

THE PUREWA CEMETERY TRUST BOARD STATUTE 2000

BE IT ENACTED by the Bishop, Clergy and Laity of the Diocese of Auckland in Diocesan Council as Synod out of session:

1 **TITLE**

The short title of this Statute shall be "**THE PUREWA CEMETERY TRUST BOARD STATUTE 2000**".

2 **INTERPRETATION**

- (1) In this Statute, unless the context otherwise requires:
- "**Board**" means The Purewa Cemetery Trust Board;
 - "**Church**" means the Anglican Church in Aotearoa, New Zealand and Polynesia;
 - "**cemetery**" means the land described in the Schedule and any other land at any time held or acquired by the Board for the purpose of a burial ground and includes any crematorium on that land;
 - "**Diocesan Council**" means the body of that name established by the Statutes of the Synod, sometimes known as the Standing Committee of the Synod;
 - "**Synod**" means the Synod of the Diocese of Auckland of the Church.
- (2) In this Statute, unless the context otherwise requires, a reference to a Clause or Schedule is a reference to a Clause or Schedule of this Statute.

3 **APPLICATION**

The Diocesan Burial Grounds Statute 1999 shall not apply to the Board or to the cemetery.

4 **INCORPORATION**

The Board shall remain incorporated under the Charitable Trusts Act 1957.

5 **OBJECTS**

The objects of the Board are:

- (1) to control and manage the cemetery as a burial ground and cremation facility for the dead;
- (2) to provide such chapels, funeral services and ancillary facilities within New Zealand as may conveniently enhance the control and management of the cemetery;
- (3) to carry on any activity within New Zealand incidental or conducive to the attainment or enhancement of the objects expressed in subclauses (1) and (2) of this Clause.

6 **SURPLUS PROPERTY OR INCOME**

In any case where the Board resolves that

- (1) The property held by the Board for the objects specified in Clause 5 is more than is necessary for those objects; or
 - (2) the income which has accrued, or will accrue, to the Board is more than is necessary for those objects; or
 - (3) any funds held by the Board are in excess of the Board's requirements for those objects;
- then any excess property or income or funds or proceeds of sale may be disposed of for such religious and charitable purposes in New Zealand within the meaning of the law of New Zealand in connection with the Church as the Diocesan Council in its absolute discretion may determine.

7 **MEMBERSHIP**

- (1) The Board shall consist of not more than seven trustees appointed from time to time by the Diocesan Council;
- (2) The trustees shall retire by rotation in the manner following:
The names of the trustees shall be numbered and, at the end of each financial year, two of the trustees shall be deemed to have retired, except that every fourth year, only one trustee shall be deemed to have retired. Any retiring trustee shall remain in office until a successor is appointed. The rotation of retirement shall be in accordance with the numbers attached to the names of the trustees. A retiring trustee shall be eligible for reappointment;

- (3) If any trustee
 - (a) becomes bankrupt or insolvent;
 - (b) becomes a protected patient under the Mental Health (Compulsory Assessment and Treatment) Act 1992;
 - (c) is convicted of an indictable offence;
 - (d) is absent for more than three consecutive meetings of the Board without leave of absence;
 - (e) dies;
 - (f) resigns office by giving written notice to the Chairman of the Board;
 the office of that trustee shall become vacant. The Board must immediately notify the Diocesan Council of the vacancy. Any trustee appointed to fill the vacancy shall hold office for the remainder of the term for which that trustee's predecessor was appointed;
- (4) The Diocesan Council must appoint trustees to fill any vacancies in the membership of the Board as soon as practicable after each vacancy occurs;
- (5) Each trustee must, before taking office, sign a declaration of submission to the authority of the General Synod/Te Hinota Whanui in the form set out in Clause 15 of Part C of the Constitution of the Church or in words to like effect.

8 **QUORUM, ETC.**

- (1) A majority of the trustees appointed from time to time will constitute a quorum of the Board;
- (2) No act of the Board shall be invalid because of any vacancy in the number of trustees at the time of that act or because of the subsequent discovery of any defect in the appointment of any trustee.

9 **NO PRIVATE PECUNIARY PROFIT**

- (1) No person shall make any private pecuniary profit from the activities of the Board except that:
 - (a) trustees may receive full reimbursement for all expenses properly incurred by them in connection with the Board's affairs;
 - (b) the Board may pay reasonable and proper remuneration to any officer or servant of the Board (whether a trustee or not) in return for services actually rendered to the Board;
 - (c) trustees may be paid all usual professional, business or trade charges for services rendered, time expended and all acts done by them or by any firm or entity of which they are a member, employee or associate in connection with the affairs of the Board;
 - (d) trustees may retain any remuneration properly payable to them by any company or undertaking with which the Board may be in any way concerned or involved for which they have acted in any capacity whatever despite their connection with the company or undertaking being in any way attributable to their connection with the Board.
- (2) No person who is:
 - (a) a trustee of the Board; or
 - (b) a shareholder or director of any company carrying on any business of the Board; or
 - (c) a settlor or trustee of any trust which is a shareholder of any company carrying on any business of the Board; or
 - (d) an associated person (as defined by the Income Tax Act 1994) of any such trustee, shareholder, director or settlor;
 shall by virtue of that capacity in any way (directly or indirectly) determine, or materially influence in any way the determination of, the nature or the amount of any benefit or advantage or income or the circumstances in which it is or is to be received, gained, achieved, afforded, or derived by the person.
- (3) A person who, in the course of and as part of the carrying on of his or her business, if a professional public practice, will not, by reason only of his or her rendering professional services to the Board or to any company by which any business of the Board's is carried on, be in breach of the terms of this Clause 9.

10 **POWERS**

The Board shall have all the powers conferred by law on trustees but the duty imposed on trustees by Section 13C of the Trustee Act 1956 shall not apply to the Board.

11 **MANAGERS**

The Board shall be the Manager of the cemetery for the purposes of the Burial and Cremation Act 1964 and shall have and exercise the rights, duties, responsibilities and powers conferred on managers by that Act.

12 **TITLE**

Title to the cemetery shall at all times be vested in the Board.

13 **BY-LAWS**

- (1) The Board may make rules and regulations for the control and administration of the cemetery and may from time to time amend or revoke such rules and regulations;
- (2) Any rules and regulations made by the Board before the commencement of this Statute shall remain in force and be deemed to have been made under this Statute.

14 **COMMON SEAL AND EXECUTION OF CONTRACTS**

- (1) The Board shall have a Common Seal which must be held at the registered office of the Board;
- (2) Deeds made by the Board shall be executed under the Board's Common Seal attested by two trustees or by one trustee and the Secretary or Assistant Secretary of the Board;
- (3) Contracts made by the Board may be in writing signed by any person in the name and on behalf of the Board acting under a resolution passed at a meeting of the Board.

15 **REGISTERED OFFICE**

The registered office of the Board shall be at Neligan House, 12 St Stephen's Avenue, Parnell, Auckland, or such other place in Auckland as the Board may determine.

16 **ANNUAL REPORT**

The Board must present to the Synod at each Annual Session of the Synod a report on the lands, property and investments held in trust for the cemetery together with audited financial statements of the affairs of the Board.

17 **WINDING UP**

Upon a winding up for any reason the surplus assets and funds of the Board after payment of all liabilities and after making due provision for the continuing maintenance of the cemetery shall be paid, transferred or appropriated to such religious and charitable purposes in New Zealand within the meaning of the law of New Zealand in connection with the Church as the Diocesan Council in its absolute discretion may determine or, in default of its determination, as may be decided on application to a Judge of the High Court of New Zealand.

18 **REPEAL AND SAVING**

- (1) The Purewa Cemetery Statute 1938 is hereby repealed;
- (2) Notwithstanding the repeal of the Purewa Cemetery Statute 1938 any person holding office as a trustee of the Board shall continue to hold that office under this Statute.

SCHEDULE

- 1 8.908m² being Lot 5, DP67742 - all Certificate of Title No. 23B/606 (North Auckland Registry).
- 2 1.4042ha being Lot 1, DP138935 - all Certificate of Title No. 82B/324 (North Auckland Registry).
- 3 2,957m² being Lot 1, DP158865 - all Certificate of Title No. 95B/358 (North Auckland Registry).
- 4 15.7271ha being Lot 1, DP202220 - all Certificate of Title No. 128C/552 (North Auckland Registry).