

Registration Decision for Nelson Regional Economic Development Agency (NEL12621)

The Facts

1. The Nelson Regional Economic Development Agency ("the Applicant") has been incorporated as a board under the *Charitable Trusts Act 1957* since 21 June 2004.
2. The Applicant applied to the Charities Commission ("the Commission") for registration as a charitable entity on 10 January 2008.
3. Section 4 of the Applicant's trust deed sets out the purposes of the trust as:

4.1 The purposes of the Trust are to coordinate, promote, facilitate, investigate, develop, implement, support and fund initiatives relating to economic development, employment growth and improved average incomes within the Nelson region for the benefit of the community including but without limitation:

- (a) To coordinate and promote strategy projects described in the Nelson Tasman Regional Economic Development Strategy.*
- (b) To build relationships with Tangata Whenua to ensure the economic development aspirations of Maori are realised.*
- (c) To coordinate and promote economic development and infrastructure development in the Nelson region.*
- (d) To work with, provide advice to and articulate issues concerning the needs of the Nelson region to, central and local government, crown entities and the private sector.*
- (e) To promote the economic well-being of the community of the Nelson region.*
- (f) To coordinate and promote scientific research in the Nelson region.*
- (g) To support the development of key industries and businesses in the Nelson region.*
- (h) To create, maintain, support and develop regional information data bases including, but without limitation, databases containing information on regional assets, companies and workforces.*
- (i) To coordinate and apply funds and other resources supplied from central and local government and from the private sector, for the attainment of the purposes of the Trust.*
- (j) To promote the Nelson region as a desirable place to live and work.*

- (k) *To promote employment opportunities within the Nelson region and coordinate workforce development in the Nelson region.*
- (l) *To form strong working relationships with the economic development agencies in neighbouring regions and to develop joint initiatives.*
- (m) *To undertake initiatives which the Trustees believe are of significant benefit to the Nelson region.*
- (n) *Without restricting the scope of the foregoing, to take all and ancillary and related actions to achieve these purposes.*
- (o) *Any private benefit derived by an individual, business, or anyone receiving funding from the Trust (other than remuneration for their services as a trustee or employee) will be incidental to the pursuit of the Trust's charitable purposes.*

4. The Commission analysed the application and on 25 May 2009 sent the Applicant a notice that may lead to a decline on the basis that a primary purpose of the trust was to promote economic development and employment in the Nelson region, which is a non-charitable purpose.

5. On 5 June 2009 the Applicant responded to the notice that may lead to a decline providing a range of information about their activities and making the following submissions:

We firmly believe that (Nelson Regional Economic Development Agency) EDA is not engaged in providing private business owners in the Nelson region with benefit, but that the projects and general activity the EDA is involved in is for the direct benefit of the public and is by no means remote.

With regard to the case law referred to in your letter, we make the following observations:

- *The law referred to is quite old and does not take account of the intent made to the Charities Act 2005*
- *It is mostly UK case law that can only be considered in light of the intent and purpose of the Charities Act 2005*
- *The definition of charitable purpose in Section 5 of the Charities Act 2005 intentionally broadened what is now included in the definition of charitable purpose, to include any matter beneficial to the community.*

The information provided with this letter clearly shows that any non charitable purpose is entirely incidental to and ancillary to the main purpose, which is for the benefit of the community of the Nelson/Tasman region and that all work of the EDA benefits the Nelson/Tasman region.

Any benefit from the objects and purposes of the Trust to a third party, such as business owners, is secondary to the main and paramount benefit to the community.

The Issues

6. The Commission must consider whether the Applicant meets all of the essential requirements for registration under the *Charities Act 2005* ("the Act"). In this case, the key issue for consideration is whether the Applicant qualifies for registration as a charitable entity under section 13(1)(a) of the Act. In particular:
 - Are the purposes listed in clause 4 of the Applicant's trust deed purposes that the law regards as charitable?
 - If any of the Applicant's purposes are non-charitable, are those purposes ancillary to a charitable purpose?

The Law on Charitable Purposes

7. Under section 13(1)(a) of the Act a trust must be of a kind in relation to which an amount of income is derived by the trustees in trust for charitable purposes.
8. In order to be a valid trust at law, a trust that is for charitable purposes must be exclusively charitable or it will be void for uncertainty.
9. Section 5(1) of the Act states:

"charitable purpose includes every charitable purpose, whether it relates to the relief of poverty, the advancement of education or religion, or any other matter beneficial to the community."
10. In addition to being within one of the categories of charitable purpose, to be charitable at law, a purpose must also be for the public benefit¹. This means that the purpose must be directed to benefit the public or a section of the public. A purpose that is aimed at benefiting private individuals will not qualify as charitable at law.
11. Section 5(3) of the Act provides that the inclusion of a non-charitable purpose will not prevent qualification for registration if it is merely ancillary to a charitable purpose.
12. In considering an application, section 18(3)(a) of the Act requires the Commission to have regard to:
 - (i) *the activities of the entity at the time at which the application was made;*
 - and*
 - (ii) *the proposed activities of the entity; and*
 - (iii) *any other information that it considers is relevant.*

¹

Accepted as common ground in *Latimer v Commissioner of Inland Revenue* [2002] 3 NZLR 195 at para [32].

Charity Commission's Analysis

Purposes

13. The Commission considers that the primary purpose of the Trust as outlined in clause 4 of the Trust Deed is to "co-ordinate, promote, facilitate, investigate, develop, implement, support and fund initiatives relating to economic development, employment growth and improved average incomes within the Nelson region for the benefit of the community".
14. The Commission considers that the purposes outlined in clauses 4.1(b), 4.1(d), 4.1(i), 4.1(l), 4.1(n) and 4.1(o) are ancillary purposes.
15. In order to determine whether the Applicant's purposes set out in clause 4.1 and clauses 4.1(a), 4.1(c), 4.1(e), 4.1(f), 4.1(g), 4.1(h), 4.1(j), 4.1(k) and 4.1(m) are charitable, the Commission has considered the wording of these clauses and the information provided by the Applicant.
16. The Commission does not consider that the purposes outlined in clauses 4.1, 4.1(a), 4.1(c), 4.1(e), 4.1(f), 4.1(g), 4.1(h), 4.1(j), 4.1(k) and 4.1(m) show an intention to relieve poverty or advance religion. Accordingly, they have been considered under the advancement of education and "any other matter beneficial to the community".

Advancement of Education

- 18 In order to advance education a purpose must:
 - provide some form of education, and
 - ensure learning is passed on to others.
- 19 The Commission considers that the purposes outlined in clauses 4.1(f) and 4.1(h) are charitable under the advancement of education. However, the Commission does not consider that the purposes outlined in clauses 4.1, 4.1(a), 4.1(c), 4.1(e), 4.1(g), 4.1(j), 4.1(k) and 4.1(m) indicate an intention to advance education.

Any Other Matter Beneficial to the Community

- 20 In order for a purpose to be charitable as "any other matter beneficial to the community", the purpose must be:
 - beneficial to the community; and
 - substantially similar to the spirit and intent of the purposes listed in the Preamble to the *Charitable Uses Act 1601* ("the Statute of Elizabeth") or very similar to a charitable purpose as decided by the Courts.²

² *Re Jones* [1907] SALR 190, 201; *Williams Trustees v Inland Revenue Commissioners* [1947] AC 447, 455; *Scottish Burial Reform and Cremation Society v Glasgow Corporation* [1968] AC 138, 146-48; *Incorporated Council of Law Reporting (QLD) v*

21 Not all organisations that have purposes that benefit the community will be charitable. The purposes must benefit the community in a way that the law regards as charitable. According to *Charity Law in Australia and New Zealand*:

“ . . . it is not all objects of public utility that are charitable, ‘for many things of public utility may be strictly matters of private right, although the public may indirectly receive a benefit from them.’ Nor are essentially economic or commercial objects within the spirit of the Preamble.”³

22 The purposes set out in the Statute of Elizabeth are:⁴

- relief of aged, impotent, and poor people
- maintenance of sick and maimed soldiers and mariners
- schools of learning
- free schools and scholars in universities
- repair of bridges, ports, havens, causeways, churches, sea banks, and highways
- education and preferment of orphans
- relief, stock or maintenance of houses of correction
- marriage of poor maids
- supportation, aid and help of young tradesmen, handicraftsmen, and persons decayed
- relief or redemption of prisoners or captives and
- aid or ease of any poor inhabitants concerning payment of fifteens, setting out of soldiers and other taxes.⁵

23 Courts have found the following purposes to be charitable under “any other matter beneficial to the community”:

- beautification of a locality,⁶
- preservation of a locality,⁷
- maintenance of public parks and gardens,⁸
- improvement of public safety,⁹

Federal Commissioner of Taxation (1971) 125 CLR 659, 667, 669; *Royal National Agricultural and Industrial Association v Chester* (1974) 48 ALJR 304, 305; *New Zealand Society of Accountants v Commissioner of Inland Revenue* [1986] 1 NZLR 147, 157; *Re Tennant* [1996] 2 NZLR 633, 638.

³ Gino Dal Pont, 2000, Oxford University Press, p 178; citing *Nightingale v Goulburn* (1847) 5 Hare 484, 490 and *Re Davis (deceased)* [1965] WAR 25, 28.

⁴ *Re Jones* [1907] SALR 190, 201; *Williams Trustees v Inland Revenue Commissioners* [1947] AC 447, 455; *Scottish Burial Reform and Cremation Society v Glasgow Corporation* [1968] AC 138, 146-48; *Incorporated Council of Law Reporting (QLD) v Federal Commissioner of Taxation* (1971) 125 CLR 659, 667, 669; *Royal National Agricultural and Industrial Association v Chester* (1974) 48 ALJR 304, 305; *New Zealand Society of Accountants v Commissioner of Inland Revenue* [1986] 1 NZLR 147, 157; *Re Tennant* [1996] 2 NZLR 633, 638.

⁵ *Charitable Uses Act 1601* 43 Elizabeth I c. 4.

⁶ *Re Pleasants* (1923) 39 TLR 675.

⁷ *Re Verrall* [1916] 1 Ch 100; *Scott v National Trust for Places of Historic Interest or Natural Beauty* [1998] 2 All ER 705; and *Re Centrepoint Community Growth Trust* [2000] 2 NZLR 325.

⁸ *Morgan v Wellington City Corporation* [1975] 1 NZLR 416 and *Re Bruce* [1918] NZLR 16.

- maintenance of public buildings and facilities.¹⁰

24 The Commission considers that the co-ordination and promotion of infrastructure development, as outlined in clause 4.1(c) is charitable by analogy to the maintenance of public buildings and facilities. However, the Commission considers that the promotion of economic development as outlined in clause 4.1(c) and the purposes outlined in clauses 4.1, 4.1(a), 4.1(e), 4.1(g), 4.1(j), 4.1(k) and 4.1(m) are not analogous to the purposes outlined above. These purposes appear to relate to the promotion of economic development, industry, business and employment in the Nelson Region and the promotion of the Nelson region as a desirable place to live and invest.

25 In cases such as *Re Tennant*¹¹ and *Tasmanian Electronic Commerce Centre Pty Ltd v Commissioner of Taxation*¹², economic development of a community has been held to be charitable under “any other matter beneficial to the community” where essential services are provided or where the community is under a particular disadvantage.

26 *Re Tennant* relates to a rural community and the provision of a creamery. Hammond J stated:

*“Obviously each case will turn on its own facts. I would not be prepared to say that there may not be cases which would fall on the other side of the line because of private profit making of some kind. But here the settlor was attempting to achieve for a **small new rural community** what would then have been central to the life of that community: a cluster complex of a school, public hall, church and creamery.”* [Emphasis added]¹³

27 Similarly, in *Tasmanian Electronic Commerce Centre Pty Ltd v Federal Commissioner of Taxation*, the Australian Federal Court of Appeal decided that the entity was charitable because it was created to provide internet and communications infrastructure for Tasmania, a particularly economically disadvantaged area. Heeney J wrote:

*As has been seen, the genesis of TECC was the provision of large amounts of Federal funding to assist “regional, rural and remote communities” a current euphemism for whose parts of Australia which are economically disadvantaged or, put more bluntly, poor, compared with the rest of the nation [...] Tasmania is a particular case in point. The combination of small population and long distances from markets and raw materials meant that conventional manufacturing industry was always to be at a disadvantage*¹⁴.

⁹ *Inland Revenue Commissioners v Baddeley* [1955] AC 572.

¹⁰ *Kjar v Mayor of Masterton* [1930] GLR 303; *Re Chapman* (High Court, Napier, CP89/87, 17 October 1989, Greig J); and *Guild v Inland Revenue Commissioners* [1992] 2 All ER 10 (HL).

¹¹ [1996] 2 NZLR 633.

¹² (2005) FCA 439; [2005] 59 ATR 10 (Australian Federal Court of Appeal) at pp 25-26, para. 59-60

¹³ *Re Tennant* [1996] 2 NZLR 633, 640

¹⁴ (2005) FCA 439; [2005] 59 ATR 10 (Australian Federal Court of Appeal) at pp 25-26, para. 59-60

28 The Applicant has not provided any evidence that it is either providing essential services or assisting an area that is under any particular disadvantage. Moreover, the Commission does not consider that the Nelson area is an area which is in need of assistance because:

1. the unemployment rate in this area is lower than the rest of the country (4.2% compared with 5.1% for all of New Zealand)¹⁵; and
2. the median income is only slightly lower than the rest of New Zealand (\$23,100 compared with \$24,400 for all of New Zealand)¹⁶

Public or Private Benefit

29 In order to fall under “any other matter beneficial to the community”, the benefits must be to the community rather than to private individuals. Any private benefits arising from the Applicant’s activities must only be a means of achieving an ultimate public benefit and therefore be ancillary or incidental to it. It will not be a public benefit if the private benefits are an end in themselves.¹⁷ In addition, proof that public benefit will necessarily flow from each of the stated purposes is required, not merely a belief that it will or may occur.¹⁸

30 The Courts have found the promotion of industry and commerce to be charitable under the fourth head when it is for public benefit and not for the benefit of private individuals.

31 Thus, in *Inland Revenue Commissioners v Yorkshire Agricultural Society*¹⁹ the improvement of agriculture was held to be charitable where it was for the benefit of the public at large. However, Lord Hanworth made it clear that the promotion of agriculture for private profit or benefit will not be charitable.

32 In *Crystal Palace Trustees v Minister of Town and Country Planning*²⁰ a body of trustees was entrusted with the control and management of Crystal Palace and park as a public place for education and recreation, and for the promotion of industry, commerce and art. Danckwerts J stated:

¹⁵ Statistics New Zealand QuickStats About Nelson Region – Work <http://www.stats.govt.nz/Census/2006CensusHomePage/QuickStats/AboutAPlace/SnapShot.aspx?type=ta&ParentID=1000017&tab=Work&id=2000052> last accessed 22 December 2009

¹⁶ Statistics New Zealand QuickStats About Nelson Region – Income <http://www.stats.govt.nz/Census/2006CensusHomePage/QuickStats/AboutAPlace/SnapShot.aspx?type=ta&ParentID=1000017&tab=Income&id=2000052>, last accessed 22 December 2009

¹⁷ *Inland Revenue Commissioners v Oldham Training and Enterprise Council* (1986) STC 1218; *Travel Just v Canada Revenue Agency* 2006 FCA 343 [2007] 1 CTC 294.

¹⁸ *Gilmour v Coats* (1949) AC 26; *Re Blyth* [1997] 2 Qd R 567, 582; *DV Bryant Trust Board v Hamilton City Council* [1997] 3 NZLR 342, 350.

¹⁹ [1928] 1 KB 611

²⁰ [1951] 1 Ch 132, 142

"it seems to me that the intention of the Act in including in the objects the promotion of industry, commerce and art, is the benefit of the public, that is, the community, and is not the furtherance of the interests of individuals engaging in trade or industry or commerce by the trustees".

- 33 In *Hadaway v Hadaway*²¹ the Privy Council held that assisting persons carrying on a particular trade or business or profession would not be charitable unless there was a condition that this assistance could only be made for a purpose which was itself charitable. In that case the court held that any eventual benefit to the community was too remote:

"The promotion of agriculture is a charitable purpose, because through it there is a benefit, direct or indirect, to the community at large: between a loan to an individual planter and any benefit to the community the gulf is too wide. If there is through it any indirect benefit to the community, it is too speculative."

- 34 In *Commissioners of Inland Revenue v White and Others and Attorney General*²² it was held that entity's purpose to "promote any charitable purpose which will encourage the exercise and maintain the standards of crafts both ancient and modern, preserve and improve craftsmanship and foster, promote and increase the interest of the public therein" was charitable. However, in that case, Fox J states:

*"The three cases which I have last mentioned seem to me to establish that the promotion or advancement of industry (including a particular industry such as agriculture) or of commerce is a charitable object **provided that the purpose is the advancement of the benefit of the public at large and not merely the promotion of the interest of those engaged in the manufacture and sale of their particular products. ... The charitable nature of the object of promoting a particular industry depends upon the existence of a benefit to the public from the promotion of the object**" [Emphasis added].*

- 35 In that case, Fox J found that the purposes of the Association were capable of providing a public benefit and that any private benefit of individual craftsmen was not an object of the Association.

- 36 In *Commissioners of Inland Revenue v. Oldham Training and Enterprise Council*²³, the Court held:

[T]he second main object, namely promoting trade, commerce and enterprise, and the ancillary object, of providing support services and advice to and for new businesses, on any fair reading must extend to enabling Oldham TEC to promote the interests of individuals engaged in trade, commerce or enterprise and provide benefits and services to them [...] **Such efforts on the part of Oldham TEC may be intended to make the recipients more profitable and thereby, or otherwise, to improve employment prospects in Oldham. But the existence of these objects, in so far as they confer freedom to provide such private benefits regardless of the motive or the likely beneficial consequences for**

²¹ [1955] 1 WLR 16, 20 (PC)

²² (1980) 55 TC 651, 659.

²³ (1996) 69 Tax Cases 231, 251

employment, must disqualify Oldham TEC from having charitable status. *The benefits to the community conferred by such activities are too remote* [Emphasis added].

- 37 In *Commissioner of Taxation v Triton Foundation*,²⁴ the Federal Court of Australia held that a foundation set up to assist inventors provided sufficient public benefit. In reaching this conclusion, the court noted that the foundation's purposes were particularly directed at young people, but were also available to "any member of the community who had the desire or inclination to use them", and a number of the resulting inventions had been of benefit to the community.
- 38 In *Travel Just v Canada (Revenue Agency)*,²⁵ the Canadian Federal Court of Appeal considered a case relating to entity whose purposes were the creating of model tourism development projects and the production and dissemination of tourism information. The Court found that promoting commercial activity with a strong flavour of private benefit was not a purpose beneficial to the public and expressed doubt that the dissemination of information described in the second object would qualify as either publication of research or an educational purpose.
- 39 The Commission has considered clause 4.1(o) and the Applicant's submissions that they are not engaged in providing private business owners in the Nelson region with benefit, but that the projects and general activity they are involved in is for the direct benefit of the public. However, the Commission considers that the wording of clauses 4.1, 4.1(c), 4.1(e), 4.1(g), 4.1(j), 4.1(k) and 4.1(m) allows the Applicant to provide private benefits to individuals in the Nelson region. Moreover, the purposes allow these benefits to be provided without regard to the consequences on employment or other benefits to the Nelson region. Accordingly, any benefits conferred on the remainder of the community from such purposes will be too remote.

Activities

- 40 The Commission has considered the information provided about the activities of the Applicant. The Commission considers that a number of the activities undertaken by the Applicant are charitable. However, the Commission also considers that a number of the activities undertaken by the entity are not charitable and would provide private benefit to individuals. Moreover, the Commission does not consider that the purposes of the Applicant are exclusively charitable. Accordingly, the Commission does not consider that the Applicant's charitable activities are sufficient to show that the Applicant meets the requirements of section 13(1)(a) of the Act.

²⁴ (2005) 147 FCR 362

²⁵ 2006 FCA 343 [2007] 1 C.T.C 294, 2007 D.T.C. 5012 (Eng.) 354 N.R. 360

Applicant's Additional Submissions

41. The Commission has considered the Applicant's submissions that changes made to the *Charities Act 2005* and that the definition of charitable purpose in section 5 of the *Charities Act 2005* intentionally broadened what is now included in the definition of charitable purpose to include any matter beneficial to the community. The Commission does not consider this to be persuasive because in *Travis Trust v Charities Commission*,²⁶ the only case interpreting the *Charities Act 2005*, Williams J wrote:

[18] Section 5 includes a number of additions and amendments to that broad definition but none of them are relevant to this case. The definition rather unhelpfully repeats the four heads of charity contained in the celebrated House of Lords decision in *Commissioners for Special Purposes of the Income Tax v Pemsel*.²⁷ They in turn are extracted, it is said, from the preamble to the Statute of Charitable Uses 1601²⁸ – generally referred to these days as the Statute of Elizabeth.

42. In the *Travis Trust* case, Williams J did not consider that the law had been changed but that the definition of charitable purposes as outlined in section 5(1) of the Act is a reformulation of the classification of charitable purposes from *Inland Revenue Commissioners v Pemsel*²⁹. He wrote:

[20] From this [*Pemsel* decision] his Lordship extracted the four heads of charity now codified in s 5(1) with the last and most problematic of them being "other purposes beneficial to the community, not falling under any of the preceding heads".³⁰ But, as Lord Bramwell said in the same case "certainly every benevolent purpose is not charitable".³¹ So in a deft circumlocution of legal logic, we are required in considering what is beneficial to the community under the last of the *Pemsel* heads to look back to the "spirit and intendment" of the preamble to the Statute of Elizabeth to assist in dividing between those purposes that are both beneficial and charitable, and those that are beneficial but not charitable. To make the division, regard must be had to the particular words of the preamble and, it has now long been held, any cases in which purposes have been found to be within the spirit and intendment of the preamble by analogy.

43. Accordingly, the Commission considers that the case law referred to is relevant to the definition of charitable purposes under the *Charities Act 2005*.
44. Moreover, the entity has further submitted that because the case law referred to is quite old and mostly United Kingdom case law it does not take into account the changes intended by the *Charities Act 2005*. The Commission acknowledges that case law from the United Kingdom is not

²⁶ CIV-2008-485-1689, 3 December 2009 at paragraph 18.

²⁷ [1891] AC 531.

²⁸ 43 Elizabeth I c.4.

²⁹ [1891] A.C. 531

³⁰ Supra at p. 581.

³¹ Ibid at 583.

binding in New Zealand. However, the Commission considers that this case law is relevant to New Zealand. Prior to 2006, the United Kingdom used the *Pemsel* classification of charitable purposes. Accordingly, case law from the United Kingdom prior to this date utilises the same classification of charitable purposes that is set out in the *Charities Act 2005*.

Conclusion

45. In conclusion, the Commission considers that the Applicant's purposes in clauses 4(f) and 4(h) are charitable under the advancement of education but that the purposes in clauses 4.1, 4.1(c), 4.1(e), 4.1(g), 4.1(j), 4.1(k) and 4.1(m) are not exclusively charitable. These purposes do not advance education. Moreover, these purposes do not come under "other matters beneficial to the community" as they are not within the spirit and intendment of the preamble to the Statute of Elizabeth and do not provide sufficient public benefit.

Section 61B

46. In order to be a valid trust at law, a trust for charitable purposes must be exclusively charitable or it will be void for uncertainty. Section 61B of the *Charitable Trusts Act 1957* however, can operate in two situations to "save" a trust that has both charitable and "non-charitable and invalid" purposes.
47. The first is where the entity's **stated purposes** include charitable and non-charitable purposes (in which case the non-charitable purposes may be "blue pencilled out"). The second is where the stated purposes are capable of both a charitable and a non-charitable **interpretation** and the primary thrust of the gift is considered to be charitable (in which case the purposes could be deemed to apply only in terms of the charitable interpretation).³²
48. In *Re Beckbessinger* Tipping J held:
- "In the case of designated and identifiable organisations it may well be necessary to have evidence as to whether or not they are charitable to determine the flavour of the gift. The Court cannot in my judgment say, . . . that because a gift might have been applied for charitable purposes, s 61B can be used to save it. The testator must be shown to have had a substantially charitable mind but to have fallen foul of the law of uncertainty by including either actually or potentially a non-charitable element or purpose."*³³
49. The Commission considers that the Applicant's purposes in clause 4(f) and 4(h) are charitable under the advancement of education but that the purposes in clauses 4.1, 4.1(c), 4.1(e), 4.1(g), 4.1(j), 4.1(k) and 4.1(m) are not exclusively charitable. The Commission further considers that if

³² *Re Beckbessinger* [1993] 2 NZLR 362, 373.

³³ *Re Beckbessinger* [1993] 2 NZLR 362, 376.

these non-charitable clauses were blue-pencilled or carved out under section 61B of the *Charitable Trusts Act 1957*, the entity would be unable to achieve its main purpose, that is the economic development of the Nelson area. The Commission therefore concludes that the Applicant does not have substantially charitable purposes, and accordingly, section 61B of the *Charitable Trusts Act 1957* cannot be used to validate the trust.

Commission's Determination

50. The finding of the Commission is that the Applicant has failed to meet an essential requirement for registration as a charitable entity in that the Applicant is not a trust of a kind in relation to which an amount of income is derived by the trustees in trust for charitable purposes, as required by section 13(1)(a) of the *Charities Act 2005*.

For the above reasons, the Commission declines the Applicant's application for registration as a charitable entity.

Signed for and on behalf of the Charities Commission



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Trevor Garrett
Chief Executive

23/12/09

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Date