

MT ALBERT GRAMMAR SCHOOL COMMUNITY SWIMMING POOL TRUST

RESOLUTION OF THE BOARD OF TRUSTEES

This document records a resolution of the board of trustees (**Trustees**) of the Mt Albert Grammar School Community Swimming Pool Trust (**Trust**) relating to proposed variations to the terms of the trust deed, which may either be passed at a meeting of the Trustees or signed by all of the Trustees as a written resolution of the Trustees in accordance with clause 7(d) of the trust deed of the Trust (**Trust Deed**).

Background

- A. As set out in the Trust Deed, the Trust has been established and the Trust Fund is to be held and applied for exclusively charitable purposes, namely the promotion of sports, recreation and community facilities for Mt Albert Grammar School (**School**) and members of the public and in particular the establishment, operation, promotion, and use of a swimming pool complex at the school.
- B. Certain changes are proposed to the Trust Deed to facilitate the better operation of the Trust, in particular:
- i. to reduce the number of Trustees, by replacing the provision for a total of seven Trustees, including the Chairperson, appointed by Auckland Council; the Headmaster of the School; two Trustees appointed by the School Board; and a further three Trustees appointed by the Council, with the following:
 - a total of five Trustees, comprising;
 - the Chairperson, appointed by Auckland Council,
 - the Headmaster of the School,
 - one Trustee appointed by the School Board,
 - two Trustees appointed by Auckland Council, one of whom shall be an elected member of the Albert-Eden Local Board**.

** It is the opinion of the Trustees that as the Albert-Eden Local Board represents the local constituents, and contributes funding to the operation of the swimming pool complex, that one of the trustee appointments to the Trust should be from the Albert-Eden Local Board.

The Trust recognises Auckland Council's internal policies may be interpreted as preventing the appointment of elected members to trusts and other entities, however, the Trustees wish this option to be considered by Auckland Council, as appropriate to the particular nature of the trust.
 - ii. to remove the limitation on the maximum number of continuous years serving as a Trustee, leaving it to the discretion of the appointing parties, viz: Auckland Council and the School Board to best determine the composition of the Trust to ensure the smooth running and retention of institutional knowledge within the Trust.

- iii. to change the minimum composition of a quorum of the Trust to include provision for the Deputy Chairperson, if one is appointed.
 - iv. to change the minimum number of Trustees needed to modify the terms of the Trust Deed of the Trust from the current requirement of no less than 5 out of 7 Trustees, to no less than 4 out of 5 Trustees, always subject to confirmation of the changes by both Auckland Council and the School Board.
- C. As required under clauses 8 and 15 of the Trust Deed:
- i. none of the proposed changes in any way detracts from the exclusively charitable objects of the Trust, nor do any of the changes alter the exclusively charitable nature of the Trust; and
 - ii. each of the Auckland Council (Council) and the School Board either have confirmed the proposed changes or will be required to confirm the proposed changes as a condition of the changes becoming effective.
- D. The Trustees are incorporated as a board under the Charitable Trusts Act 1957 and will therefore be required to file a certified copy of the changes to the Trust Deed with the Registrar at the Companies Office under that Act.
- E. The Trust is also registered as a charity under the Charities Act 2005. Once receipt of the changes to the Trust Deed has been received from the Registrar at the Companies Office, the Trust is also required to notify and file a copy of the changes to the Trust Deed with the Charities Office.

RESOLUTION

The Trustees resolve that:

1. The Trust Deed will be varied as set out in this resolution, in relation to each variation with effect from the later of:
 - 1.1 in respect of change in the number of Trustees from seven to five, with effect from on/about 30 June 2017;
 - 1.2 the date on which this resolution is either passed at a meeting of the Trustees or, if the resolution is signed as a written resolution of the Trustees, the date on which it is signed by the last of the Trustees for the time being; and
 - 1.3 the Trustees' receipt of confirmation of the relevant variation from both the Council and the School Board;
- 2 clause 6 of the Trust Deed will be deleted and replaced with the following:

6. BOARD OF TRUSTEES

- (a) *The Trust shall have five Trustees, including:*
- (i) *the Chairperson, who shall be appointed by the Council (following consultation with the other Trustees for the time being);*
 - (ii) *The Headmaster of the School for the time being, who shall hold office as an ex officio Trustee;*
 - (iii) *one further Trustee appointed by the School Board; and*

(One of the two (iv) options below to be used, following feedback from Auckland Council and the Mount Albert Grammar School Board of Trustees):

EITHER:

- (iv) *two further Trustees appointed by the Council, one of whom shall be an elected member of the Albert-Eden Local Board;*

OR

- (iv) *two further Trustees appointed by the Council;*

Provided further that if at any time the Trust has fewer than five Trustees (including any situation where fewer than five persons validly hold office as Trustees):

- (v) *upon becoming aware of that situation, the Chairperson, or in the event of there being no Chairperson the remaining Trustees, must notify the Council and/or the School Board, as the case may be, and use best endeavours to ensure that the Council and/or the School Board fill any vacant Trustee position so that the number of Trustees is increased to five, as soon as reasonably practicable; and*

- (vi) *so long as the remaining Trustees are able to establish a quorum in accordance with clause 7(b), all proceedings at any quorate meeting of Trustees, any resolution of Trustees, and any other conduct of the Trustees in accordance with the terms of this Deed shall be as valid and effective as if there were five Trustees.*
- (b) *In relation to the term of office of Trustees:*
 - (i) *any Trustee other than the Headmaster of the School may be replaced at the discretion of whichever of the School Board or the Council has appointed that Trustee; and*
 - (ii) *the initial term of office of any Chairperson shall be three years, provided that upon the expiration of that term the Council may reappoint the Chairperson (following consultation with the other Trustees for the time being) for a further term or terms not exceeding in the aggregate a further three years.*

3 clause 7 of the Trust Deed will be deleted and replaced with the following:

7. ADMINISTRATION

- (a) *The Trust shall meet together for the conduct of the affairs of the Trust from time to time (but generally no less than 2 times per year) and shall regulate and conduct their meetings as they think fit and for such purpose they may make rules and regulations as they consider desirable.*
- (b) *A quorum for meetings of the Trustees shall be three Trustees, which shall include at least one Trustee appointed by the School Board, one Trustee appointed by the Council, and the Chairperson or Deputy Chairperson.*
- (c) *All decisions of the Trustees shall be by a majority. The Chairperson or Deputy Chairperson shall have a casting as well as a deliberative vote in the event of a tie and equality of votes, provided that the Deputy Chairperson shall only have or exercise a casting vote in accordance with whatever conditions or restrictions may be imposed by the Chairperson.*
- (d) *A resolution in writing signed by all the Trustees shall be as valid and effectual as if it had been passed at a meeting of the Trustees. Any such resolution may consist of several documents in like form each signed by one or more Trustee.*
- (e) *Minutes of the proceeding of all meetings, of the Trustees shall be prepared by the secretary and if confirmed at a subsequent meeting of the Trustees, shall be prepared by the secretary and signed by the Chairman as a true and correct record and every such minute purporting to be so signed shall be prima facie evidence of the facts therein stated.*

- (f) *The Trustees shall keep an account or account or accounts at such bank or banks as they shall time to time determine and cheques shall be drawn signed and endorsed by such person or persons as the Trustees shall from time to time authorise in writing.*
- (g) *The Trustees shall cause true accounts to be kept of all their receipts, credits, payments and liabilities and all other matters necessary for showing the true state and condition of the Trust and, if the Trustees so resolve, such accounts shall be audited by a chartered accountant appointed for that purpose by the Trustees.*
- (h) *The Trustees shall from time appoint either one of their number or some other person to be secretary, to hold office at their pleasure.*
- (i) *The Trustees shall apply to be incorporated as a Board under Part II of the Act and the name of the Board following incorporation shall be the "The Mount Albert Grammar School Community Swimming Pool Trust Board".*
- (j) *If and when the Trustees shall have become incorporated as a Board of Trustees in accordance with the Act pursuant to section 12, they shall provide a common seal for the Board of Trustees which shall be deposited with the secretary for the time being and which shall be affixed by the authority of the Trustees previously given at a meeting of the Trustees to any document requiring execution by the Board of Trustees. Every such affixing shall be performed in the presence of and accompanied by the signatures of two Board of Trustee members and shall be sufficient evidence of the authority to affix such seal and no person dealing with the Trustees shall be bound or concerned to see or inquire as to the authority under which any document is sealed and in whose presence.*

4 clause 8 of the Trust Deed will be deleted and replaced with the following:

8. MODIFICATION OF TERMS OF THIS DEED

The Trustees may from time to time by resolution carried by not less than four of their number, but subject to confirmation by both the Council and the School Board, modify the terms of this deed provided however that no such modification shall at any time be made which detracts from the exclusively charitable objects of the Trust




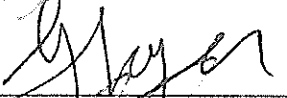


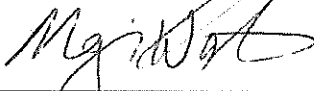
5 the Trustees confirm that except as expressly varied by this deed, the terms of the Trust Deed, remain fully effective and unaltered.

6 notice of the variations to the Trust Deed set out in this resolution will be filed with the Registrar at the Companies Office within one month of the effective date of the variations, as required under section 23 of the Charitable Trusts Act 1957, and notified to any other relevant authority, and for this purpose:

6.1 any forms or other documents that it may be necessary or appropriate for the Trustees to execute (which may include, for example, a deed of variation recording

the variations to the Trust Deed set out in this resolution), may be signed by any two of the Trustees; and

- 6.2 the Council and its legal advisers (including any person duly authorised by those organisations) are authorised to act on behalf of the Trustees, in relation to the completion and handling of all necessary forms and other documents, liaising with the relevant authorities and all attendances incidental thereto.

Name of Trustee	Signature of Trustee	Date
Robin Arthur (Chair)		07/04/17
Patrick Drumm (Headmaster)		29/4/17
Graeme Easte		7/4/17
Glenda Fryer		20/4/17
Dale Griffiths		7 April 17
David Long		7-4-17
Margi Watson		7-4-17