

# Constitution of the Friends of the Dunedin Botanic Garden Incorporated

Approved at the AGM 28 September 2025

## 1. Definitions

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The following terms have the meanings given to them, unless the context requires otherwise:

**Act** means the Incorporated Societies Act 2022.

**AGM** means the annual general meeting of the Society.

**Committee** means the Society's governing body.

**Constitution** means the rules in this document (also called Rules).

**Decision-maker** means the Committee or any such sub-committee or person considering any complaint under Rule 10.

**Garden** means the Dunedin Botanic Garden.

**General Meeting** means either an Annual General Meeting or a Special General Meeting of the Members of the Society

**Interested Member** means a Member who is interested in a matter for any of the reasons set out in section 62 of the Act.

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

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

**Officer** means a natural person who is a member of the Committee.

**Register of Members** means the register of Members as required by section 79 of the Act.

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

**Working Days** mean as defined in the Legislation Act 2019. Examples of days that are not Working Days include, but are not limited to: a Saturday, a Sunday, NZ public holidays.

## 2. Name

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2.1 The name of the society is Friends of the Dunedin Botanic Garden Incorporated (the '**Society**').

### 3. Purposes

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- 3.1 The Society is established and maintained exclusively for charitable purposes (including any purposes ancillary to those charitable purposes), namely:
- a) fostering interest in the Dunedin Botanic Garden;
  - b) promoting the development of the Garden;
  - c) raising funds for approved purposes;
  - d) preserving the integrity of the Dunedin Botanic Garden.
- 3.2 Any income, benefit, or advantage must be used to advance the charitable purposes of the Society.
- 3.3 The Society is registered as a charitable entity under the Charities Act 2005.
- 3.4 The Society works in close collaboration with the management and staff of the Dunedin Botanic Garden to ensure a positive experience for all its users and visitors.

#### **Restrictions on Society Powers**

- 3.5 Nothing in this Constitution authorises the Society to do anything which contravenes or is inconsistent with the Act, any regulations made under the Act, or any other legislation.
- 3.6 The Society must not be carried on for the financial gain of any of its members.
- 3.7 The Society's capacity, rights, powers, and privileges are subject to the following restriction:
- a) The Society does not have the power to borrow money.

### 4. Members

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- 4.1 The Society shall maintain the minimum number of members required by law (10 members).

#### **Classes of membership**

- 4.2 The membership of the Society is divided into the following classes:
- a) **Individual Member**, being any natural person who does not fall within the following four categories.
  - b) **Life Member**, being any natural person who elects to pay a Life Membership subscription on application for membership. No further subscription shall be payable by a Life Member. Payment of Life Membership shall be deemed to imply consent to membership for life.
  - c) **Family Member**, being one adult with a child under 18 years of age, or two adults with or without children under 18 years of age, and living together as a family, shall be eligible for

family membership. The person signing the application consent shall be deemed to have consent from other family members. For administration purposes the family shall count as one member and shall be entitled to one vote at any Society meeting.

- d) **Botanic Garden Staff Member**, being any employee of the Botanic Garden during the duration of their employment. Such members must complete an application form for membership but will be charged no subscription.
- e) **Volunteer Member**, being any person who has completed a period of induction and has been accepted as a Volunteer by the Society, applicable for the period they are active as a Volunteer. Such members must complete an application form for membership but will be charged no subscription.

### **Becoming a Member**

- 4.3 Every applicant for membership must consent in writing to becoming a Member.
- 4.4 Membership shall be given to any applicant who, in the opinion of the Committee, has an interest in the Charitable Purposes of the Society. The Committee may accept or decline any application for membership. The Committee must advise the applicant of its decision (but is not required to provide reasons for that decision).
- 4.5 Every application for membership of the Society shall be considered by the Committee and if accepted, the successful applicant shall become a Member of the Society immediately on payment of the appropriate Membership Fee. The Committee may, if it thinks fit, delegate the approval of any application for membership to the President. Applications for membership received within one month prior to the AGM shall be considered at the first succeeding Committee meeting after the AGM.
- 4.6 An applicant for membership must complete and sign an official membership application form and provide the Society with their name and contact details (including a postal or email address and a phone number).
- 4.7 Membership does not confer on any member any right, title, or interest (legal or equitable) in the property of the Society.

### **Termination of Membership**

- 4.8 A Member ceases to be a Member—
  - a) by resignation from that Member's class of membership by written notice signed by that Member to the Committee, or
  - b) on termination of a Member's membership following a dispute resolution process under this Constitution, or
  - c) on death (or if a body corporate on liquidation or deregistration, or if a partnership on dissolution of the partnership), or

- d) by resolution of the Committee where the Member has failed to pay a subscription, levy or other amount due to the Society within 60 Working Days of the due date for payment.

### **Membership Fees**

- 4.9 Membership Fees for each class of membership shall be approved at the AGM.
- 4.10 The Membership year shall be set as the calendar year beginning on 1 January following the AGM. Notices of fees payable for the coming year and requests for membership consent will be sent to members in written or electronic form within six weeks of the AGM.
- 4.11 Applications for membership may be considered by the Committee at any time and fees will apply to the membership year current at the time of application.

## **5. Committee**

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- 5.1 From the end of each AGM until the end of the next, the Society shall be managed by, or under the direction or supervision of the Committee, in accordance with the Act and this Constitution.
- 5.2 The Committee shall comprise of the following Officers:
  - a) the President;
  - b) the Secretary;
  - c) the Treasurer;
  - d) the Botanic Garden Manager (or their nominee);
  - e) no fewer than five and no more than eight further Officers. The Committee may elect a Vice-President from their number.

### **Qualifications of Officers**

- 5.3 Every Officer must be a natural person who has consented in writing to be an officer of the Society and certifies that they are not disqualified from being elected or appointed or otherwise holding office. Officers must not be disqualified under section 47(3) of the Act from being appointed or holding office as an Officer of the Society, namely—
  - a) a person who is under 16 years of age
  - b) a person who is an undischarged bankrupt
  - c) 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 any other similar legislation
  - d) A person who is disqualified from being a member of the governing body of a charitable entity under the Charities Act 2005
  - e) 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 Act. 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 (1) to (3), or
  - v. a money laundering offence or an offence relating to the financing of terrorism, whether in New Zealand or elsewhere
- f) a person subject to:
- i. a banning order under subpart 7 of Part 4 of the Act, or
  - ii. an order under section 108 of the Credit Contracts and Consumer Finance Act 2003, or
  - iii. a forfeiture order under the Criminal Proceeds (Recovery) Act 2009, or
  - iv. 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.
- g) a person who is subject to an order that is substantially similar to an order referred to in paragraph (6) under a law of a country, State, or territory outside New Zealand that is a country, State, or territory prescribed by the regulations (if any) of the Act.

### **Election**

- 5.4 Elections for the Committee shall take place at the AGM.
- 5.5 A candidate for election must be nominated and seconded in writing. The written nomination, accompanied by the written consent of the nominee with a certificate that the nominee is not disqualified from being appointed or holding office as an Officer, shall be received by the Society at least 2 Working 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.
- 5.6 Any vacancy on the Committee may be filled at the discretion of the Committee until the next AGM by resolution of the Committee. 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 an Officer.
- 5.7 In the event of a vacancy in the role of President, the Committee shall appoint a person from amongst its number for the unexpired term of the Office.

### **Term of Office**

- 5.8 The term of office:
- a) for a Committee Member shall be for one year but they shall be eligible for re-election.

- b) for the President and Vice-President (if there is one) shall be for one year but they shall be eligible for one additional consecutive year.

### **Ceasing to be a Committee Member**

- 5.9 A person ceases to be a Committee Member of the Society if the person:
- a) reaches the end of their term in office,
  - b) resigns in writing to the Society,
  - c) is otherwise removed in accordance with the Rules,
  - d) becomes disqualified from being an officer of an incorporated society, or
  - e) dies.
- 5.10 A Committee member who has been absent from three consecutive meetings without an apology accepted by the other committee members may have his/her seat declared vacant by the Committee.

### **Duties of the Committee**

- 5.11 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,
  - b) must exercise all powers for a proper purpose,
  - c) must not act, or agree to the Society acting, in a manner that contravenes the Act or this Constitution,
  - d) when exercising powers or performing duties as an Officer, 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:
    - I. the nature of the Society,
    - II. the nature of the decision, and
    - III. the position of the Officer and the nature of the responsibilities undertaken by him or her
  - e) must not agree to the activities of the Society being carried on, 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.

### **Powers of the Committee**

- 5.12 The Committee has all the powers necessary for managing — and for directing and supervising the management of — the operation and affairs of the Society, subject to such modifications, exceptions, or limitations as are contained in the Act or in this Constitution.

- 5.13 The powers of the Committee shall include, but not be limited to, the following:
- a) operate bank, investment and trust accounts in the name of the Society and administer all funds and assets of the Society;
  - b) recommend to the Society any proposal to acquire assets or distribute funds in accordance with the purposes of the Society outlined in Rule 3.1;
  - c) invest funds acquired by the Society;
  - d) employ such staff as it deems necessary for the efficient operation of the Society on terms and conditions that it deems reasonable and proper; and
  - e) establish any ad hoc sub-committee for assisting the Committee in furthering the objectives of the Society.
- 5.14 If the Botanic Garden Manager (or nominee) advises the Committee that in his/her view a particular course of action proposed by the Society would not be in the best interests of the Garden, that course of action shall not be pursued.
- 5.15 The Committee and any sub-committee may act by resolution approved during a conference call using audio and/or audio-visual technology or through a written ballot conducted by email, electronic voting system, or post, and any such resolution shall be recorded in the minutes of the next Committee or sub-committee meeting.
- 5.16 The Committee may recommend bylaws to assist with the internal management of the Society, provided that —
- a) no bylaw is inconsistent with this Constitution or the Act, and
  - b) bylaws are approved, amended or revoked by resolution of a General Meeting
- 5.17 Other than as prescribed by the Act or this Constitution, the Committee may regulate its proceedings as it thinks fit.

### **Conflict of Interests**

- 5.18 A Committee Member who is an Interested Member in respect of a Matter being considered by 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
  - b) in an Interests Register kept by the Committee.
- 5.19 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.
- 5.20 A Committee Member who is interested in a Matter:
- a) must not vote or take part in the decision of the 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 relating to the Matter and be present at the time of the decision of the Committee (unless the Committee and/or sub-committee decides otherwise).

- 5.21 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.
- 5.22 If 50 per cent or more of the Committee Members are prevented from voting on a Matter because they are interested in the Matter, a Special General Meeting must be called to consider and determine the Matter, unless all non-interested Officers agree otherwise.

### **Sub-Committees**

- 5.23 The Committee may at any time establish sub-committees to advise it on any matters relating to the affairs of the Society and shall determine the membership and terms of reference of the sub-committees.
- 5.24 The term of any sub-committee shall be determined by the Committee but shall not exceed the term of the Committee.
- 5.25 The sub-committee's powers shall be limited to advising the Committee and it shall not commit the Society in any way.
- 5.26 The President shall be ex-officio a member of every sub-committee.
- 5.27 The membership of sub-committees shall not necessarily be limited to Members.

### **Committee Meetings**

- 5.28 Meetings of the Committee shall be held at least monthly (but only need to meet once in the Dec-Jan period) at such times and places as shall be fixed by the Committee.
- 5.29 A meeting of the Committee may be held either—
  - a) by a number of the members of the Committee who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
  - b) by means of audio, or audio and visual, communication by which all members of the Committee participating and constituting a quorum can simultaneously hear each other throughout the meeting.
- 5.30 The quorum for Committee meetings is at least 50 per cent of the number of members of the Committee.
- 5.31 The Secretary shall give each Committee Member at least 5 Working days notice of Committee meetings and will prior to each meeting advise all Committee Members of the details of the business to be transacted as far as it is known at that time.

- 5.32 The Committee may deal with such other business as it may determine.
- 5.33 Meetings of the Committee shall only be attended by Committee members unless the Committee acting unanimously has formally invited an individual to attend a meeting.
- 5.34 A resolution of the Committee is passed at any meeting of the Committee if a majority of the votes cast on it are in favour of the resolution. Every Officer on the Committee shall have one vote.
- 5.35 The President shall be the chairperson of the Committee. If at a meeting of the Committee, the chairperson is not present, the members of the Committee present may choose one of their number to be chairperson of the meeting.

## **6. General Meetings**

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### **Procedure for General Meetings**

- 6.1 The Committee shall give all Members at least 20 Working Days written Notice of any General Meeting and of the business to be conducted at that General Meeting.
- 6.2 The General Meeting and its business will not be invalidated simply because one or more Members do not receive the Notice of the General Meeting.
- 6.3 All General Meetings shall be chaired by the President. If the President is absent, the Vice-President or Committee nominee shall chair that meeting. Any person chairing a General Meeting has a deliberative and, in the event of a tied vote, a casting vote.
- 6.4 The Society must keep minutes of all General Meetings.
- 6.5 Any person chairing a General Meeting may —
- a) With the consent of a simple majority of Members present at any General Meeting adjourn the General Meeting from time to time and from place to place but no business shall be transacted at any adjourned General Meeting other than the business left unfinished at the meeting from which the adjournment took place,
  - b) Direct that any person not entitled to be present at the General Meeting, or obstructing the business of the General Meeting, or behaving in a disorderly manner, or being abusive, or failing to abide by the directions of the chairperson be removed from the General Meeting, and
  - c) In the absence of a quorum or in the case of emergency, adjourn the General Meeting or declare it closed.

### **Quorum**

- 6.6 No General Meeting may be held unless at least 15 percent of Members attend throughout the meeting and this will constitute a quorum.

- 6.7 If, within 15 minutes after the time appointed for a meeting a quorum is not present, the meeting – if convened upon request of Members – shall be dissolved. In any other case it shall stand adjourned to a day, time and place determined by the Chairperson, and if at such an adjourned meeting a quorum is not present those Members present in person or by proxy shall be deemed to constitute a sufficient quorum.

### **Voting**

- 6.8 Only Members may vote at General Meetings—
- a) in person, or
  - b) by a signed original written proxy (an email or copy not being acceptable) in favour of some individual entitled to be present at the meeting and received by, or handed to, the Committee before the commencement of the General Meeting.
- 6.9 A Member is entitled to exercise one vote on any motion at a General Meeting in person or by proxy, and voting at a General Meeting shall be by voices or by show of hands or, on demand of the chairperson or of 2 or more Members present, by secret ballot.
- 6.10 Two Members (who are not nominees) or non-Members appointed by the Chairperson shall act as scrutineers for the counting of the votes and destruction of any voting papers.
- 6.11 Unless otherwise required by this Constitution, all questions shall be decided by a simple majority of those in attendance in person or by proxy and voting at a General Meeting or voting by remote ballot. Any decisions made when a quorum is not present are not valid.
- 6.12 The Committee may propose motions for the Society to vote on which shall be notified to Members with the notice of the General Meeting.
- 6.13 Any Member may request that a motion be voted on at a General Meeting, by giving notice to the Secretary or Committee at least 30 Working Days before that meeting. Notice of the motion shall be provided to Members with the written Notice of the General Meeting.
- 6.14 The Society may pass a written resolution in lieu of a General Meeting, and a written resolution is as valid for the purposes of the Act and this Constitution as if it had been passed at a General Meeting if it is approved by no less than 15 percent of the Members who are entitled to vote on the resolution. A written resolution may consist of 1 or more documents in similar form (including letters, email, or other similar means of communication) each proposed by or on behalf of one or more Members. A Member may give their approval to a written resolution by signing the resolution or by electronic means.

### **Annual General Meetings**

- 6.15 An AGM shall be held once a year on a date and at a location and/or using any electronic communication determined by the Committee.
- 6.16 The AGM must be held no later than the earlier of the following—

- 6 months after the balance date of the Society
- 15 months after the previous annual meeting.

6.17 Notice of the AGM including a statement of business and any proposed Resolutions to be voted on shall be given to all Members either in written or electronic form not less than 20 working days prior to the date of the relevant AGM.

6.18 The following information will be presented at the AGM:

- an annual report on the operations and affairs of the Society during the most recently completed annual accounting period.
- The financial statements of the Society for that period
- Notice of disclosures of conflicts of interest made by officers during the preceding year (including a brief summary of the matters, or types of matters, to which those disclosures relate).

6.19 The following business will be conducted at the AGM:

- Apologies for non-attendance;
- Confirmation of the minutes of the AGM and any SGM held in the interim;
- Receipt and adoption of the annual report and the annual financial report;
- Election of a President, Vice- President, Secretary and/or Treasurer and a Committee as defined in Rule 5.2;
- Appointment of an independent person with accounting knowledge to review the accounts for the ensuing year;
- Confirmation of annual Membership Fees;
- Voting on any resolutions which were notified to Members in accordance with Rule 6.14.

### **Special General Meetings**

6.20 The Committee may call a Special General Meeting of the Society at any time to consider urgent business.

6.21 If the Secretary receives a request in writing and signed by no fewer than 15 per cent of Members stating the object of the proposed meeting, he/she shall call a Special General Meeting.

6.22 The rules in this Constitution 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.

### **Ordinary Meetings**

- 6.23 In addition to General Meetings, ordinary meetings of members may be held for the purpose of education, information, and/or social networking between Members and such other matters as the Committee may determine from time to time.

## **7. Financial Matters**

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- 7.1 The signatories to any bank account of the Society shall be any two of the Treasurer, the President and the Secretary.
- 7.2 Any income, benefit or advantage shall be applied to the Charitable Purposes of the Society.
- 7.3 Any amount paid to a Member or any person associated with a member shall be reasonable and comparable to the amount that would be paid on an arm's length transaction.
- 7.4 The funds and property of the Society shall be—
- a) controlled, invested and disposed of by the Committee, subject to this Constitution, and
  - b) devoted solely to the promotion of the purposes of the Society.
- 7.5 The Committee shall maintain bank accounts in the name of the Society.
- 7.6 All money received on account of the Society shall be banked within 20 Working days of receipt.
- 7.7 All accounts paid or for payment shall be submitted to the Committee for approval of payment.
- 7.8 The Committee must ensure that there are kept at all times, accounting records that—
- a) correctly record the transactions of the Society, and
  - b) allow the Society to produce financial statements that comply with the requirements of the Act, and
  - c) would enable the financial statements to be readily and properly audited (if required under any legislation or the Society's Constitution).
- 7.9 The Committee must establish and maintain a satisfactory system of control of the Society's accounting records.
- 7.10 The accounting records must be kept in written form or in a form or manner that is easily accessible and convertible into written form and the accounting records must be kept for the current accounting period and for the last 7 completed accounting periods of the Society.
- 7.11 The Society's financial year shall commence on 01 July of each year and end on 30 June (the latter date being the Society's balance date).

## 8. Records

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- 8.1 The Society shall keep an up-to-date Register of Members.
- 8.2 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 or an email address, and
    - ii. A telephone number, and
  - d) Whether the Member is financial or unfinancial.
- 8.3 Every current Member shall promptly advise the Society of any change in the Member’s contact details.
- 8.4 The signed written consent of every member to become a Society Member shall be retained in the Society’s membership records
- 8.5 The Society shall also keep a record of the former Members of the Society. For each Member who ceased to be a Member within the previous 7 years, the Society will record:
- a) The former Member's name and email address, and
  - b) The date the former Member ceased to be a Member.
- 8.6 The Committee shall at all times maintain an up-to-date register of the interests disclosed by Officers and by members of any sub-committee.
- 8.7 The Society shall ensure that an up-to-date register of Officers is maintained, recording for each Officer:
- a) Their full name
  - b) The date on which they became an Officer, and the date on which they ceased to be an Officer
  - c) Their contact details, including a physical or email address and telephone number

### Access to Information for Members

- 8.8 A Member may at any time make a written request to the Society for information held by the Society. The request must specify the information sought in sufficient detail to enable the information to be identified.

- 8.9 The Society 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) refuse to provide the information, specifying the reasons for the refusal.
- 8.10 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) the information is not relevant to the operation or affairs of the society, 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 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
  - 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.
- 8.11 Nothing in this rule limits Information Privacy Principle 6 of the Privacy Act 2020 relating to access to personal information.

## **9. Contact Person**

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- 9.1 The Society shall have at least 1 but no more than 3 contact person(s) whom the Registrar can contact when needed.
- 9.2 The Society's contact person(s) must be:
- a) At least 18 years of age, and
  - b) Ordinarily resident in New Zealand.
- 9.3 A contact person shall be appointed by the Committee.
- 9.4 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 email address, and
- b) a telephone number.

9.5 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 Society becoming aware of the change.

## 10. Dispute Resolution

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### Meaning of Dispute and Complaint

- 10.1 A dispute is a disagreement or conflict involving the Society and/or its Members in relation to specific allegations set out below.
- 10.2 The disagreement or conflict may be between any of the following persons—
- a) 2 or more Members
  - b) 1 or more Members and the Society
  - c) 1 or more Members and 1 or more Officers
  - d) 2 or more Officers
  - e) 1 or more Officers and the Society
  - f) 1 or more Members or Officers and the Society.
- 10.3 The disagreement or conflict relates to any of the following allegations—
- a) a Member or an Officer has engaged in misconduct
  - b) a Member or an Officer has breached, or is likely to breach, a duty under the Society's Constitution or bylaws or the Act
  - c) the Society has breached, or is likely to breach, a duty under the Society's Constitution or bylaws or the Act
  - d) a Members' rights or interests as a Member have been damaged or Member's rights or interests generally have been damaged.
- 10.4 A member, an officer or a society makes a complaint if, in accordance with the society's constitution, the member, officer or society starts a procedure for resolving a dispute.
- 10.5 All Members (including the Committee) are obliged to cooperate to resolve disputes efficiently, fairly, and with minimum disruption to the Society's activities.
- 10.6 The complainant raising a dispute, and the Committee, 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 a Complaint is Made**

- 10.7 A Member or an Officer may make a complaint by giving to the Committee (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 Society'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 Society.
- 10.8 The Society 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 Society is starting a procedure for resolving a dispute in accordance with the Society's Constitution; and
  - b) sets out the allegation to which the dispute relates.
- 10.9 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.
- 10.10 A complaint may be made in any other reasonable manner permitted by the Society's Constitution.

### **Person Who Makes Complaint Has Right to be Heard**

- 10.11 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.
- a) If the Society makes a complaint—
    - i. the Society has a right to be heard before the complaint is resolved or any outcome is determined; and
    - ii. an Officer may exercise that right on behalf of the Society.
  - b) Without limiting the manner in which the Member, Officer, or Society may be given the right to be heard, they must be taken to have been given the right if—
    - i. they have a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
    - ii. an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
    - iii. an oral hearing (if any) is held before the decision maker; and
    - iv. the Member's, Officer's, or Society'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**

- 10.12 This clause applies if a complaint involves an allegation that a Member, an Officer, or the Society (the ‘respondent’)—
- a) has engaged in misconduct; or
  - b) has breached, or is likely to breach, a duty under the Society’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.
- 10.13 The respondent has a right to be heard before the complaint is resolved or any outcome is determined.
- 10.14 If the respondent is the Society, an Officer may exercise the right on behalf of the Society.
- 10.15 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 an oral hearing (if one is held); and
  - c) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
  - d) an oral hearing (if any) is held before the decision maker; and
  - e) the respondent’s written statement or submissions (if any) are considered by the decision maker.

### **Investigating and Determining a Dispute**

- 10.16 The Society 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.
- 10.17 Disputes must be dealt with under the Constitution in a fair, efficient, and effective manner and in accordance with the provisions of the Act.
- 10.18 Despite the ‘Investigating and determining dispute’ rule above, the Society 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 Society has materially breached, or is likely to materially breach, a duty under the Society'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.

10.19 The Society 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.

10.20 The Society 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**

10.21 A person may not act as a decision maker in relation to a complaint if two or more members of the Committee 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.

## **11. Amendments to Rules**

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11.1 All amendments must be made in accordance with this Constitution. Any minor or technical amendments shall be notified to Members as outlined in section 31 of the Act.

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

11.3 Any proposed resolution to amend or replace this Constitution shall be signed by at least 15 per cent of Members and given in writing to the Committee at least 30 Working Days before the General Meeting at which the resolution is to be considered and accompanied by a written explanation of the reasons for the proposal.

- 11.4 At least 20 Working Days before the General Meeting at which any amendment is to be considered the Committee shall give to all Members notice of the proposed resolution, the reasons for the proposal, and any recommendations the Committee has.
- 11.5 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.
- 11.6 The amendment shall also be notified to Charities Services as required by section 40 of the Charities Act 2005.
- 11.7 No amendment shall be made to this Constitution that would alter the exclusively charitable nature or purposes of the Society, or that would permit funds of the Society to be applied for any purpose that is not charitable under New Zealand law.

## **12. Winding up the Society**

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### **Resolving to put the Society into Liquidation**

- 12.1 The Society may be liquidated in accordance with the provisions of Part 5 of the Act.
- 12.2 The Committee shall give 20 Working Days written Notice to all Members of the proposed resolution to put the Society into liquidation.
- 12.3 The Committee shall also give written Notice to all Members of the General Meeting at which any such proposed resolution is to be considered. The Notice shall include all information as required by section 228(4) of the Act.
- 12.4 Any resolution to put the Society into liquidation must be passed by a two-thirds majority of all Members present and voting.

### **Resolving to Apply for Removal from Register**

- 12.5 The Society may be removed from the Register of Incorporated Societies in accordance with the provisions of Part 5 of the Act.
- 12.6 The Committee shall give 20 Working Days written Notice to all Members of the proposed resolution to remove the Society from the Register of Incorporated Societies.
- 12.7 The Committee shall also give written Notice to all Members of the General Meeting at which any such proposed resolution is to be considered. The Notice shall include all information as required by section 228(4) of the Act.
- 12.8 Any resolution to remove the Society from the Register of Incorporated Societies must be passed by a two-thirds majority of all Members present and voting.

**Surplus Assets**

- 12.9 If the Society is liquidated or removed from the Register of Incorporated Societies, no distribution shall be made to any Member, and if any property remains after the settlement of the Society's debts and liabilities, that property must be used to further a charitable purpose or purposes as defined in section 5(1) of the Charities Act 2005 and consistent with the Purposes of the Society.

**13. Indemnity of Officers**

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- 13.1 No Officer of the Society shall be liable for the acts, receipts, neglects or defaults of any other Officer of the Society or for any loss occasioned by an error of judgement or oversight on his/her part or for any other loss, damage or misfortune which shall happen in the execution of the duties of his/her office in relation thereto, unless the same happen through his/her own willful default or dishonesty.

**14. Charitable Status**

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- 14.1 In addition to and without limiting the powers contained or implied by these Rules the Society shall have power to apply and do everything necessary to maintain charitable status under the Charities Act 2005.