

**Constitution of the  
Havelock North Business Association**



## Constitution of the Havelock North Business Association

### 1. NAME

- 1.1 The name of the incorporated society is Havelock North Business Association Incorporated (in this Constitution referred to as the '**Association**').
- 1.2 The Association was incorporated under the Incorporated Societies Act 1908 on the 22<sup>nd</sup> day of November 2000.

### 2. CHARITABLE STATUS

- 2.1 The Association is not and does not intend to be registered as a charitable entity under the Charities Act 2005.

### 3. DEFINITIONS AND INTERPRETATION

#### DEFINITIONS

- 3.1 Unless the context requires otherwise:

'**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 Association held once per year which, among other things, will receive and consider reports on the Association's activities and finances.

'**Board**' means the Association's governing body.

'**Chairperson**' means the Officer responsible for chairing General Meetings and Board meetings, and who provides leadership for the Association.

'**Constitution**' means the rules in this document.

'**Havelock North Central Business District**' means the area defined by the Hastings District Council ('the **Council**') from time to time as the area for which the Council applies a targeted rate (the special Havelock North Promotional Levy ('**Promotional Levy**')) pursuant to section 16 of the Local Government (Rating) Act 2002 (or any Act passed in substitution).

'**Interests Register**' means the register of interests of Officers, kept under this Constitution and as required by section 73 of the Act.

'**Matter**' means the Association's performance of its activities or exercise of its powers; or an arrangement, agreement, or contract (a transaction) made or entered into, or proposed to be entered into, by the Association.

**'Member'** means a person who has consented to become a Member of the Association and has been properly admitted to the Association who has not ceased to be a Member.

**'Notice'** to Members includes any notice given by email, post, or courier.

**'Officer'** means a natural person who is a member of the Board or occupying a position in the Association that allows them to exercise significant influence over the management or administration of the Association, including any Chief Executive or Treasurer.

**'Register of Members'** means the register of Members kept under this Constitution as required by section 79 of the Act.

**'Secretary'** means the Officer responsible for the matters specifically noted in this Constitution.

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

**'Working Day'** means any day of the week other than:

- (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and
- (b) if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday; and
- (c) a day in the period commencing on 24 December in any year and ending on 5 January in the following year, both days inclusive; and
- (d) the day observed as the anniversary in Hawkes Bay.

## **INTERPRETATION**

3.2 Unless the context otherwise requires:

- (a) reference to a person includes any other entity or association recognised by law and vice versa.
- (b) words referring to the singular include the plural and vice versa.
- (c) a reference to:
  - (i) a person includes their executors and administrators.
  - (ii) writing includes words printed, typewritten, or otherwise visibly represented, copied, or reproduced including by email. Written has a corresponding meaning.
  - (iii) statutory provisions is to them as amended or re-enacted.
- (d) all periods of time or notice exclude the days on which they are given.
- (e) time is of the essence.

## 4. PURPOSES

4.1 The primary purposes for which the Association is established are:

- (a) to conserve, promote and advance the interests and welfare of retailers, merchants, traders and other commercial concerns promoting services to the public within the district known as Havelock North.
- (b) To conduct on behalf of Members of the Association advertising and promotional campaigns by any means approved by the Association and/ or the Board, to represent or arrange representation of the interests of the Members of the, Association generally in legal, town planning, judicial enquiries, Resource Management or other like proceedings with such - representation is in the interests of the Association.
- (c) To promote or oppose bills, legislation or other measures or by-laws affecting the interests of Members.
- (d) To seek redress of wrongs from which all or any of the Members may from time to time suffer, make representations by way of deputations or otherwise bring under the notice of the New Zealand Government or any other constituted authority such matters as in the opinion of the Association require attention or an iteration.
- (e) To promote, beautify, revitalise and develop the centre of Havelock North in order to attract and encourage local residents and visitors to use the centre of, Havelock North for leisure work or otherwise.
- (f) To promote and encourage community events with in the centre of Havelock North.
- (g) To increase employment opportunities for Havelock North residents by promoting and encouraging the growth of business and trade in Havelock North.

To do any act or thing incidental or conducive to the attainment of any of the above objects.

4.2 The Association must not operate for the purpose of, or with the effect of—

- (a) distributing, any gain, profit, surplus, dividend, or other similar financial benefit to any of its Members (whether in money or in kind); or
- (b) having capital that is divided into shares or stock held by its Members; or
- (c) holding, property in which its members have a disposable interest (whether directly, or in the form of shares or stock in the capital of the Association or otherwise).

4.3 But the Association will not operate for the financial gain of Members simply if the Association—

- (a) engages in trade,
- (b) pays a Member for matters that are incidental to the purposes of the Association, and the Member is a not-for-profit entity,
- (c) distributes funds to a Member to further the purposes of the Association, and the Member—
  - (i) is a not-for-profit entity, and
  - (ii) is affiliated or closely related to the Association, and

- (iii) has the same, or substantially the same, purposes as those of the Association.
- (d) reimburses a Member for reasonable expenses legitimately incurred on behalf of the Association or while pursuing the Association's purposes,
- (e) provides benefits to Members to alleviate hardship,
- (f) provides a Member with incidental benefits (for example, trophies, prizes, or discounts on products or services) in accordance with the purposes of the Association.
- (g) on removal of the Association from the Register of Incorporated Societies having its surplus assets distributed under subpart 5 of Part 5 of the Act to a Member that is a not-for-profit entity.

## 5. ACT AND REGULATIONS

- 5.1 Nothing in this Constitution authorises the Association to do anything which contravenes or is inconsistent with the Act, any regulations made under the Act, or any other legislation.

## 6. POWERS

- 6.1 The association may use such of its funds as it considers necessary or proper in payment of the costs and expenses of furthering or carrying out the objects of the Association including the employment of such professionals', agents', officers, contractors, and servants as it needs.
- 6.2 The association may purchase, take on lease or in exchange, on hire or otherwise acquire, any real or personal property and any rights or privileges which the board thinks necessary or expedient for the purpose of attaining its objects or any of them or promoting the interests of the Association or its Members. The Association may sell, exchange, let on hire or lease (with or without option to purchase) or in any manner dispose of such property rights or privileges.
- 6.3 The rate of the Promotional Levy will be determined by the Association and consequent on its imposition through the Council rates the Promotional Levy will be remitted to the Association.  
  
Applications from members that are a registered charity group requesting a new exception from their promotional rates levy for the following financial year must be made prior to 31 May. The Association will annually, before 30 June consider these applications and confirm to offer a rebate for some or all of the members annual rates levy charged. This decision is to be voted on by the board, and confirmed at the annual general meeting.
- 6.4 The Association may at any time apply for and receive or accept such grants, sponsorship and/or donations as it thinks fit.
- 6.5 The Association may invest in any security and upon any terms as it thinks fit such part of its funds or the whole of its funds which are not required for its immediate business. Any such investment must be made in accordance with the Trustee Act 1956 (or any act passed in substitution).
- 6.6 The Association may maintain manage or otherwise deal with or any part of its property, assets and rights.
- 6.7 The Association may do all such things as are conducive and incidental to the attaining of its objects or any of them.

- 6.8 Any transactions between the Association and any Member, officer or member of the Executive or any associated persons shall be at arms' length in accordance with prevailing commercial terms on which the Association would deal with third parties not associated with the Association and any payments made in respect of such transactions shall be limited to:
- (a) A fair and reasonable reward for services performed,
  - (b) reimbursement of expenses properly incurred, and
  - (c) usual professional business or trade charges.

## 7. MEMBERSHIP

- 7.1 The Association shall consist of an unlimited number of members.
- 7.2 The Association shall maintain the minimum number of Members required by the Act.

### **Becoming a Member: within Havelock North Central Business District**

- 7.3 Any person or body corporate who is a ratepayer on the council rating list and who is liable for Promotional Levy charged by the Council from time to time as part of that rate shall be deemed to be financial members of the Association and entitled to all the benefits of membership until they resign their membership, have their membership suspended or cease to be qualified as a Member in accordance with these Rules. If more than one person or body corporate is a ratepayer in respect of a rating unit then the first person or body corporate in the rate roll shall be deemed the Member and the other person or body corporate shall not be Members other than if their separate application for membership is accepted under Rule 7.4.
- 7.4 Any person or body corporate being an owner or occupier of business premises situated in that part of the Havelock North central Business District area to which the promotional Levy applies but who is not a ratepayer on the council rating list or is not liable for the Promotional Levy shall be entitled to be financial Members of the Association and entitled to all benefits of membership, until they resign their membership, have their membership suspended or ceased to be qualified as a member in accordance with these Rules provided always that only one person or body corporate per business shall be a Member under this Rule; any other person or body corporate of each business shall not be Members unless the separate application for membership is accepted under Rule 7.5.
- 7.5 Any person or body corporate not deemed to be Members of the Association under Rules 7.3-7.4 who having:
- (a) duly executed an application form for membership in the form prescribed by the Board;
  - (b) subsequently been accepted by the Board for membership under the provisions of Rule 6; and
  - (c) paid the subscription set by the Board for the then current year applicable to persons or body corporate who are not under Rules 7.3-7.4 deemed Members,

shall then become a Member of the Association and entitled to all the benefits of membership, until their membership is suspended or they resign their membership in accordance with these Rules.

## **Becoming a member: outside Havelock North Central Business Area**

- 7.6 Applicants for membership under Rule 7.5 shall complete a hardcopy or digital application form provided by the Association and supply such information as may be required by the Board.
- 7.7 Each application for membership under Rule 7.5 shall be considered by the Board who may interview applicants or representatives of an applicant prior to accepting or declining their application for membership.
- 7.8 The Board shall have the discretion to accept or decline an applicant for membership. A representative of the Board shall advise the applicant of its decision within seven (7) days of the Board's decision.
- 7.9 The annual subscription for those accepted for membership under Rule 7.5 shall be that sum set by the Board in each year provided always that the Board must not set a subscription which is less than the amount calculated in accordance with the formula that would have been applied if the applicant were liable to pay the Promotional Levy in respect of their business premises.

## **Becoming a member: again**

- 7.10 Any former Member may apply for re-admission provided however that if a former Member's membership was terminated following a disciplinary or dispute resolution process, the applicant may be re-admitted only by a resolution passed at a General Meeting on the recommendation of the Board.

## **8. SUBSCRIPTIONS AND LEVIES**

- 8.1 Independently of the Association receiving funding from the Council from time to time the Board may set, and every Member shall then be liable to pay, to the Association such other levies or subscriptions as may from time to time be determined by the Board and those shall be payable on such day(s) as the Board shall from time to time determine, For the avoidance of doubt such levies or subscriptions can be set by the Board at different rates dependent on the level of participation, promotion and support required by particular Members.
- 8.2 The Board may offer terms for periodic payment of subscriptions (including the charging of interest) as the Board considers appropriate,
- 8.3 Any Member that fails to pay any levies or subscriptions (including any periodic payment) set within two (2) calendar months of the due date shall be considered unfinancial and shall (without being released from the obligation of payment) have all membership rights suspended forthwith and shall not be entitled to participate in any Association activity until all the arrears are paid.
- 8.4 For the avoidance of doubt, the membership suspension provisions in rule 8.3 shall apply even if the Member pays, as part of the rates on the property owned or occupied by them within the Havelock North Central Business Area, the Promotional Levy to the Council.

## 9. MEMBERS' OBLIGATIONS AND RIGHTS

- 9.1 Every Member shall provide the Association in writing with that Member's name and contact details (namely, physical or email address and a telephone number) and promptly advise the Association in writing of any changes to those details.
- 9.2 Every member shall advise the Manager of any change of address as that address may affect whether that Member is a Member by virtue of rules 7.3-7.6.
- 9.3 Where a Member ceases to be an owner/occupier or ratepayer of business premises in the Havelock North Central Business Area during any financial year of the Association, that Member shall, despite anything to the contrary in these Rules, continue their membership of the association until the end of that financial year, unless they earlier resign their membership in accordance with these Rules.
- 9.4 All Members and Board Members shall promote the interests and the objects of the Association and shall do nothing to bring the Association into disrepute.
- 9.5 A Member is only entitled to exercise the rights of membership if all subscriptions and any other fees have been paid to the Association by their respective due dates, but no Member is liable for an obligation of the Association by reason only of being a Member.
- 9.6 Any Member that is a body corporate shall provide the Board, in writing, 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.

## 10. CEASSATION OF MEMBERSHIP

- 10.1 Any Member shall cease to be a Member of the Association:
- (a) in the case of a member who ceases to be qualified as a member at the end of this Association's financial year in which they cease to qualify, or
  - (b) with immediate effect by providing written notice of resignation to the Manager and in such case the Member resigning shall remain liable to pay or subscriptions levies and other fees to the end of the relevant financial year of the Association.
  - (c) The Board may declare that a member is no longer a member (from the date that of declaration or such date as may be specified) if that Member is convicted of any indictable offence or offence for which a convicted person may be imprisoned, is adjudged bankrupt, makes a composition with creditors, or (if a body corporate) is wound up or placed in receivership or liquidation.
  - (d) The Board shall have the power to remove from the Register of Members any Member whose subscription is two (2) months in arrears.
  - (e) The Board may at any time by letter invite any Member, within a specified time, to retire from membership for breach by them of these Rules and, in default of withdrawal, to invite the Member to offer an explanation verbally or in writing within one (1) calendar month following which the Board shall vote on the expulsion of the Member, A resolution of 75% of the

Members of the Board shall be required to expel a Member, following which the Member will cease immediately to be a Member.

### **Obligations once membership has ceased**

- 10.2 A Member who has ceased to be a Member under this Constitution—
- (a) remains liable to pay all subscriptions and other fees to the Association's next balance date,
  - (b) shall cease to hold himself or herself out as a Member of the Association, and
  - (c) shall return to the Association all material provided to Members by the Association (including any membership certificate, badges, handbooks and manuals).
  - (d) shall cease to be entitled to any of the rights of an Association Member.

## **11. RECORDS**

### **Register of Members**

- 11.1 The Association shall keep an up-to-date Register of Members.
- 11.2 For each current Member, the information contained in the Register of Members shall include —
- (a) Their name, and
  - (b) The date on which they became a Member (if there is no record of the date they joined, this date will be recorded as 'Unknown'), and
  - (c) Their contact details, including —
    - (i) A physical address and/or an electronic address, and
    - (ii) A telephone number.
  - (d) The register will also include whether the Member is financial or unfinancial
  - (e) Every current Member shall promptly advise the Association of any change of the Member's contact details.
  - (f) The Association shall also keep a record of the former Members of the Association. For each Member who ceased to be a Member within the previous 7 years, the Association will record:
    - (i) The former Member's name, and
    - (ii) The date the former Member ceased to be a Member.

### **Interests Register**

11.3 The Board shall at all times maintain an up-to-date register of the interests disclosed by Officers and by members of any sub-committee.

#### **Access to information for members**

11.4 A Member may at any time make a written request to the Association for information held by the Association.

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

11.6 The Association must, within a reasonable time after receiving a request —

- (a) provide the information, or
- (b) agree to provide the information within a specified period, or
- (c) agree to provide the information within a specified period if the Member pays a reasonable charge to the Association (which must be specified and explained) to meet the cost of providing the information, or
- (d) refuse to provide the information, specifying the reasons for the refusal.

11.7 Without limiting the reasons for which the Association may refuse to provide the information, the Association 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 Association 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 Association, or
- (d) the information is not relevant to the operation or affairs of the Association, or
- (e) withholding the information is necessary to maintain legal professional privilege, or
- (f) the disclosure of the information would, or would be likely to, breach an enactment, or
- (g) the burden to the Association 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
- (h) the request for the information is frivolous or vexatious, or
- (i) the request seeks information about a dispute or complaint which is or has been the subject of the procedures for resolving such matters under this Constitution and the Act.

11.8 If the Association 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 Working Days after receiving notification of the charge, the Member informs the Association—

- (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 relating to access to personal information.**

## 12. THE BOARD

12.1 The Association shall be administered by a Board comprising:

- (a) the following who shall be elected at the Annual General Meeting, and not less than one half of those elected under this Rule (a) must be Members:
  - (i) One Chairperson
  - (ii) Vice chairperson (optional)
  - (iii) Between four (4) and six (6) other Board Members; and
  - (iv) The chairperson, vice-chairperson and treasurer are to be voted in by the board at first board meeting following the AGM
- (b) the following who shall be appointed by the stated organisations:
  - (i) One (1) to Two (2) Councillors appointed by the Council,
  - (ii) One Council Officer appointed by the Council,
- (c) Up to three (3) other persons (if any) elected by the Board as persons who can add value or experience to the Board at any time following the Annual General Meeting at which the Board were appointed, provided however that they shall have no voting rights.
- (d) Board members are to endeavour to hold office for a minimum 2-year period. They are to be available for re-election or re-appointment as the case may be, unless their resignation was received prior to the Annual General Meeting; and not be required to be Members.

12.2 The election of the Board shall be conducted as follows:

- (a) written nominations for nominees (who must be financial Members of the Association), accompanied by the consent of each nominee, shall be received by the Manager not less than fourteen (14) clear days before the date of the annual General Meeting.
- (b) not less than seven (7) clear days before the date of the Annual General Meeting the Manager shall publish the names of all nominees on the association's website
- (c) If there are insufficient valid nominations received under sub-Rule 12.2 above, but not otherwise, further nominations may be received from the floor at the Annual General Meeting.
- (d) Votes shall be cast in such manners the chairperson of the Annual General Meeting shall determine.

- (e) Two (2) Members, or invited guests (who are not a Board nominee) designated by the chairperson of the Annual General Meeting shall act as scrutineers for the counting of votes and (where applicable) destruction of any voting papers.
- (f) No person shall be elected to the Board under these Rules unless that person is present at the Annual General Meeting at which that person is elected, or unless that person has previously signified in writing to the existing Board that they are willing to accept nomination.
- (g) Any Board Member may be removed by resolution of a Special General Meeting of which prior notice was given in the notice of meeting and which is passed by a majority of those present and voting.

### 13. GOVERNANCE BY THE BOARD

- 13.1 From the end of each Annual General Meeting until the end of the next (unless a Special General Meeting is called for the specific purpose of re-electing the Board), the Association shall be administered and governed by the Board.
- 13.2 Subject to these Rules and the resolution of any General Meeting, the Board may exercise all of the Association's powers, other than those required by statute or by these Rules to be exercised by the Association in General Meeting.
- 13.3 The Board shall:
  - (a) Meet as often as the business of the Association requires but at such times and places and in such manner as it may determine, but such meeting shall be held no less than once every two months,
  - (b) be responsible to the Members for the implementation of policies approved by General Meetings or by any referendum of financial Members,
  - (c) be responsible for the administration, management and control of the affairs of the Association and all income, expenditure, assets and property of the Association, however such powers shall be exercised by the Board subject to these Rules, subject to the provisions of the Act, and subject to such by-laws (not being inconsistent with these Rules or statutory provisions) as the Association may in General Meeting prescribe.
- 13.4 Subject to these Rules and the decisions of any General Meeting, the decisions of the Board on the interpretation of these Rules and all matters dealt with by it in accordance with these Rules (and on matters not provided for in these Rules) shall be final and binding on all Members of the Association.
- 13.5 The Chairperson, or in the Chairperson's absence, the Vice-Chairperson, or in their absence, one or both of another Member of the Board appointed by the Board for this purpose shall chair Board meetings.
- 13.6 (change from a set '5 board members') Support for an item of 60% or more of Board Member support shall form a quorum for Board Meetings.
- 13.7 At all meetings of the Board each Board Member personally present shall be entitled to one vote and the Chairperson shall have a casting vote as well as a deliberative vote.
- 13.8 Other than as prescribed by statute or these Rules the Board shall regulate its own proceedings.

- 13.9 The Board shall have the power to appoint sub-committees comprising such Board Members and other persons as the Board thinks fit, and with or without the power for such sub-committees to co-opt. The Board shall have the power to invite any person (whether or not a member of the Association) for such period nominated by the Board to attend and be heard (but not vote) at any Board or sub-committee meetings.
- 13.10 Board Members and Members of sub-committees shall be entitled to be reimbursed by the Association for any reasonable actual expenses incurred by them on behalf of the Association as approved by resolution of the Board.

Each Board Member shall within one (1) week of submitting a resignation or ceasing to hold office deliver to the Board all books, papers and other property of the Association possessed by such former Board Member.

### **Indemnity for Board**

- 13.11 no officer or Board Member or sub-committee member shall be liable for the acts or defaults of any other officer or Board Member or sub-committee member or any loss occasioned thereby, unless occasioned by their wilful default or their wilful acquiescence,
- 13.12 the officers, Board Members and sub-committee members shall be indemnified by the Association for all liabilities and costs incurred by them in the proper performance of their functions and duties other than as a result of their wilful default.

### **Indemnity for Employees and contractors:**

- 13.1 No Employee or contractor of the Association shall be liable for their acts or defaults or any loss occasioned thereby, unless occasioned by their wilful default or by their wilful acquiescence.
- 13.2 Any employees and contractors of the Association shall be indemnified by the Association for all liabilities and costs incurred by them in the proper performance of their functions and duties, other than as a result of their wilful default.

## **14. FINANCES**

- 14.1 The Board shall in each year appoint an accountant (who is a registered member of the Institute of Chartered Accountants of New Zealand) to keep such books of account as may be necessary to provide a true and correct record of the Association's financial position, report on the Association's financial position to each Board meeting, and present an annual Statement of Accounts (Income and Expenditure Account and Balance Sheet) to the Annual General Meeting together with a budget for the next financial year.
- 14.2 The Board shall maintain bank accounts in the name of the Association at financial institutions approved by the Board.
- 14.3 The board shall nominate at minimum two (2) and maximum (3) boards members to be the designated signatories on the bank accounts in addition to the association Manager.
- 14.4 All cheques, withdrawal forms shall be signed by either:

- (i) two (2) Board Members;
  - (ii) the Association Manager and one (1) Board Member
- 14.5 All online and automatic banking payments shall be approved by either
  - (i) two (2) Board Members;
  - (ii) the Association Manager and one (1) Board Member
- 14.6 All money received on account of the Association shall be banked within seven (7) days of receipt.
- 14.7 All accounts paid or for payment shall be submitted to the Board for approval of payment.
- 14.8 The Association's financial year shall commence on 1 July in each year and end on 30 June in the following year or on such other dates as the Association shall in General Meeting decide.
- 14.9 The Annual General Meeting each year shall appoint an auditor (who is a member of the Institute of Chartered Accountants of New Zealand and not a Member of the Association) to review the annual accounts of the Association and provide a certificate of correctness of the same, and if any such auditor is unable to act the Board shall appoint a replacement auditor.
- 14.10 The Association shall deliver annually to the Registrar (pursuant to Section 23 of the Incorporated Societies Act 1908) statements, in such form as determined by the Registrar, accompanied by a certificate from the Chairperson or another Board Member to the effect that the statements have been submitted to and approved by the Members of the Association at a General Meeting) showing:
  - (a) The Association's assets and liabilities at the end of the last financial year, and
  - (b) The Association's income and expenditure for the year then ended.

## 15. **REVIEWER**

- 15.1 The Annual General Meeting in each year may appoint an accounts reviewer (who is a member of the New Zealand Institute of Chartered Accountants and not a Member of the Association) to review the annual Statement of Accounts of the Association and provide a certificate of correctness of the same, In the event the appointed auditor is unable to act the Board shall appoint a replacement auditor.

## 16. **MANAGER**

- 16.1 If the Board chooses to employ an Association Manager for the Association, the Manager will, in the absence of any secretary being appointed by the Board, undertake and complete the tasks mentioned in these Rules to be undertaken by the secretary.
- 16.2 The Manager must record the minutes of all General meetings and Board meetings, and such minutes when confirmed by the next such meeting or signed by the chairperson of that meeting must be prima facie evidence that that meeting was duly called and must prima facie be a true and correct record of what occurred at that meeting.
- 16.3 The Manager must hold the Associations record documents, books and manage digital and cloud-based files

- 16.4 The Manager must deal with and answer correspondence and perform such other duties as directed by the Board.
- 16.5 The Board has the power in its discretion to suspend or remove the Manager from office.

## 17. **CONTACT PERSON**

- 17.1 The Association shall have at least 1 but no more than 3 contact person(s) whom the Registrar can contact when needed. The Association's contact person must be:
- (a) At least 18 years of age, and
  - (b) Ordinarily resident in New Zealand.
  - (c) A contact person can be appointed by the Board or elected by the Members at a General Meeting.
- 17.2 Each contact person's name must be provided to the Registrar of Incorporated Societies, along with their contact details, including:
- (a) a physical address or an electronic address, and
  - (b) a telephone number.
- 17.3 Any change in that contact person or that person's name or contact details shall be advised to the Registrar of Incorporated Societies within 20 Working Days of that change occurring, or the Association becoming aware of the change.

## 18. **GENERAL MEETINGS**

- 18.1 An Annual General Meeting of the Association shall be held and place fixed by the Board. Each Annual General Meeting will not be held more than 6 months after the end of each financial year.
- 18.2 Notice of Annual General Meetings shall be circulated to each financial Member of the Association by the Board or placed on the Association's website fourteen (14) clear days before: each Annual General Meeting,
- 18.3 All other general Meetings of the Association shall be called Special General Meetings, The Board may call Special General Meetings as it thinks fit and shall call Special General Meetings at the request in writing of at least 20 financial Members.
- 18.4 Notice of each Special General Meeting shall be circulated to each financial Member by the Board or placed on the Association's website specifying the nature of the business ten (10) clear days before the meeting.
- 18.5 The quorum for General Meetings shall be ten (10) financial Members.
- 18.6 The failure for any reason of any Member to receive notice of any General Meeting shall not invalidate any such General Meeting or the proceedings thereof.

- 18.7 All General Meetings shall be chaired by the Chairperson or in the Chairperson's absence by the vice-Chairperson (if any) If neither of them is present then the meeting shall be chaired by some other financial Member elected by the General Meeting for the purpose. Any such chairperson shall have a deliberate as well as a casting vote.
- 18.8 Except as otherwise provided in these Rules or by statute all questions shall be decided by a clean majority of those financial Members present and voting.
- 18.9 Voting at all General Meetings shall be on the voices, by show of hands or, on demand by any financial Member entitled to vote, by secret ballot.
- 18.10 The business at the Annual General Meeting shall be:
- (a) Minutes of the previous General Meeting(s); and
  - (b) Annual Report of the Board; and
  - (c) Statement of Accounts; and
  - (d) Election of the Chairperson, the Board and the Auditor; and
  - (e) Motions which notice has been given, and
  - (f) General business
- 18.11 Any Member wishing to give notice of any motion for consideration at the Annual General Meeting shall forward written notice of the same to the Manager not less than one (1) calendar month before the date of the meeting. The Board may consider all such notices of motion and provide recommendations to Members in respect thereof.

## 19. REPRESENTATION OF MEMBERS AT MEETINGS

- 19.1 Each Member of the Association at each General Meeting shall be entitled to one vote which may be exercised personally or by proxy,
- 19.2 No Member shall be eligible to vote at a General Meeting unless all money presently payable by the Member to the Association has been paid, however a Member shall be deemed a financial Member unless any money payable by that Member to the Association is more than two (2) months in arrears,
- 19.3 On a poll vote may be exercised personally or by proxy.
- 19.4 The proxy form must be deposited at the registered office of the Association not less than 48 hours before the time for holding the meeting at which it is proposed to be used. The proxy form shall be signed by the Member making the appointment.
- 19.5 The proxy form shall be in the following form or as near thereto as is acceptable to the Board:

*(person's name) Being a member of the Havelock North Business association hereby appoints  
(person's name) as its proxy vote for and on its behalf at the annual/special general meeting of the*

*Association to be held on day of (day of week, date, month, year) or at any adjournment thereof  
..... Signature*

- 19.6 A proxy holder need not be a Member of the Association but shall not be an employee of the Association, the proxy form shall be deemed to confer authority on the holder to demand or join in demanding a poll. No person present at any meeting of the Association shall be entitled to cast more than one proxy vote in addition to any other vote which that person may have as a Member of the Association.
- 19.7 No objection may be raised as to the validity of any vote except at the meeting at which the vote objected to is tendered. Every vote not disallowed at the meeting shall be valid. Any objection shall be referred to the chairperson of the meeting whose decision shall be final and binding.

## **20. EXECUTION OF DOCUMENTS**

- 20.1 The common Seal of the Association shall be retained by the Manager or Manager- Treasurer.
- 20.2 Documents shall be executed by the Association pursuant to a resolution of the Board:
- (a) By affixing the common Seal signed by the chairperson and countersigned by either one other Board member or the Manager, or
  - (b) where the document is not required by statute to be executed under Common Seal by the Chairperson and some other Board member.

## **21. ALTERATION OF RULES**

- 21.1 Any Rule contained herein may be altered, added to or rescinded at any General Meeting of the Association provided that no amendment may be made which would alter the rules precluding members from obtaining any personal benefit from their membership or the Rules to winding up.
- 21.2 Any proposal to alter, add to or rescind any Rule must be made by Notice of Motion signed by two (2) financial Members of the Association and forwarded to and received by the Board not later than one (1) calendar month prior to the General Meeting at which such Notice, of Motion is to be considered.
- 21.3 Every such Notice of Motion shall be accompanied by a written explanation of the proposal to which the Notice of Motion relates.
- 21.4 Notice of every such Notice of Motion and explanation shall be circulated to each financial Member by the Board or placed on the Association's website ten (10) business days before the General Meeting at which it is to be considered.
- 21.5 All such Notices of Motion require the support of two thirds (2/3rds) of the financial Members present and voting at the General Meeting.

## 22. **DISPOSAL OF ASSETS ON WINDING UP**

- 22.1 The Association may be wound up voluntarily if a General Meeting of its Members passes a resolution requiring the Association to be wound up and the resolution is confirmed at a subsequent General Meeting called for that purpose and held not earlier than 30 days after the date on which the resolution so to be confirmed was passed,
- 22.2 If, upon such satisfaction upon the winding up of or dissolution of the Association there remains, after the satisfaction of all costs and its debts and liabilities, any property or other assets whatsoever these shall not be paid to or distributed among the Members of the Association but shall be given or transferred to some other institution or institutions having objects similar to the objects of the Association which shall prohibit the distribution of its or their income and property among its or their members to the extent at least as great as is imposed on the Association. Such institution or institutions shall be determined by their Members of the Association at or before the time of the dissolution or in default thereof by a Judge of the High court of New Zealand or in the absence of any institution then to the local District council having authority under the Local Government Act 2002 or as the Judge may determine.

## 23. **Dispute Resolution**

### **Meanings of dispute and complaint**

- 23.1 A dispute is a disagreement or conflict involving the Association and/or its Members.
- 23.2 A Member or an Officer may make a complaint by giving to the Board (or a complaints subcommittee) a notice in writing that—
- (a) states that the Member or Officer is starting a procedure for resolving a dispute in accordance with the Constitution; and
  - (b) sets out the allegation(s) to which the dispute relates and whom the allegation or allegations is or are against; and
  - (c) sets out any other information or allegations reasonably required by the Association.
- 23.3 The Board may make a complaint involving an allegation against a Member or an Officer by giving to the Member or Officer a notice in writing that—
- (a) states that the Association is starting a procedure for resolving a dispute in accordance with the Constitution; and
  - (b) sets out the allegation to which the dispute relates.
- 23.4 The information setting out the allegations must be sufficiently detailed to ensure that a person against whom an allegation or allegations is made is fairly advised of the allegation or allegations concerning them, with sufficient details given to enable that person to prepare a response.
- 23.5 A complaint may be made in any other reasonable manner permitted by the Constitution.
- 23.6 All Members (including the Board) are obliged to cooperate to resolve disputes efficiently, fairly, and with minimum disruption to the Associations' activities.

23.7 The complainant raising a dispute, and the Board, must consider and discuss whether a dispute may best be resolved through informal discussions, mediation, arbitration, or a tikanga-based practice. Where mediation or arbitration is agreed on, the parties will sign a suitable mediation or arbitration agreement.

### **How complaint is made**

24. A Member or an Officer may make a complaint by giving to the Board (or a complaints subcommittee) a notice in writing that—
- (a) states that the Member or Officer is starting a procedure for resolving a dispute in accordance with the Association’s Constitution; and
  - (b) sets out the allegation or allegations to which the dispute relates and whom the allegation is against; and
  - (c) sets out any other information reasonably required by the Association.
- 24.2 The Association may make a complaint involving an allegation or allegations against a Member or an Officer by giving to the Member or Officer a notice in writing that—
- (a) states that the Association is starting a procedure for resolving a dispute in accordance with the Association’s Constitution; and
  - (b) sets out the allegation to which the dispute relates.
- 24.3 The information given must be sufficient to ensure that a person against whom an allegation is made is fairly advised of the allegation or allegations concerning them, with sufficient details given to enable that person to prepare a response.
- 24.4 A complaint may be made in any other reasonable manner permitted by the Association’s Constitution.

### **Person who makes complaint has right to be heard**

- 24.5 A Member or an Officer who makes a complaint has a right to be heard before the complaint is resolved or any outcome is determined.
- 24.6 If the Association makes a complaint—
- (a) the Association has a right to be heard before the complaint is resolved or any outcome is determined; and
  - (b) an Officer may exercise that right on behalf of the Association.
- 24.7 Without limiting the manner in which the Member, Officer, or Association may be given the right to be heard, they must be taken to have been given the right if—
- (a) they have a reasonable opportunity to be heard in writing or at a special meeting if called by the Board in its sole discretion; and/or

- (b) the Member's, Officer's, or Association's written or verbal statement or submissions (if any) are considered by the decision maker.

### **Person who is subject of complaint has right to be heard**

- 24.8 This clause applies if a complaint involves an allegation that a Member, an Officer, or the Association (the 'respondent')—
- (a) has engaged in misconduct; or
  - (b) has breached, or is likely to breach, a duty under the Association's Constitution or bylaws or this Act; or
  - (c) has damaged the rights or interests of a Member or the rights or interests of Members generally.
- 24.9 The respondent has a right to be heard before the complaint is resolved or any outcome is determined.
- 24.10 If the respondent is the Association, an Officer may exercise the right on behalf of the Association.
- 24.11 Without limiting the manner in which a respondent may be given a right to be heard, a respondent must be taken to have been given the right if—
- (a) the respondent is fairly advised of all allegations concerning the respondent, with sufficient details and time given to enable the respondent to prepare a response; and
  - (b) the respondent has a reasonable opportunity to be heard in writing or at a special meeting if called by the Board in its sole discretion; and/or
  - (c) the respondent's written statement or submissions (if any) are considered by the decision maker.

### **Investigating and determining dispute**

- 24.12 The Association must, as soon as is reasonably practicable after receiving or becoming aware of a complaint made in accordance with its Constitution, ensure that the dispute is investigated and determined.
- 24.13 Disputes must be dealt with under the Constitution in a fair, efficient, and effective manner and in accordance with the provisions of the Act.

### **Association may decide not to proceed further with complaint**

- 24.14 Despite the 'Investigating and determining dispute' rule above, the Association may decide not to proceed further with a complaint if—
- (a) the complaint is considered to be trivial; or
  - (b) the complaint does not appear to disclose or involve any allegation of the following kind:
    - (i) that a Member or an Officer has engaged in material misconduct:

- (ii) that a Member, an Officer, or the Association has materially breached, or is likely to materially breach, a duty under the Association's Constitution or bylaws or the Act:
- (iii) that a Member's rights or interests or Members' rights or interests generally have been materially damaged:
- (c) the complaint appears to be without foundation or there is no apparent evidence to support it; or
- (d) the person who makes the complaint has an insignificant interest in the matter; or
- (e) the conduct, incident, event, or issue giving rise to the complaint has already been investigated and dealt with under the Constitution; or
- (f) there has been an undue delay in making the complaint.

24.15 The Association may refer a complaint to—

- (a) a subcommittee or an external person to investigate and report; or
- (b) a subcommittee, an arbitral tribunal, or an external person to investigate and make a decision.

24.16 The Association may, with the consent of all parties to a complaint, refer the complaint to any type of consensual dispute resolution (for example, mediation, facilitation, or a tikanga-based practice).

### **Decision makers**

24.17 A person may not act as a decision maker in relation to a complaint if 2 or more members of the Board or a complaints subcommittee consider that there are reasonable grounds to believe that the person may not be—

- (a) impartial; or
- (b) able to consider the matter without a predetermined view.

## **25. CONFLICTS OF INTEREST**

25.1 An Officer or member of a sub-committee who is an Interested Member in respect of any Matter being considered by the Association, 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 Board and or sub-committee, and
- (b) in an Interests Register kept by the Board.

25.2 Disclosure must be made as soon as practicable after the Officer or member of a sub-committee becomes aware that they are interested in the Matter.

25.3 An Officer or member of a sub-committee who is an Interested Member regarding a Matter—

- (a) must not vote or take part in the decision of the Board and/or sub-committee relating to the Matter unless all members of the Board who are not interested in the Matter consent; and

- (b) must not sign any document relating to the entry into a transaction or the initiation of the Matter unless all members of the Board who are not interested in the Matter consent; 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).

25.4 However, an Officer or member of a 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.

25.5 Where 50 per cent or more of Officers 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 Officers agree otherwise.

25.6 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 Board shall consider and determine the Matter.