



**PORIRUA HOSPITAL MUSEUM &
RESOURCE CENTRE TRUST**

TRUST DEED

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PARTIES

THE FRIENDS OF PORIRUA HOSPITAL MUSEUM & RESOURCE CENTRE INC. a duly incorporated body under the Incorporated Societies Act 1908. (“The Settlor”)

AND THE INITIAL TRUSTEES

SUSAN DRUITT
HELEN BICHAN
MARGARET FAULKNER
NIGEL FAIRLEY
DAVID STANLEY
BUD LAVERY

BACKGROUND

- A. The Settlor wishes to establish a trust to be known as the PORIRUA HOSPITAL MUSEUM & RESOURCE CENTRE INC ("the Trust") to acquire and hold premises and other assets of historic significance.
- B. This Deed is executed by the Settlor to establish the terms of the Trust and to appoint the Trustees.

THIS DEED WITNESSES

The Settlor hereby settles the sum of \$10.00 on the Trustees as an initial settlement on the Trust.

The Trustees agree to act as trustees of the Trust on the terms set out in this Deed.

PART 1 - ESTABLISHMENT, OBJECTS AND POWERS OF THE TRUST

1.0 Interpretation Definitions

1.1 In this Deed, unless the context otherwise requires:

"Maintenance Plan" means the annual maintenance plan prepared under clause 11

"The Porirua Hospital Museum & Resource Centre" means the museum & resource centre managed and administered by the Friends of Porirua Hospital Museum & Resource Centre Inc

"this Deed" means this deed and includes any schedules hereto and this deed as amended from time to time in accordance with the powers contained herein

"Financial year" means the period from to 1 July to 30 June in any year or such other period as may be stipulated by the trustees.

"Porirua" means the area consisting of Porirua City and the surrounding communities.

"The Trust" means the Porirua Hospital Museum & Resource Centre Trust

"Trust Assets" means all money, investments, property and assets from time to time owned or held by the Trust

"The Trustees" mean the trustees of the Trust from time to time

1.2 A person includes any individual, company, corporation, firm, partnership, joint venture, association, organisation, trust, state or agency of state (in each case whether or not having separate legal personality).

1.3 This Deed is binding upon the parties and their respective successors and permitted assigns.

1.4 Where the context permits words describing the singular include the plural and vice versa and words imputing masculine, feminine or neuter gender include all genders.

2.0 Establishment of the Trust

- 2.1 The Trust shall comprise all Trust Assets from time to time held by the Trustees under this Deed including the income arising from the Trust Assets.
- 2.2 The Trust Assets shall be held on trust by the Trustees and shall be managed and administered on the terms contained in this Deed.
- 2.3 The Trust shall commence on the 31 May 2006 and shall continue until terminated under clause 13.

3.0 Name of the Trust

- 3.1 The name of the Trust is the Porirua Hospital Museum & Resource Centre Trust.
- 3.2 If the trust is incorporated under the Charitable Trusts Act 1957 pursuant to clause 8.0 the Trust shall be named the Porirua Hospital Museum & Resource Centre Trust Incorporated or such similar name as the Trustees determine.

4.0 Objects of the Trust

The objects for which the Trust is established are:-

- 4.1 To acquire and hold buildings, land and other assets that are of historic significance arising from the operation of Porirua and Wellington Hospitals within a museum and resource centre for the benefit of all New Zealanders.
- 4.2 To enter into and monitor arrangements, contractual or otherwise, with suitable parties for management of those assets, buildings and land, in line with the objectives of the Friends of the Porirua Hospital Museum and Resource Centre Inc.
- 4.3 Generally to do all acts, matters and things that the Trustees consider necessary or conducive to further or attain the other objects of the Trust set out above including but not limited to
 - (a) Ensuring the continued survival and ongoing management of the Porirua Hospital Museum in the immediate future and to promote its further development as a place for recording the past and responding to new material, fresh insights, identified needs for information/education and helping to shape a better future for people with mental and other health problems

- (b) Providing informative and educational displays for the general public and for students in health and relevant services at all levels;
- (c) Providing information for the purposes of research;
- (d) Promoting the understanding of mental health and services for those with mental illness and disability including reassurance, reduction of stigmatisation;
- (e) Providing access to information about key developments in mental health;
- (f) The collection, preservation and presentation of materials of relevance to past history and present developments in mental health services;
- (g) The presentation of the history of the hospital, and its antecedents, and its place in the development of Porirua City;
- (h) The depiction of the history of mental health services locally, in NZ, and internationally;
- (i) The maintenance of relationships with the Porirua City Council, local Iwi, Museum of NZ, other relevant museums, and health agencies including the Ministry of Health in the pursuit of these objectives;
- (j) Facilitating the maintenance of the Porirua Hospital Museum buildings and the site on which they stand.

5.0 Powers of the Trust

Subject to the provisions of this Deed, the Trustees shall have all powers over and in respect of the Trust and the Trust Assets which it could exercise if it were the absolute and beneficial owner of the Trust Assets. In particular without derogating from the foregoing, the Trustees shall have full and absolute power as they think fit to do the following:

- 5.1 Enter into a management agreement, funding agreement, and to contract with any other person, (including the Settlor and the Initial Trustees) that the Trustees may in their absolute discretion think fit including to;
 - (a) Agree, enter into and perform any contract, option or other right relating to any part or all of the Trust Assets or proposed Trust Assets.
 - (b) Agree to the release, modification or variation of any rights, privileges or liabilities of any Trust Assets from time to time or any securities given in relation thereto.
 - (c) Enter into any arrangements with any government, public body or authority to obtain any rights, authorities, concessions or clearances and to give any undertakings binding upon the Trustees either generally or on conditions that the Trustees think fit and to carry out, exercise and comply with any of the same.

- (d) Employ, engage or contract with upon such terms and conditions as to salary, remuneration, contract, payment or other consideration any employee, manager, agent, professional advisor or other person (including any person who is a Trustee) as the Trustees think fit upon such terms as the Trustees deem reasonable and expedient.
- (e) Participate in the rights and obligations, including obligations to contribute in any manner to the liabilities of the parties, under any partnership, joint venture, or other agreement relating to Trust Assets or to act as the operator or one of the operators under any such agreement which relates to Trust Assets.
- (f) Perform and enforce agreements.
- (g) Institute, prosecute, compromise and defend legal proceedings.
- (h) Determine whether any money or other Trust Asset is capital or income and what expenses ought to be paid out of income and capital respectively and also apportion blended funds.
- (i) Place or permit to be placed any Trust Assets in the name of any agent or nominee for such period or periods as the Trustees in their absolute discretion think fit.
- (j) Open a bank account or accounts in the name of the Trustees or the Trust and to resolve how cheques and other banking documents may be signed on behalf of the Trust.
- (k) Invest any trust funds on deposit or fixed interest terms with any registered bank.
- (l) Incorporate any company to carry on any objects of the Trust.
- (m) Develop, build, and otherwise make improvements or alterations to the Trust Assets in such manner as the Trustees think fit.
- (n) Receive and make donations and seek sponsorship.
- (o) Pay all or any of the expenses incurred in connection with the incorporation and establishment of the Trust.

6.0 Trustees Indemnity and Liability.

- 6.1 The Trustees shall not be liable for:
- (a) Any losses except losses arising from their own dishonesty, wilful default or wilful breach of trust; or
 - (b) Any act or acts or attempted act done in exercise of or pursuant to any trust, power or discretion vested in them by this Deed; or
 - (c) Any omission or omissions or non-exercise in respect of any trust, power or discretion of the Trustee under this Deed.
- 6.2 The Trustees and every other person acting on behalf of the Trustees shall be indemnified out of the Trust Assets against all liabilities and expenses incurred by them in the exercise or attempted exercise of the trusts, powers and discretions vested in the Trustees pursuant to this Deed and in respect of any matter or thing done or omitted to be done in any way relating to this Deed and the Trust. This indemnity shall extend to any payments made to any Person whom the Trustees bona fide believe to be entitled thereto though it may be subsequently found that the person was not in fact so entitled. The Trustee shall have a lien or charge on the Trust Assets and may retain and pay out of any moneys in the Trust all sums and amounts necessary to give effect to this indemnity.
- 6.3 The liability of the Trustees in connection with this Deed or at law shall at all times be limited to the Trust Assets.

7.0 Delegation by Trustees

- 7.1 The Trustees shall have, to the extent permitted by law, full power to delegate to any officers or employees of the Trustees or to any attorney, agent or other person nominated or appointed by the Trustees, all or any of the powers, authorities and discretions exercisable by the Trustees under this Deed but without in any way releasing the Trustees from their obligations under this Deed. Without in any way affecting the generality of the foregoing the Trustees may in exercising this power of delegation appoint by writing or otherwise any person to be agent or sub-agent of the Trustees as the Trustees may think necessary or proper for such purposes and with such powers, authorities and discretions (not exceeding those vested in

the Trustees) as they think fit and to supersede or suspend any such agent or sub-agent for any reason as the Trustees think sufficient.

8.0 Incorporation under the Charitable Trusts Act

- 8.1 The Trustees may after the execution of this Deed apply for incorporation under the Charitable Trusts Act 1957 and the Trustees are authorised to make such applications on behalf of the Trust.

9.0 Common Seal.

- 9.1 Upon incorporation of this Trust in accordance with clause 8 the Trustees shall procure a common seal for the Trust and shall provide for its custody. Any documents required to be signed under the common seal shall be attested by any two trustees.

10.0 Accounts and Audit

- 10.1 The Trustees shall keep proper records and accounts relating to the Trust including a record of all sums of money received and expended by or on behalf of the Trust.
- 10.2 At the end of each Financial Year the Trustees shall prepare accounts for the Trust and will have those accounts audited by an independent qualified accountant who shall be appointed annually by the Trustees.
- 10.3 A copy of the audited accounts for the Trust shall be submitted to the settlor, within 3 months of the end of each Financial Year.

11.0 Trustees to Prepare Annual Maintenance Plan.

- 11.1 The Trustees shall not less than 30 days prior to the commencement of each Financial Year, commencing on the 1st of June 2006, prepare an annual maintenance plan for the Trust for the ensuing Financial Year.
- 11.2 The Maintenance Plan shall include:
- (a) The objectives of the Trust.

- (b) The nature and scope of any maintenance activities to be undertaken over the relevant Financial Year; and
- (c) Insurance cover and costs relating to different classes of assets held by the trust.
- (d) A health and safety report highlighting risks arising out of any duties imposed by the Health and Safety in Employment Act and any requirements imposed by the local authority bylaws.
- (e) An operating budget showing the Trust's estimate of all income and expenses for the Porirua Hospital Museum & Resources Trust, including the amount of any remuneration intended to be paid to Trustees, and the operational activities of the Trust over the relevant Financial Year; and
- (f) A capital budget showing any amounts intended to be outlaid on capital expenditure and the manner of financing such expenditure; and shall show in reasonable detail all relevant items of income and expenditure and shall be prepared in accordance with generally accepted accounting or business standards or practice.
- (g) A report on actual activities in terms of clauses (b) to (f) above for the previous 12 month period.

12.0 Alteration to the Deed

- 12.1 The Trustees may from time to time by amending deed or instrument alter, rescind or add to any of the provisions of this Deed provided that:
- (a) Any amendment to this Deed made to correct a manifest error or which is of a formal, technical or administrative nature only, may be made by resolution passed by the Trustees in accordance with Part 2 of this Deed.
 - (b) Any other amendment to this Deed shall not be made without the prior consent in writing of the settlor to that amendment first having been obtained.
 - (c) At least 14 days notice of intention to move any amendment to this Deed must be given to all Trustees; and
 - (d) If the Trust has been approved for charitable purposes by the Inland Revenue Department, or incorporated under the Charitable Trusts Act 1957 under clause 10.1, then no alteration, rescission or addition may

be made to this Deed which is prejudicial to the legal charitable status of the Trust.

13.0 Winding Up of the Trust

- 13.1 The Trust shall terminate and be wound up and dissolved if:
- (a) The Trustees (after first obtaining the written consent of the settlor) resolve by unanimous resolution in writing that the Trust shall be wound up; or
 - (b) The Trust is wound up by law.
- 13.2 A resolution to wind up the Trust shall specify an effective termination date of the Trust and thereafter the Trustees shall realise or dispose of the Trust Assets as soon as reasonably practicable in accordance with this clause.
- 13.3 The Trust Assets or the proceeds resulting therefore shall be applied by the Trustees upon the winding up in the following order of priority and manner:
- (a) First in meeting all costs, expenses and liabilities of the Trust including the costs and expenses of winding up the Trust and setting aside any amount that the Trustees consider necessary or desirable in respect of any contingent liability of the Trust.
 - (b) Secondly in the payment or distribution (by instalments if the Trustees consider appropriate) of the remaining assets of the Trust for purposes similar to those intended by the settlor in initiating the establishment of this Trust, PROVIDED THAT if the Trust has been approved for charitable purposes by the Inland Revenue Department, or incorporated under the Charitable Trusts Act 1957 under clause 10.1, the remaining assets shall only be used for those approved purposes which are charitable, and only in New Zealand.

14.0 Remuneration of Trustees.

- 14.1 The Trustees may, with the prior approval of the Settlor, resolve to pay themselves or any of them an annual remuneration for their services as trustees provided that any remuneration shall not exceed a reasonable compensation for services actually rendered by the Trustees, or out of pocket expenses incurred by the Trustees in relation to their obligations under this Deed.

PART 2 - PROCEEDINGS OF TRUSTEES

15.0 Appointment and Removal of Trustees

- 15.1 The Board of Trustees shall consist of not less than four (4) and not more than seven (7) persons appointed as follows
- 15.1.1 Two Trustees appointed by the Settlor.
 - 15.1.2 Two Trustees appointed by the Porirua City Council
 - 15.1.3 Two Trustees appointed by Capital & Coast District Health Board
 - 15.1.4 One Trustee appointed by the Kaumatua Council of Ngati Toa Rangitira.
 - 15.1.5 A temporary replacement for any of the above Trustees may be appointed when a Trustee is unable to perform his or her duties.
- 15.2 The first Trustees shall be the initial Trustees as listed at the beginning of this Trust Deed
- 15.3 All Trustees shall hold office for a term not exceeding 3 years.
- 15.4 A person who has acted as a Trustee and who remains eligible to be appointed as a Trustee, may be reappointed as a Trustee for a further term or terms.
- 15.5 The power of appointment and removal of Trustees shall be vested in the organisations listed in clause 15.1. In exercising the power of appointment the organisations so listed shall have regard to the needs of the Trust and shall consult with the Trust on the mix of trustee skills and experience appropriate to the objectives of the Trust.
- 15.6 A deed of appointment executed by the organisations listed in clause 15.1 shall be conclusive proof of appointment.
- 15.7 The office of a Trustee shall be vacated if a Trustee:
- (a) Resigns
 - (b) Dies
 - (c) Becomes bankrupt
 - (d) Becomes of unsound mind
 - (e) Is convicted of an indictable offence

- (f) Is removed by the person or group who appointed them.
- (g) Fails to attend three consecutive meetings of trustees with reasonable excuse.

16.0 Appointment of Chairperson

- 16.1 The Trustees shall at their first meeting held after 30 June each year elect one of them to be chairperson of the Trust.
- 16.2 Any retiring chairperson shall have the right to stand for re-election.
- 16.3 If a chairperson is unable for any reason to perform the chairperson's duties then the members of the Trust may elect an acting chairperson during the relevant period of inability.

17.0 Proceedings of Trustees.

- 17.1 Subject to this Deed the Trustees may meet together for the dispatch of business and may adjourn or otherwise regulate their meetings as they think fit.
- 17.2 At any meeting of the Trustees the chairperson shall preside or in the absence of the chairperson the Trustees may elect one of their members to preside.
- 17.3 At the meetings of Trustees:
 - (a) The necessary quorum shall be 3.
 - (b) Questions shall be determined by a majority resolution of the Trustees present and voting on that question. In the event of equality of votes, the person presiding at the meeting shall have a second or casting vote.
- 17.4 An act or decision of the Trustees shall not be invalid by reason only of:
 - (a) A fault, default or irregularity in or in connection with the appointment of a Trustee; or
 - (b) A vacancy in the number of the Trustees including a vacancy arising because of the failure to appoint a Trustee.

- 17.5 The Trustees shall keep a minute book and shall cause minutes to be kept therein of all meetings, resolutions and decisions made by them. Minutes purporting to be signed by the chairperson of the Trustees of a meeting shall be receivable as prima facie evidence of the matters contained in such minutes.

18.0 Convening of meetings

- 18.1 The Trustees shall hold at least 2 meetings in any calendar year.
- 18.2 The chairperson shall convene the meetings of the Trustees.
- 18.3 The chairperson shall convene any meeting of the Trustees if the chairperson receives a written request from not less than three (3) Trustees to hold a meeting. At least 2 working days prior notice of meetings of Trustees shall be given to all Trustees.

19.0 Resolution Assented to by Trustees.

- 19.1 A resolution in writing signed or assented to by letter, e-mail, facsimile or other written manner, by all Trustees for the time being entitled to receive notice of meetings of the Trustees shall be as valid and effective as if it had been passed at a meeting of Trustees duly called and constituted. Any such resolution may consist of several documents in like form either signed or purporting to have been despatched by any one or more of the Trustees.

20.0 Teleconference Meeting of Trustees.

- 20.1 The contemporaneous linking together by telephone or other means of communication of a number of Trustees not less than the quorum (whether or not any one or more of the Trustees is out of New Zealand) shall be deemed to constitute a meeting of Trustees and all the provisions of this Deed in respect of such meetings shall apply so long as the following conditions are met:
- (a) All Trustees for the time being entitled to receive notice of a meeting of the Trustees shall be entitled to notice of the meeting by telephone or other means of communication and to be linked by telephone or other means for the purpose of such meeting, and shall have first received two working days prior notice of such meeting.

- (b) Each Trustee taking part in a meeting by telephone or other means of communication must throughout the meeting be able to hear each of the Trustees taking part in the meeting.
- (c) At the commencement of the meeting each Trustee must acknowledge the Trustees presence for the purpose of the meeting to all other Trustees taking part.

21.0 Service of Notices.

21.1 Notices shall be deemed served by one party upon another party

- (a) if posted, 2 days following posting
- (b) if delivered personally, on the date of service and
- (c) if sent by facsimile or other electronic device, on the date of transmission.

22.0 Arbitration

22.1 Where any dispute arises in relation to the interpretation or operation of any clause contained in this deed or in relation to the exercise of any power conferred on any party under this deed the matter shall be referred to a referee of the Porirua District Court Disputes Tribunal for arbitration. Any decision of the referee shall be final and binding on the parties.

EXECUTION

This Deed was executed on the _____ day of _____ 2006

THE FRIENDS OF PORIRUA HOSPITAL MUSEUM & RESOURCE CENTRE INC. a duly incorporated body under the Incorporated Societies Act 1908 (The “Settlor”)

Two Trustees appointed by THE FRIENDS OF PORIRUA HOSPITAL MUSEUM & RESOURCE CENTRE INC. as SETTLOR-

SUSAN DRUITT as Trustee

in the presence of:

HELEN BICHAN as Trustee

in the presence of:

Two Trustees appointed by PORIRUA CITY COUNCIL-

DAVID STANLEY as Trustee

in the presence of:

BUD LAVERY as Trustee

in the presence of:

Two Trustees appointed by CAPITAL & COAST DISTRICT HEALTH BOARD

MARGARET FAULKNER as Trustee

in the presence of:

NIGEL FAIRLEY as Trustee

In the presence of