The Companies Act 1993

Constitution

of

Tapuika Iwi Authority Trustee Limited

JB MORRISON LAWYERS

JB Morrison
Lawyers
Wellington and Rotorua

Telephone: (07) 348-2030
Facsimile: (07) 347-8701
Office: Level 3, 1118 Fenton Street, Rotorua 3010
PO Box: 1742, Rotorua 3040

tap703-001_199.docx

Table of Contents

Part A 1

Introduction 1

1. Interpretation 1
   - 1.1 Expressions and meanings 1
   - 1.2 Expressions 2
   - 1.3 Construction 2

Part B: Tapuika Group 3

2. Relationship between Constitution, the Act and the Tapuika Iwi Authority Trust Deed 3
   - 2.1 Effect of the Act on this Constitution 3
   - 2.2 Effect of this Constitution 3
   - 2.3 Constitution to be consistent with Tapuika Iwi Authority Trust Deed 3

3. Purpose and Objectives of the Company 3
   - 3.1 Purpose 3
   - 3.2 Objectives 4
   - 3.3 Special Resolution of Trustees 4
   - 3.4 Special Resolution of Members 4

Part C: Shares 5

4. Shares and Issue of Shares 5
   - 4.1 Elected Trustees to be shareholders 5
   - 4.2 Board not to issue further Shares 5
   - 4.3 Number of Shareholders to equal number of Elected Trustees 5

5. Transfer of Shares 5
   - 5.1 Restrictions on transfer of Shares 5
   - 5.2 Person ceasing to be Elected Trustee must transfer interest in Share 5
   - 5.3 Board may refuse or delay a Share transfer in certain cases 6

6. Acquisition of Own Shares 6
   - 6.1 Board may acquire Shares on a non-proportional basis 6

7. Meetings of Shareholders 6
   - 7.1 Proceedings at meetings of shareholders 6
   - 7.2 Company must hold annual meeting of shareholders 6
   - 7.3 Company may hold special meetings of shareholders 7
   - 7.4 Written shareholders' resolution instead of holding a meeting 7

PART D: Directors 7

8. Appointment and Removal 7
8.1 Number of Directors 7
8.2 Appointment of Directors 7
8.3 Disrepute 8

9. Vacation of Office 8
9.1 Office of Director vacated in certain cases 8
9.2 Directors' resignation procedure 8

10. Management of the Company 8
10.1 Board to manage Company 8
10.2 Board has powers necessary to manage Company 8

11. Proceedings of the Board 9
11.1 Meetings of the Board 9
11.2 Written resolutions of Board permitted 9
11.3 Written resolutions may be in counterparts 9

12. Delegation of Powers 9
12.1 Restriction on Board's right to delegate its powers 9
12.2 Board delegates to comply with regulations 9
12.3 Directors to remain responsible 9
12.4 Committee proceedings 10
12.5 Appointments of officers 10

13. Interested Directors 10
13.1 Interested Directors 10
13.2 Directors must disclose their interests 10
13.3 General disclosure in certain cases will suffice 11
13.4 Failure to disclose does not affect validity of transaction 11
13.5 Company may avoid transaction if Director interested 11
13.6 Interested Director may not vote 11
13.7 All Directors are interested 12
13.8 Interests in common with Adult Members 12

14. Remuneration 12
14.1 Board's power to authorise remuneration and other benefits is limited 12
14.2 Expenses 12
14.3 Special Remuneration 13

PART E: GENERAL 13

15. Shareholder Appointment of Attorney 13
15.1 Shareholder to sign necessary documents 13
15.2 Appointment of Director as attorney 13

16. Indemnity and Insurance for Directors and Employees 14
16.1 Company may indemnify Directors and employees for certain liabilities 14
16.2 Company may effect insurance for Directors and employees 14

17. Execution of Deeds 14

18. Archiving of Records 14

19. Liquidation 14

20. Removal from Register 15

The Companies Act 1993

Constitution

of

Tapuika Iwi Authority Trustee Limited

Part A

Introduction

1. Interpretation

1.1 Expressions and meanings

The following expressions have the following meanings:

"**Act**" means the Companies Act 1993;

"**Adult Members**" means those Members identified on the register of members maintained by the Trust as being 18 years and over;

"**Assets**" means all property (whether real or personal) and includes choses in action, rights, interests and money;

"**Balance Date**" means 30 June or any other date which the Company adopts by resolution as the date up to which accounts are to be made in each year;

"**Board**" means the Directors of the Company from time to time;

"**Company**" means Tapuika Iwi Authority Trustee Limited;

"**Constitution**" means this constitution as altered from time to time in accordance with the Act;

"**Director**" means a person appointed as a director of the Company in accordance with the terms of the Tapuika Iwi Authority Trust Deed and this Constitution;

"**Directors' Special Resolution**" means a resolution approved by at least 75% of the votes of those Directors present at the meeting and entitled to vote on the resolution, provided that at least six Directors must have voted in favour of the resolution;

"**Elected Trustee**" means a person appointed as an elected Trustee of the Tapuika Oranga Ake Trust from time to in accordance with the Tapuika Oranga Ake Trust Deed;

"**Member**" means an individual referred to in the definition of Tapuika;

"**Tapuika**" has the meaning provided for Tapuika in the Tapuika Iwi Authority Trust Deed;

"**Tapuika Group**" has the meaning provided for that term in the Tapuika Iwi Authority Trust Deed;

"**Tapuika Iwi Authority Trust Deed**" means the trust deed dated 14 December 2006 and all variations made to it in accordance with its terms;

"**Trust**" means Tapuika Iwi Authority created by the Tapuika Iwi Authority Trust Deed

"**Share**" means an ordinary share in the Company;

"**Special Resolution of Members**" means a resolution approved by not less than 75% of the Adult Members in accordance with clause 3.4 of this Constitution,

written or in writing in relation to words, figures and symbols includes all modes of presenting or reproducing those words, figures and symbols in a tangible and permanently visible form, including email.

1.2 **Expressions**

Expressions which are defined in the Act (whether in section 2 or elsewhere for the purposes of a particular subsection, section or sections) have the meanings given to them by the Act. Where an expression is defined in the Act more than once and in different contexts, its meaning will be governed by the context in which it appears in this Constitution.

1.3 **Construction**

(a) Headings appear as a matter of convenience and do not affect the interpretation of this Constitution.

(b) Including and similar words do not imply any limitation.

(c) The singular includes the plural and vice versa, and words importing one gender include the other genders.

(d) A reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations.

(e) The Schedules form part of this Constitution.

(f) Any obligation to calculate a cost or value will include an obligation that the calculation will be conducted in accordance with generally accepted accounting principles in New Zealand.

Part B: Tapuika Group

2. Relationship between Constitution, the Act and the Tapuika Iwi Authority Trust Deed

2.1 Effect of the Act on this Constitution

The Company, the Board, each Director, and each shareholder have the rights, powers, duties, and obligations set out in the Act except to the extent that they are negated or modified, in accordance with the Act, by this Constitution.

2.2 Effect of this Constitution

This Constitution has no effect to the extent that it contravenes the Act or is inconsistent with it.

2.3 Constitution to be consistent with Tapuika Iwi Authority Trust Deed

(a) Subject to clause 2.2, this Constitution is to be consistent with all relevant provisions of the Tapuika Iwi Authority Trust Deed. In the event of any amendments to the Tapuika Iwi Authority Trust Deed, the Board will review those amendments and to the extent there are inconsistencies, use reasonable endeavours to procure that, as soon as is practicable and to the extent allowed by law, this Constitution is altered to accord with all relevant provisions of the Tapuika Iwi Authority Trust Deed. The terms of this Constitution will continue to apply until any such amendments are made.

(b) In respect of any issues of ambiguity, phrases or expressions defined in the Tapuika Iwi Authority Trust Deed are intended to have a common meaning or understanding when used in this Constitution.

3. Purpose and Objectives of the Company

3.1 Purpose

The sole purpose of the Company is to act as the Guardian Trustee for the Tapuika Iwi Authority Trust, on behalf of and for the benefit of the present and future Members of Tapuika in accordance with this Deed including, without limitation:

(a) To affirm Tapuika, tino rangatiratanga, mana whenua and mana moana;

(b) Preserving, reviving and protecting nga tikanga me nga taonga o Tapuika;

(c) Protecting and utilising all land, water and sea based resources of Tapuika;

(d) The promotion amongst Tapuika of the educational, spiritual, economic, social and cultural advancement, health and well-being of Tapuika;

(e) The maintenance and establishment of places of cultural or spiritual significance to Tapuika; and

(f) any other purpose that is considered from time to time to be beneficial to Tapuika.

3.2 **Objectives**

The Company's objectives are to act as the Trustee of the Tapuika Iwi Authority Trust in accordance with the terms of that Trust for the purposes set out above, and to make decisions, enter into transactions, incur liabilities and comply with the powers and duties provided in the Tapuika Iwi Authority Trust Deed.

3.3 **Special Resolution of Trustees**

Where the Company is aware that the Tapuika Iwi Authority Trust Deed requires that a transaction or any other matter by a member of the Tapuika Group be approved by "Special Resolution of Trustees", the Company will put that matter to the Board for consideration and approval as a Directors' Special Resolution under this Constitution.

3.4 **Special Resolution of Members**

Where a Special Resolution of Members is required under this Constitution, the Company will put that matter to the Board for consideration, and the Board will use reasonable endeavours to procure that, as soon as is practicable, the matter is put to the Adult Members for approval by Special Resolution of Members, in accordance with the Tapuika Iwi Authority Trust Deed.

Part C: Shares

4. Shares and Issue of Shares

4.1 Elected Trustees to be shareholders

The shareholders of the Company will be the Elected Trustees of the Tapuika Oranga Ake Trust from time to time, and the Elected Trustees are the only persons eligible to hold Shares.

4.2 Board not to issue further Shares

Section 45 of the Act does not apply and no further shares in the company shall be issued.

4.3 Number of Shareholders to equal number of Elected Trustees

(a) The Elected Trustees shall hold the shares in the company jointly on behalf of the Members of Tapuika Iwi Authority Trust.

(b) The Board will not enter the name of any person on the Company's share register until the Company has received the documents referred to below:

(i) a signed consent to be a shareholder of the Company; and

(ii) a signed consent to be a director of the Company, certifying that he or she is not disqualified from being appointed or holding office as a director of a company; and

(iii) any other documents required by the Board (including an irrevocable consent to the Company acquiring Shares in accordance with clause 7.1 of this Constitution),

all such documents to be in a form reasonably required by the Board from time to time.

5. Transfer of Shares

5.1 Restrictions on transfer of Shares

No interest in Shares may be transferred except in accordance with this clause 5.

5.2 Person ceasing to be Elected Trustee must transfer interest in Share

If a person ceases to be an Elected Trustee or a Director for any reason he or she must promptly deliver to the Board a resignation as director and his or her name must promptly be removed from the share register. In the event that

the person fails to provide a resignation, then anyone appointed their Attorney pursuant to clause 15.2may provide the resignation for them and the Chairman of the Trust or his or her delegate is authorised to update the share records in the share registry and the Companies Office to remove the Elected Trustee who is to be removed and to add any replacement Elected Trustee as joint holder of the shares.

5.3 Board may refuse or delay a Share transfer in certain cases

The Board may in its absolute discretion refuse or delay the registration of any transfer of Shares if:

(a) the transferee has not signed a consent to be a shareholder and director or any other documentation required to from the Elected Trustee pursuant to this constitution including the appointment of the Chair from time to time as attorney for the purposes of provided for herein.

(b) the transfer would cause the Company to breach the Tapuika Iwi Authority Trust Deed.

6. Acquisition of Own Shares

6.1 Board may acquire Shares on a non-proportional basis

The Company may purchase or otherwise acquire Shares issued by the Company from such shareholders and in such numbers or proportions as it thinks fit, in accordance with the Act.

7. Meetings of Shareholders

7.1 Proceedings at meetings of shareholders

Meetings of shareholders will be held in the same manner as provided for meetings of Members of the Tapuika Iwi Authority Trust Deed. Where a special resolution is required, the shareholders may pass such a resolution at the meeting provided that no such resolution will be passed where the Tapuika Iwi Authority Trust deed would require trustees to obtain a special resolution of Adult Members. In that case, the requirements of the Tapuika Iwi Authority Trust Deed for a special Resolution of Adult Members will be complied with before any resolution in writing is signed by the shareholders.

7.2 Company must hold annual meeting of shareholders

The Board must call an annual meeting of shareholders to be held at the same time and place as the Annual General Meeting of the Tapuika Iwi Authority Trust.

7.3 Company may hold special meetings of shareholders

A special meeting of shareholders entitled to vote on an issue:

(a) may be called at any time by the Board; and

(b) must be called by the Board on a written request:

(i) signed by at least three shareholders; or

(ii) of shareholders holding Shares carrying together not less than 5% of the voting rights entitled to be exercised on the issue.

7.4 Written shareholders' resolution instead of holding a meeting

A written resolution signed by 75% of the shareholders who would be entitled to vote on that resolution at a meeting of shareholders who together hold not less than 75% of the votes entitled to be cast on that resolution (or such greater percentage as is required in accordance with the Act), is as valid as if it had been passed at a meeting of shareholders provided 5 days' prior notice was provided to all shareholders. Any such resolution may consist of several copies of the resolution, each signed by one or more shareholders. A copy of a resolution, which has been signed and sent by email or any similar means of communication (including PDF counterparts), will satisfy the requirements of this clause 7.4.

PART D: Directors

8. Appointment and Removal

8.1 Number of Directors

The minimum number of Directors is equal to the number of shareholders of the Company from time to time.

8.2 Appointment of Directors

(a) Any natural person who is not disqualified under the Act will be appointed as a Director of the Company on the date that the person's name is entered as a holder of a Share on the share register of the Company and .

(b) Those Directors who are shareholders (Shareholding Directors) may jointly appoint or remove other persons to the Board who are not Elected Hapū Trustees, but who have identified skill sets and/ or experience or knowledge that the shareholding Directors consider would assist the Board with growth and capacity building for the benefit of Tapuika Iwi Authority. Such appointments may be for a

maximum of one year each but with the ability for reappointment for subsequent terms and otherwise on such terms as the Shareholding Directors think fit. Each such appointment must be disclosed to the members of Tapuika Iwi Authority at each AGM.

8.3 Disrepute

The Directors must not, either as a Board or individually, act, or cause the Company to act, in a manner which brings or is likely to bring the Tapuika Iwi Authority Trust, the Company or any other member of the Tapuika Group, into disrepute.

9. Vacation of Office

9.1 Office of Director vacated in certain cases

The office of Director is vacated if the person holding that office:

(a) ceases to be a shareholder;

(b) resigns that office in accordance with clause 9.2;

(c) In the case of a director who is an Elected Trustee, in the event that the director ceases to be a Trustee of Tapuika Oranga Ake Trust.

(d) is removed from office in accordance with this Constitution or the Act.

9.2 Directors' resignation procedure

A Director may resign office by delivering a signed notice of resignation in writing to the address for service of the Company. The notice is effective when it is received at that address or at a later time specified in the notice.

10. Management of the Company

10.1 Board to manage Company

The Company's business and affairs must be managed by, and under the direction or supervision of, the Board, except to the extent that the Act or this Constitution provides otherwise.

10.2 Board has powers necessary to manage Company

The Board has all the powers necessary for managing, and for directing and supervising the management of, the Company's business and affairs, except to the extent that the Act or this Constitution provides otherwise.

11. Proceedings of the Board

11.1 Meetings of the Board

The Third Schedule to the Act does not apply to proceedings of the Board. Meetings will be conducted in the same way as Trustees meetings are conducted under the Tapuika Iwi Authority Trust Deed.

11.2 Written resolutions of Board permitted

A resolution in writing signed or assented to by a majority of the Directors then entitled to vote on the resolution at a meeting of the Board and who together constitute a quorum at a meeting is as valid and effective as if it had been passed at a meeting of the Board duly convened and held provided 5 days' prior notice was provided to all Directors.

11.3 Written resolutions may be in counterparts

Any written resolution may consist of several copies of the resolution, each signed or assented to by one or more of the Directors. A copy of a written resolution, which has been signed and is sent by email or any similar means of communication (including PDF counterparts), will satisfy the requirements of this clause 11.3.

12. Delegation of Powers

12.1 Restriction on Board's right to delegate its powers

The Board may delegate to a committee of Directors, a Director or any other person, any one or more of its powers other than its powers under any of the sections of the Act set out in the Second Schedule to the Act.

12.2 Board delegates to comply with regulations

In exercising the Board's delegated powers, any committee of Directors, Director or any other person must:

(a) comply with any regulations that the Board may impose; and

(b) refer any final decision, determination, or recommendation to the Directors for final determination before implementing that decision, determination or recommendation.

12.3 Directors to remain responsible

In the event that the Directors delegate any powers pursuant to clause 12.1 above, the Directors will continue to be responsible for the exercise of that

delegated power by the delegate, as if the Directors had exercised that power themselves, unless the Directors:

(a) believed on reasonable grounds when making the delegation that the delegate would exercise the power in accordance with the provisions of, and the duties owed by the Directors' pursuant to, this Constitution, the Act, and the Tapuika Iwi Authority Trust Deed; and

(b) used reasonable methods to monitor the exercise of the power by the delegate.

12.4 Committee proceedings

Subject to any regulations made by the Board, any committee of Directors may:

(a) regulate its proceedings as it sees fit subject to any terms of reference provided by the Board; and

(b) co-opt any person to be a member of that committee, provided that the committee notifies the Board of any such person co-opted.

12.5 Appointments of officers

The Directors may appoint any officers or employees that the affairs of the Company may require on such terms and conditions as they think fit. The Directors may also remove and replace any persons so appointed.

13. Interested Directors

13.1 Interested Directors

The meaning of "interested" as defined under the Act will apply to the Directors and where the Company is a corporate trustee of a trust, will include transactions to which the Company is a party, either in its own capacity, or in its capacity as the corporate trustee of a trust.

13.2 Directors must disclose their interests

As soon as a Director becomes aware of the fact that he or she is interested in a transaction or proposed transaction:

(a) with the Company; or

(b) with the Tapuika Iwi Authority Trust,

then unless the Act provides otherwise or all entitled persons have agreed to or concur in the Company entering into the transaction, that Director must cause to be entered in the interests register, and disclose to the Board:

(a) the nature and monetary value of his or her interest (if the monetary value of the interest is able to be quantified); or

(b) the nature and extent of his or her interest (if the monetary value of the interest cannot be quantified).

13.3 **General disclosure in certain cases will suffice**

For the purposes of clause 13.2, a general notice entered in the interests register and disclosed to the Board to the effect that a Director:

(a) is a shareholder, director, officer, or trustee of another named company or other person; and

(b) is to be regarded as interested in any transaction which may, after the date of the entry or disclosure, be entered into with that other company or person,

will be a sufficient disclosure of that interest in relation to such transactions.

13.4 **Failure to disclose does not affect validity of transaction**

Any failure by a Director to comply with clause 13.2 does not affect the validity of a transaction entered into by the Company or the Director. However, the transaction may be avoided under clause 13.5.

13.5 **Company may avoid transaction if Director interested**

Where the Company enters into a transaction in which a Director is interested, the Company, if it is permitted to do so by the Act, may avoid that transaction in accordance with the Act. However, if all entitled persons have agreed to or concur in the Company entering into such a transaction then this clause 13.5will not apply.

13.6 **Interested Director may not vote**

Subject to clause 13.8, a Director of the Company who is interested in a transaction entered into, or to be entered into, by the Company may not take part in any deliberation or vote on a matter relating to the transaction, nor be included among the Directors present at the meeting for the purpose of a quorum, but may:

(a) attend a meeting of Directors at which a matter relating to the transaction arises (except the interested Director must remove himself

or herself from the meeting while the other Directors are discussing a matter relating to the transaction);

(b) sign a document relating to the transaction on behalf of the Company; and (c) do anything else as a Director in relation to the transaction,

as if he or she were not interested in the transaction.

13.7 **All Directors are interested**

Subject to clause 13.8, where all the Directors are interested in a transaction or proposed transaction, the Company must not enter into the transaction unless that transaction is approved by Special Resolution of Members, or is contingent upon approval by Special Resolution of Members.

13.8 **Interests in common with Adult Members**

For the purposes of clauses 13.6 and 13.7, a Director is not interested in a matter where his or her interest is not different in kind from the interests of the other Adult Members.

14. Remuneration

14.1 **Board's power to authorise remuneration and other benefits is limited**

(a) The Board may remunerate or provide other benefits to the Directors, on an individual Director basis or within a limit for all Directors, provided that payment or benefit has been authorised by an ordinary resolution of the Adult Members.

(b) The Board must not authorise or allow:

(i) the payment by the Company to a Director of compensation for loss of office;

(ii) the making of loans by the Company to a Director;

(iii) the giving of guarantees by the Company for debts incurred by a Director; and

(iv) the entering into of a contract to do any of the things set out in this clause 14.1(b).

14.2 **Expenses**

A Director may be reimbursed for reasonable travelling, accommodation and other expenses incurred in the course of performing duties or exercising powers as a Director of the Company, and otherwise may be remunerated as

permitted by the Tapuika Iwi Authority Trust deed for remuneration of a Trustee.

14.3 Special Remuneration

The Board may authorise special remuneration to any Director who is or has been engaged by the Company, the Tapuika Iwi Authority Trust or any other member of the Tapuika Group to carry out any work or perform any service which is not in the capacity of a director of the Company or a subsidiary.

PART E: GENERAL

15. Shareholder Appointment of Attorney

15.1 Shareholder to sign necessary documents

Each shareholder will, on request from the Board, sign all documents necessary to effect a, transfer of Shares by the Company, in order to give effect to clauses 4.2, 4.3, 5.2 and 5.3 and the intention that:

(a) each Elected Trustee is a joint holder of the Company Shares for so long as they remain an Elected Trustee; and

(b) each shareholder will be a Director and hold that office for so long as he or she is entitled to be a shareholder of the Company.

(c) Each Elected Trustee has appointed an Attorney as provided for in clause 15.2 below

15.2 Appointment of Director as attorney

If a shareholder fails to properly comply with clause 15.1, including the provision of a consent to be a director, a resignation as a director, or transfer of shares, then that shareholder:

(a) irrevocably appoints any Director to act as its attorney for the purposes of signing any documents or doing any other thing which, in the opinion of the Director (acting as an attorney for the shareholder), is required to give effect to clause 15.1; and

(b) agrees to sign or do anything on request from the Board to ratify the actions of the attorney under clause 15.2(a).

16. Indemnity and Insurance for Directors and Employees

16.1 Company may indemnify Directors and employees for certain liabilities

The Company is authorised to indemnify a Director or employee of the Company or a related company for any liability or costs for which a Director or employee may be indemnified under the Act. The Board may determine the terms and conditions of any such indemnity.

16.2 Company may effect insurance for Directors and employees

The Company may, with the prior approval of the Board, effect insurance for a Director or employee of the Company or a related company for any liability or costs for which a company may effect insurance for a director or employee under the Act. The Board may determine the amounts and the terms and conditions of any such insurance.

17. Execution of Deeds

An obligation which, if entered into by a natural person, would, by law, be required to be by deed, may be entered into on behalf of the Company in writing signed under the name of the Company by two or more Directors;

(a) a Director, or any other person authorised by resolution of the Board, whose signature must be witnessed;

(b) one or more attorneys appointed by the Company in accordance with the Act.

18. Archiving of Records

All minutes and other records of the Company, for so long as the Company is acting as trustee of the Tapuika Iwi Authority Trust, shall be kept for the duration of its trusteeship before being passed to any successor trustee, or shall otherwise be kept for a period of 7 years from the date the Tapuika Iwi Authority Trust comes to an end.

19. Liquidation

If the Company is liquidated the liquidator will, at the direction of the trustee or trustees for the time being of the Tapuika Iwi Authority Trust, but subject to any other sanction required by the Act:

(a) distribute to the trustee or trustees for the time being of the Tapuika Iwi Authority Trust in kind the whole or any part of the assets of the Company and for that purpose the liquidator may fix such values for assets as the liquidator considers to be appropriate; and

(b) vest the whole or any part of any such assets in trustees upon such trusts for the benefit of the trustee or trustees for the time being of the Tapuika Iwi Authority Trust,

but so that the trustee or trustees for the time being of the Tapuika Iwi Authority Trust is not compelled to accept any shares or other securities on which there is any liability.

20. Removal from Register

If the Company:

(a) has ceased to operate, discharged in full its liabilities to all known creditors, and distributed its surplus assets in accordance with this Constitution or the Act; or

(b) has no surplus assets after paying its debts in full or in part, and no creditor has applied to the Court for an order putting the Company into liquidation,

the Board may request the Registrar to remove the Company from the New Zealand Register.