under this rule are satisfied.

13.2.3 The **Committee** or any such sub-committee or person considering any grievance or complaint is referred to hereafter as the "decision-maker".

13.2.4 The decision-maker:

- (a) shall consider whether to investigate and deal with the grievance or complaint; and
- (b) may decline to do so (for instance, if the decision-maker is satisfied that the complainant has insufficient interest in the matter or otherwise lacks standing to raise it; the matter is trivial or does not appear to disclose material misconduct or the matter raised appears to be without foundation or there is no apparent evidence to support it; some damage to **Members'** interests may arise; or the conduct, incident, event or issue has already been investigated and dealt with by the **Society**).

13.2.5 Where the decision-maker decides to investigate and deal with a grievance, the following steps shall be taken:

- (a) The complainant and the **Member**, or the **Society** which is the subject of the grievance, must be advised of all details of the grievance; and
- (b) The **Member**, or the **Society** which is the subject of the grievance, must be given an adequate time to prepare a response; and
- (c) The complainant and the **Member**, or the **Society** which is the subject of the grievance, must be given an adequate opportunity to be heard, either in writing or at an oral hearing if the decision-maker considers that an oral hearing is required; and
- (d) Any oral hearing shall be held by the decision-maker, and/or any written statement or submissions shall be considered by the decision-maker.

13.2.6 Where the decision-maker decides to investigate and deal with a complaint, the following steps shall be taken:

- (a) The complainant and the **Member** complained against must be advised of all allegations concerning the **Member**, and all details of the complaint; and
- (b) The **Member** complained against must be given an adequate time to prepare a response; and

- (c) The **Member** complained against must be given an adequate opportunity to be heard, either in writing or at an oral hearing if the decision-maker considers that an oral hearing is required; and
- (d) Any oral hearing shall be held by the decision-maker, and/or any written statement or submissions shall be considered by the decision-maker.

13.3 Resolving Disputes

13.3.1 The decision-maker may:

- (a) dismiss a grievance or complaint; or
- (b) uphold a grievance and make such directions as the decision-maker thinks appropriate (with which the **Society** and **Members** shall comply); or
- (c) uphold a complaint and:
 - (i) reprimand or admonish the **Member**; and/or
 - (ii) suspend the **Member** from membership for a specified period, or terminate the **Member's** membership; and/or
 - (iii) order the complainant (if a **Member**) or the **Member** complained against, to meet any of the **Society's** reasonable costs in dealing with a complaint.

14. Winding Up

14.1 Process

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

14.1.2 The **Secretary** shall give **Notice** to all **Members** of the 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 **Committee** in respect to such notice of motion.

14.1.3 Any resolution to wind up the **Society** or remove it from the Register of Incorporated Societies must be passed by a 75% majority of all **Members** present and voting.

14.2 Surplus Assets

14.2.1 If the **Society** is wound up, or liquidated, or removed from the Register of Incorporated Societies, its surplus assets after:

- (a) payment of all debts; and
- (b) return of funds held in trust to those Members who have financially participated (other than by way of a donation) in any sand scrape or beach dune restoration, and
- (c) any other costs and liabilities;

shall be used to advance a charitable purpose or charitable purposes or be vested in a charitable body or bodies within New Zealand having similar aims to those of the Society.

15. Alterations to the Rules.

15.1 Amending these Rules

15.2 Subject to rule 15.3 below, the **Society** may amend or replace these **Rules** at a **General Meeting** by a resolution passed by a majority of those **Members** present and voting.

15.2.1 Any proposed motion to amend or replace these **Rules** shall be signed by at least 15 eligible **Members** and given in writing to the **Secretary** at least 14 **Clear Days** before the **General Meeting** at which the motion is to be considered and accompanied by a written explanation of the reasons for the proposal.

15.2.2 At least seven (7) **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, the reasons for the proposal, and any recommendations the **Committee** has.

15.2.3 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.

15.3 No alteration or amendment to the **Rules** shall be approved if it affects the charitable status of the Society or is contrary to the objects of the society referred to in rule 3.1 of these **Rules**.

15.4 in the event of any dispute, doubt or difference arising as to the interpretation or application of these **Rules** or any of them, the decision of the **Committee** (having first sought legal advice if considered appropriate) shall be final and binding.

16. Other

16.1 Common Seal

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

16.1.2 The common seal may be affixed to any document:

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

16.2 Contact Person

16.2.1 The **Society's** Contact Officer shall be the Secretary of the Committee.

16.2.2 Any change in that Contact Officer or that person's name or contact details shall be advised to the Registrar of Incorporated Societies within twenty-five (25) Clear Days of that change occurring, or the Society becoming aware of the change.

16.3 Bylaws

16.3.1 The **Committee** 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 these **Rules**.