



HEART
OF THE BAYS

Constitution of
Heart of the Bays
Incorporated

Contents

1. Introductory rules	
Name.....	4
Charitable status.....	4
Definitions.....	4
Purpose.....	5
Tikanga, kawa, culture or practice.....	6
Acts and Regulations.....	6
Restrictions on Society power.....	6
Registered office.....	6
Contact person	7
2. Members	
Minimum number of members	7
Becoming a member: consent	8
Becoming a member: process	8
Members' obligations and rights	8
Ceasing to be a member	8
3. Officers	
Qualification of Officers.....	8
Election or appointment of Officers.....	10
Tenure of Office.....	10
Co-opted Members.....	11
Removal of Officers.....	11
4. Board	
Duties of the Board.....	11
Functions of the Board.....	11
Powers of the Board.....	12
Sub-Committees.....	12
Conflicts of interest.....	12
Board meetings-	
Frequency.....	13
Quorum.....	13
Convening.....	13
Decision Making.....	14
Attendance.....	14
Minutes.....	14
Procedures.....	14
General Meetings-	
Procedures for all general meetings.....	14
Annual General Meetings-	
When Annual General Meetings will be held.....	16
Special General Meetings	16

- 5. **Records**
 - Register of Members.....17
 - Interests register.....18
 - Access to information for members.....18
- 6. **Finances**
 - Control and management.....19
 - Assets.....20
 - Dealings.....20
 - Balance date.....20
- 7. **Dispute resolution**
 - Meanings of dispute and complaint.....20
 - How complaint is made.....21
 - Person who makes complaint has right to be heard.....22
 - Investigating and determining dispute.....22
 - Society may decide not to proceed further with complaint.....23
 - Society may refer complaint.....23
 - Decision makers.....23
- 8. **Alterations to the constitution**
 - Amending this constitution.....24
- 9. **Liquidation and removal from the register**.....24
 - Surplus assets.....24

1 Introductory rules

Name

The name of the society is Heart of the Bays Incorporated (in this Constitution referred to as the 'Society').

Charitable status

The **Society** is registered as a charitable entity under the Charities Act 2005.

Definitions

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

'**Act**' means the Incorporated Societies Act 2022 or any Act which replaces it (including amendments to it from time to time), and any regulations made under the Act or under any Act which replaces it.

'**Annual General Meeting**' means a meeting of the **Members** of the **Society** held once per year which, among other things, will receive and consider reports on the **Society's** activities and finances.

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

'**Committee**' means the **Society's** governing body, otherwise known hereafter as the **Board**.

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

'**Deputy Chairperson**' means the **Officer** elected or appointed to deputise in the absence of the **Chairperson**.

'**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**.

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

'Matter' means:

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

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

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

'Officer' means a natural person who is:

- a) a member of the **Board**, or
- b) occupying a position in the **Society** that allows them to exercise significant influence over the management or administration of the **Society**, 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 Days' mean as defined in the Legislation Act 2019. Examples of days that are not **Working Days** include, but are not limited to, the following — a Saturday, a 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.

Purposes

The **Society** is established and maintained exclusively for charitable purposes (including any purposes ancillary to those charitable purposes), namely:

- a) To promote the wellbeing of the community in the area usually known as East Coast Bays (hereinafter called 'the community').
- b) To encourage individuals, families, and groups to develop their own strengths, resources, and self-reliance.
- c) To provide systems that facilitate community participation.

- d) To ensure that activities and facilities are directly related to the needs of the community and that there is continuing opportunity for expression and identification of these needs, and that priorities be established on this basis.
- e) To recognise, and where appropriate, participate in existing community organisations and institutions.
- f) To promote ways of assessing the needs and issues important to the community.
- g) To provide ongoing evaluation of all activities undertaken by the **Society**.
- h) To liaise with the Auckland Council and the Hibiscus and Bays Local Board.
- i) To be open to affiliation with any other Society, Body or Organisation having objectives similar or ancillary to the objects of this **Society**, within this **Constitution**.
- j) To do all such things as are incidental or conducive to the attainment of the above objectives and to that end to raise funds from appropriate sources.

Nothing expressed or implied in this **Constitution** shall permit the activities of the **Members** to be carried on for the private pecuniary profit of any individual.

Any income, benefit, or advantage must be used to advance the charitable purposes of the **Society**.

Tikanga, kawa, culture or practice

The tikanga or culture of the **Society** is as follows:

The **Society** acknowledges the relevance of the Treaty of Waitangi and the Māori people as tangata whenua of Aotearoa and this **Constitution** shall be interpreted having regard to that tikanga, kawa, culture or practice.

Act and regulations

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.

Restrictions on Society powers

The **Society** must not be carried on for the financial gain of any of its **Members**.

Registered office

The registered office of the **Society** shall be at such place in New Zealand as the **Board** from time to time determines.

Changes to the registered office shall be notified to the Registrar of Incorporated Societies:

- a) at least five working days before the change of address for the registered office is due to take effect, and
- b) in a form and as required by the **Act**.

Contact person

The **Society** shall have at least one but no more than three contact person(s) whom the Registrar can contact when needed.

The **Society's** contact person must be:

- a) at least 18 years of age, and
- b) ordinarily resident in New Zealand.

A contact person can be appointed by the **Board** or elected by the **Members** at a **General Meeting**.

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.

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.

2 Members

Minimum number of Members

The **Society** shall maintain the minimum number of **Members** required by the **Act**, namely 10.

Any person being resident in the Hibiscus & Bays Local Board area shall have the right to be a **Member** of the **Society**.

At the discretion of the **Society** in a **General Meeting**, membership may be extended to or withdrawn from any non-resident active within the **Society**.

Becoming a Member – consent

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

Becoming a Member – process

An applicant for membership must complete and sign any application form, supply any information, or attend an interview as may be reasonably required by the **Board** regarding an application for membership and will become a **Member** on acceptance of that application by the **Board**.

The **Board** may accept or decline an application for membership at its sole discretion. The **Board** must advise the applicant of its decision.

The signed written consent of every **Member** to become a **Society Member** shall be retained in the **Society's** membership records.

Members' obligations and rights

Every **Member** shall provide the **Society** in writing with that **Member's** name and contact details (namely, physical or email address and a telephone number) and promptly advise the **Society** in writing of any changes to those details.

The **Board** may decide what access or use **Members** may have of or to any premises, facilities, equipment or other property owned, occupied or otherwise used by the **Society**, and to participate in **Society** activities, including any conditions of and fees for such access, use or involvement.

Ceasing to be a member

A **Member** ceases to be a **Member** in any of the following ways:

- a) By resignation in writing.
- b) By the death of the **Member**.
- c) At the discretion of the **Board**.

3 Officers

Qualifications of Officers

Every **Officer** must be a natural person who:

- a) has consented in writing to be an officer of the **Society**, and
- b) certifies that they are not disqualified from being elected or appointed or otherwise holding office as an **Officer** of the **Society**.

Officers must not be disqualified under section 47(3) of the **Act** or section 16 of the Charities Act 2005 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 section 16(2) of 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 seven years:
 - i. An offence under subpart 6 of Part 4 of the **Act**.
 - ii. A crime involving dishonesty (within the meaning of section 2(1) of the Crimes Act 1961).
 - iii. An offence under section 143B of the Tax Administration Act 1994.
 - iv. An offence, in a country other than New Zealand, that is substantially similar to an offence specified in subparagraphs (i) to (iii).
 - 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 (f) 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**.

Prior to election or appointment as an **Officer** a person must:

- a) consent in writing to be an **Officer**, and
- b) certify in writing that they are not disqualified from being elected or appointed as an **Officer** either by this **Constitution** or the **Act**.

Note that only a natural person may be an **Officer** and each certificate shall be retained in the **Society's** records.

Election or appointment of Officers

The election of **Officers** shall be conducted as follows:

- a) The **Board** shall be elected at the **Annual General Meeting** of the **Society**. Applications to become **Board Members** shall be forwarded to the **Secretary**, either in writing or verbally prior to the meeting for consideration.
- b) Any written nominations, together with a certificate that the nominee is not disqualified from being appointed or holding office as an **Officer** (as described in the **Qualification of Officers** rule above) shall be received by the **Society** at least 21 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**
- c) **Officers** will be nominated and approved at the **Annual General Meeting**. In no case shall a **Member** be elected without his or her consent.

The **Board** shall appoint any necessary staff who shall not be **Members** of the **Board**. The **Board** shall always be composed of a majority of persons residing in the East Coast Bays area.

The **Board** shall be required to give 14 days' notice of the **Annual General Meeting**, stating date, time, location, and reason for the meeting, seeking applications, and nominations for any **Board** positions vacant.

Tenure of office

The elected and appointed members of the **Board** shall hold office until the next **Annual General Meeting** or until their resignation in writing is received by the **Secretary**.

No one person shall hold the position of **Chairperson** for a period exceeding three years. Any vacancy may be filled by the **Board** by the appointment of a person who is a **Member** of the **Society**, and this person will hold office until the next **Annual General Meeting** when their appointment will become ratified. Should the **Board** fall below five members it shall call a **General Meeting** with the intention of seeking more **Board** members.

Co-opted Members

The **Board** shall have the power to co-opt other **Members** and these co-opted members shall be entitled to attend all meetings of the **Board** and to take part in all business and discussion thereof; but shall not be entitled by virtue of such membership to vote at any such meeting, nor shall any co-opted **Members** be counted in determining whether or not a quorum is present at any meeting of the **Board**.

Removal of Officers

An **Officer** shall be removed as an **Officer** by resolution of the **Board** or the **Society** where in the opinion of the **Board** or the **Society**:

- a) The **Officer** elected to the **Board** has been absent from three **Board** meetings without leave of absence from the **Board**.
- b) The **Officer** has brought the **Society** into disrepute.
- c) The **Officer** has failed to disclose a conflict of interest.
- d) The **Board** passes a vote of no confidence in the **Officer**.

4 Board

The administration and management of the **Society** shall be vested in a **Committee** (hereinafter called the **Board**) consisting of not fewer than five independent members and shall include:

- a) **Chairperson**
- b) **Secretary**
- c) **Treasurer**

Duties of the Board

It shall be the duty of the **Board** to take such steps as it may consider desirable towards attaining the objects of the **Society**.

Functions of the Board

From the end of each **Annual General Meeting** until the end of the next, the **Society** shall be managed by, or under the direction or supervision of, the **Board**, in accordance with the Incorporated Societies Act 2022, any Regulations made under that **Act**, and this **Constitution**.

Powers of the Board

The **Board** 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**.

Sub-committees

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

- a) The quorum of every sub-committee is half the members of the sub-committee but not less than two.
- b) No sub-committee shall have power to co-opt additional members.
- c) A sub-committee must not commit the **Society** to any financial expenditure without express authority from the **Board**.
- d) A sub-committee must not further delegate any of its powers.

Conflicts of interest

An **Officer** or member of a sub-committee who is an **Interested Member** in respect of any **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 **Board** and/or sub-committee and
- b) in an **Interests Register** kept by the **Board**.

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**.

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).

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.

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.

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**.

Board Meetings

Frequency

The **Board** shall meet at least monthly (but need only meet once in the December-January period) at such times and places and in such manner (including by audio, audio and visual, or electronic communication) as it may determine and otherwise where and as convened by the **Chairperson** or **Secretary**.

The **Secretary**, or other **Board** member nominated by the **Board**, shall give to all **Board** members not less than five **Working Days'** notice of **Board** meetings, but in cases of urgency a shorter period of notice shall suffice.

The **Board**, at its discretion may call for a special audio or audio and visual meeting at a time other than the usual monthly meeting, to consider and deal with any specific matter that requires immediate attention.

The members of the **Board** shall elect one of their number as **Chairperson** of the **Board**. If at a meeting of the **Board**, the **Chairperson** is not present, the members of the **Board** present may choose one of their number to be **Chairperson** of the meeting. The **Chairperson** does have a casting vote in the event of a tied vote on any resolution of the **Board**.

Quorum

Any four members of the **Board** shall form a quorum.

Convening

A meeting of the **Board** shall be convened whenever desired by the **Chairperson** or by three members of the **Board**. The **Secretary**, or in his or her absence, any other **Officer**

shall be the convenor of the meeting and give notice of the time and place to all members of the **Board**.

Decision making

Consensus shall be the generally accepted method of arriving at a decision. In the event of a consensus decision being unable to be achieved, all members of the **Board** shall have one vote and in the case of an equality of votes, the **Chairperson** shall have a casting vote as well as a deliberative vote. Voting shall be by way of a show of hands and if three or more members so insist, then by secret ballot. Email voting may be used if necessary.

Attendance

At any meeting of the **Board** there may be present officers, employees or other persons who may wish to attend. The **Board** has the right to hold closed meetings and determine attendance if it feels the situation requires it.

Minutes

The **Secretary** shall ensure that minutes are taken at each meeting. All appointments of **Officers**, names of **Board** members present at each meeting and all resolutions and proceedings of the **Board** shall be recorded in such minutes.

Procedure

A meeting of the **Board** may be held either:

- a) by a number of the members of the **Board** 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 **Board** participating and constituting a quorum can simultaneously hear each other throughout the meeting.

A resolution of the **Board** is passed at any meeting of the **Board** if a majority of the votes cast on it are in favour of the resolution. Every **Officer** on the **Board** shall have one vote.

Except as otherwise provided in this **Constitution**, the **Board** may regulate its own procedure.

General meetings

Procedures for all general meetings

The **Board** shall give all **Members** at least 10 **Working Days**’ written **Notice** of any **General Meeting** and of the business to be conducted at that **General Meeting**.

That **Notice** will be addressed to the **Member** at the contact address notified to the **Society** and recorded in the **Society's** register of members. 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**.

No **General Meeting** may be held unless at least 10 eligible **Members** attend throughout the meeting and this will constitute a quorum.

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

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 two or more **Members** present, by secret ballot.

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.

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 75 percent of the eligible **Members** voting on the resolution. A written resolution may consist of one or more documents in similar form (including letters, electronic mail, 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 giving approval to the resolution in any other manner permitted by the **Constitution** (for example, by electronic means).

All **General Meetings** shall be chaired by the **Chairperson**. If the **Chairperson** is absent, the meeting shall elect another member of the **Board** to chair that meeting.

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

The **Secretary** shall ensure that minutes are taken at each meeting.

Annual General Meetings

When Annual General Meetings will be held

An **Annual General Meeting** shall be held once a year on a date and at a location and/or using any electronic communication determined by the **Board** and consistent with any requirements in the **Act**, and the **Constitution** relating to the procedure to be followed at **General Meetings** shall apply.

An **Annual General Meeting** of the **Society** shall be held after the first day of April and before the 30th day of June in each year.

At all **Annual General Meetings** a quorum shall consist of 15 persons personally, or present via an online connection to the meeting. Fourteen days' **Notice** shall be given of such **Annual General Meeting**.

The **Annual General Meeting** must be held no later than the earlier of the following:

- a) Six months after the balance date of the **Society**.
- b) Fifteen months after the previous **Annual General Meeting**.

Annual General Meeting business

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

- a) An annual report on the operation and affairs of the **Society** during the most recently completed accounting period.
- b) The annual financial statements for that period.
- c) Notice of any disclosures of conflicts of interest made by **Officers** during that period (including a summary of the matters, or types of matters, to which those disclosures relate).

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

- a) Confirm the minutes of the last **Annual General Meeting** and any **Special General Meeting(s)** held since the last **Annual General Meeting**.
- b) Adopt the annual report on the operations and affairs of the **Society**.
- c) Adopt the **Board's** report on the finances of the **Society**, and the annual financial statements.
- d) Consider any motions of which prior notice has been given to **Members** with **Notice** of the meeting, and consider any general business.

Special General Meetings

Special General Meetings may be called at any time by the **Board** by resolution.

Special General Meetings shall be convened by the **Secretary** at the discretion of the **Board** or within 14 days after receipt by the **Secretary** or a request to that effect signed by not less than 10 members of the **Society**. The object of the meeting shall be stated on the **Notice** convening the meeting. Any resolution or written request must state the business that the **Special General Meeting** is to deal with.

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

5 Records

Register of Members

The **Society** shall keep an up-to-date **Register of Members**.

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 electronic address, and
 - ii. a telephone number.

The register will also include each **Member's**:

- iii. email address (if any).

Every current **Member** shall promptly advise the **Society** of any change of the **Member's** contact details.

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 seven years, the **Society** will record:

- a) the former **Member's** name, and
- b) the date the former **Member** ceased to be a **Member**.

Interests Register

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

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.

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

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**.

If the **Society** requires the **Member** to pay a charge for the information, the **Member** may withdraw the request, and must be treated as having done so unless, within 10 **Working Days** after receiving notification of the charge, the **Member** informs the **Society**:

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

Nothing in this rule limits Information Privacy Principle 6 of the Privacy Act 2020 relating to access to personal information.

6 Finances

Control and management

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

- a) controlled, invested and disposed of by the **Board**, subject to this **Constitution**, and
- b) devoted solely to the promotion of the purposes of the **Society**.

The **Board** shall maintain bank accounts in the name of the **Society**.

All money received on account of the **Society** shall be banked within the month of receipt.

All money received shall be paid to the credit of the **Society** at such bank as the **Board** shall from time to time appoint, and all negotiable instruments shall be signed by the Treasurer and one other signatory appointed by the **Board**.

All payments must be approved and signed by two persons appointed by the **Board** to do so.

The Treasurer or his or her nominee shall have the power to receive on behalf of the **Society** and give receipts for all legacies, subscriptions, donations or other money given or bequeathed to the **Society** forthwith to be paid to the credit of the **Society**.

All accounts paid or for payment shall be submitted to the **Board** for approval of payment.

The **Board** 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 or reviewed (if required under any legislation or the **Society's Constitution**).

The **Board** must establish and maintain a satisfactory system of control of the **Society's** accounting records.

The accounting records must be kept in written form or in a form or manner that is easily accessible and convertible into written form.

The accounting records must be kept for the current accounting period and for the last seven completed accounting periods of the **Society**.

Assets

The funds and assets of the **Society** shall be vested in the **Society** and administered by the **Board** in accordance with the rules and guidelines set down for Incorporated societies.

Dealings

The **Society** shall have the power to rent, lease, hire or purchase or otherwise acquire, any interest in or use of any house, building, land, furniture or other real and personal property on terms favourable to the **Society**. The **Society** shall also have the power to sell or otherwise dispose of such property.

The **Board** shall have the right to exercise all powers conferred by this **Constitution** without reference to a **General Meeting** of the **Society**, except for the purchasing, leasing, selling or otherwise acquiring or disposing of any house, land or building which the **Society** owns, in which case approval shall be given the **Society** in a **General Meeting**.

Balance date

The **Society's** financial year shall commence on 1 April of each year and end on 31 March (the latter date being the **Society's** balance date).

7 Dispute resolution

Meanings of dispute and complaint

A dispute is a disagreement or conflict involving the **Society** and/or its **Members** in relation to specific allegations set out below.

The disagreement or conflict may be between any of the following persons:

- a) Two or more **Members**.
- b) One or more **Members** and the **Society**.
- c) One or more **Members** and one or more **Officers**.
- d) Two or more **Officers**.
- e) One or more **Officers** and the **Society**.
- f) One or more **Members** or **Officers** and the **Society**.

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 **Member's** rights or interests as a **Member** have been damaged or a **Member's** rights or interests generally have been damaged.

How complaint is made

A **Member** or an **Officer** may make a complaint by giving to the **Board** (or a complaints sub-committee) 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(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 **Society**.

The **Society** 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 **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.

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.

A complaint may be made in any other reasonable manner permitted by the **Society's Constitution**.

All **Members** (including the **Board**) are obliged to cooperate to resolve disputes efficiently, fairly, and with minimum disruption to the **Society's** activities.

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.

Person who makes complaint has right to be heard

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.

If the **Society** makes a complaint:

- a) the **Society** 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 **Society**.

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:

- a) they have a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
- b) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
- c) an oral hearing (if any) is held before the decision maker; and
- d) the **Member's**, **Officer's**, or **Society's** written or verbal statement or submissions (if any) are considered by the decision maker.

Investigating and determining dispute

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.

Disputes must be dealt with under the **Constitution** in a fair, efficient, and effective manner and in accordance with the provisions of the **Act**.

Society may decide not to proceed further with complaint

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 a **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.

Society may refer complaint

The **Society** may refer a complaint to:

- a) a sub-committee or an external person to investigate and report, or
- b) a sub-committee, an arbitral tribunal, or an external person to investigate and make a decision.

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

A person may not act as a decision maker in relation to a complaint if two or more members of the **Board** or a complaints sub-committee 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.

8 Alterations to the constitution

Amending this constitution

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**.

The **Constitution** may be amended at a **General Meeting** of the **Society**, for which at least 14 days' **Notice** has been given of the proposed amendments, provided that no addition, alteration, or revocation shall detract from the charitable nature of the **Society**.

That amendment could be approved by a resolution passed in lieu of a meeting as allowed by this **Constitution**. The resolution shall be signed by three **Board** members before the **General Meeting**.

At least five **Working Days** before the **Annual General Meeting** the **Board** shall give to all **Members** notice of the proposed changes to the **Constitution**, the reasons for the changes, and any recommendations the **Board** has.

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

As the **Society** is registered as a charity under the Charities Act 2005 the amendment shall also be notified to Charities Services as required by section 40 of that Act.

9 Liquidation and removal from the register

The **Society** may be wound up or dissolved in any ways provided in the Incorporated Societies Act 2022. In the event of a winding up or dissolution of the **Society**, a **Special General Meeting** of the **Society** shall be called.

Surplus assets

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.

This, and the preceding 24 pages are the **Constitution** and Rules of Heart of the Bays Incorporated, adopted at a **General Meeting** of the **Society** and by Special Resolution on 22nd April 2024

Signed on behalf of *Heart of the Bays Incorporated*:

Chairperson:

Name Pamela Martin

Signature 

Secretary:

Name Kathryn Waugh

Signature 

Treasurer:

Name Pamela Ellison

Signature 

Dated: **22nd April 2024**