

[AS REPORTED FROM THE EASTWOODHILL TRUST BILL
COMMITTEE]

House of Representatives, 10 June 1975.

Words struck out by the Committee are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Mr Davey

EASTWOODHILL TRUST

[PRIVATE]

ANALYSIS

Title	11. Contracts
Preamble	12. Functions of Board
1. Short Title	13. Powers of Board
2. Interpretation	14. Purposes declared charitable
3. Constitution of Board	15. Refund of expenditure by Board members
4. Membership of Board	16. Books of account
5. Term of office of members	17. Annual financial report
6. First appointment of members of the Board	18. Exemption of Board members from personal liability
7. Advisory Committee	19. Vesting Eastwoodhill in Board
8. Committees	20. Private Act Schedule
9. Meetings of Board	
10. Procedure at meetings	

A BILL INTITULED

An Act to establish the Eastwoodhill Trust Board

WHEREAS William Douglas Cook late of Eastwoodhill near Gisborne, sheepfarmer, over a period of many years established on the property described in the Schedule hereto and popularly known as "Eastwoodhill" an arboretum: And whereas after unsuccessful endeavours made by him in his later years to arrange the transfer of the property to a body capable of maintaining it as an arboretum he sold the property to Heathcote Beetham Williams of Gisborne, sheepfarmer, who has since retained and cared for this property and has continued endeavours to obtain some arrangement with a suitable existing organisation for the maintenance and development of the arboretum but without

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Price 15c

success: And whereas the said Heathcote Beetham Williams has now agreed to the vesting of the property in a Board to be established under this Act in the belief that a body so constituted offers the best prospect for the maintenance and development of the arboretum: And whereas (*it is doubtful whether*) the type of constitution established by this Act could not be arranged otherwise than by legislation: 5

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows: 10

1. Short Title—This Act may be cited as the Eastwoodhill Trust Act (*1974*) 1975.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Board” means the Eastwoodhill Trust Board constituted under this Act: 15

“Eastwoodhill” means the land described in the Schedule to this Act together with any additional land which may be acquired by the Board for the purposes of the Board. 20

3. Constitution of Board—(1) There is hereby constituted for the purposes of this Act, a Board to be called the Eastwoodhill Trust Board.

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall be capable of acquiring, holding, and disposing of real or personal property, of suing and being sued, and of doing and suffering all such other acts and things as bodies corporate may do and suffer. 25

4. Membership of Board—The Board shall consist of 5 persons resident within the area (*comprised of*) comprising the City of Gisborne and the Counties of Cook, Waikohu, and Waiapu appointed as follows: 30

(a) A person appointed by the Governor-General on the advice of the Minister of Lands, who shall be the Chairman of the Board: 35

(b) A person having an active interest in horticulture or silviculture appointed by the Cook County Council:

- (c) A person having an active interest in horticulture or silvi-
culture appointed by the Gisborne City Council:
- (d) A person appointed by the (*Gisborne*) Poverty Bay
Horticultural Society Incorporated:
- 5 (e) A person appointed by the Gisborne Branch of the New
Zealand Farm Forestry Association Incorporated.

5. **Term of office of members**—(1) Except as otherwise provided by this Act, every member of the Board shall hold office for a term of 3 years, and shall be eligible for reappointment from time to time.

10 (2) Notwithstanding anything to the contrary in this Act, every member of the Board shall, unless he sooner vacates his office under subsection (3) of this section, continue in office until his successor comes into office.

15 (3) The office of any member shall become vacant if the member—

(a) Becomes bankrupt; or

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20 (b) Is convicted of any offence punishable by imprisonment for a term of 1 year or more; or

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(b) Is convicted of any offence punishable by imprisonment for a term of 2 years or more; or

25 (ba) Is convicted of any offence punishable by imprisonment for a term of less than 2 years and is sentenced to imprisonment for that offence; or

(c) Becomes (*mentally disordered*) the subject of a reception order within the meaning of the Mental Health Act 1969; or

30 (d) Becomes a protected person within the meaning of the Aged and Infirm Persons Protection Act 1912; or

(e) Resigns his office by notice in writing to the Board; or

(f) Is absent without leave (*for*) from 4 consecutive meetings of the Board; or

(g) Attains the age of 70 years; or

(h) Dies; or

35 (i) Ceases to be a permanent resident in the area (*comprised of*) comprising the City of Gisborne and the
40 Counties of Cook, Waikohu, and Waiapu.

(4) When the office of any member becomes vacant, the vacancy shall as soon as practicable be filled in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall hold office for the residue of the term for which his predecessor would have held office if the vacancy had not occurred. 5

6. First appointment of members of the Board—Within 3 months after the *(enactment of this Bill)* passing of this Act all persons and bodies having the right to appoint a member of the Board shall do so and forward his or its nomination to the Commissioner of Crown Lands at Gisborne who shall call the first meeting of the Board. 10

7. Advisory Committee—(1) There shall be an Advisory Committee of the Board consisting of suitably qualified persons to give the Board advice on scientific questions arising in the maintenance and development of Eastwoodhill as an arboretum. 15

(2) The Advisory Committee shall consist of 3 members one to be appointed by each of the following, namely—

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- (a) DSIR;
(b) Massey University;

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- (a) The Director-General of the Department of Scientific and Industrial Research;
(b) The Council of Massey University; and 25

(c) The New Zealand Forest Research Institute:

Provided that should any of the foregoing fail to *(nominate)* appoint a member of the Advisory Committee within such period as may be specified by the Board then such member may be *(nominated)* appointed by the Board. 30

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(3) Members of the Advisory Committee shall hold office at the will of the body nominating the member.

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(3) Every member of the Advisory Committee shall hold office at the pleasure of the person or body who or which appointed him.

(4) Each member of the Advisory Committee shall be supplied with a copy of the annual financial report of the Board, and the Committee shall in each year inspect Eastwoodhill and prepare and supply the Board with a report on its condition at the date of such inspection, together with the Committee's recommendations as to its future maintenance and development having regard to the financial resources available to the Board as disclosed in the annual financial report.

10 (5) The Advisory Committee shall also assist the Board so far as it is able with advice on any particular scientific problem encountered by the Board in its administration of Eastwoodhill:

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15 Provided that if the Board is of the opinion that any scientific problem arising between the annual inspections referred to in subsection (4) of this section is not of sufficient importance as to require the attention of the Advisory Committee, the Board may seek advice on the problem from any
20 advisory officer of the Gisborne office of the Ministry of Agriculture and Fisheries or the New Zealand Forest Service.

8. Committees—(1) The Board may from time to time appoint, discharge, alter, continue, or reconstitute such further and other committees as it thinks fit to advise it on
25 such matters concerning its functions as are referred to them by the Board.

(2) Each committee shall elect its own chairman annually.

(3) Each committee shall carry out such duties as shall be laid down by the Board and in other respects as the committees shall themselves determine.
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9. Meetings of Board—(1) Meetings of the Board shall be held at such times and places as the Board or the Chairman from time to time determines.

(2) All questions before the Board shall be decided by a
35 majority of the votes recorded thereon.

10. Procedure at meetings—(1) The Chairman of the Board and of each committee shall preside at every meeting of the Board or committee at which he is present, but in his absence from any meeting the members present shall appoint one of
40 their number to preside at the meeting.

(2) At any meeting of the Board or of a committee the person presiding shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

(3) At every meeting of the Board 3 members shall form a quorum and no business shall be transacted at any meeting unless a quorum is present. 5

11. Contracts—(1) Any contract which, if made between private persons, must be by deed shall, if made by the Board, be in writing under the seal of the Board.

(2) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith shall, if made by the Board, be either in writing under the seal of the Board or in writing signed by any two members of the Board on behalf of and by direction of the Board. 10

(3) Any contract which, if made between private persons, may be made orally may be similarly made by or on behalf of the Board by any member acting by direction of the Board, but no oral contract shall be made involving the payment by the Board of a sum exceeding \$20. 15

(4) Notwithstanding anything in subsections (1) to (3) of this section, no contract made by or on behalf of the Board shall be invalid by reason only that it is not made in the manner prescribed by this section if it is made pursuant to a resolution of the Board or to give effect to a resolution of the Board. 20 25

12. Functions of Board—(1) The primary function of the Board shall be to maintain and develop Eastwoodhill as an arboretum.

(2) So far as it is (*consonant*) consistent with its primary function the Board shall use its best endeavours to make Eastwoodhill available to the public for its education and recreation. 30

13. Powers of Board—(1) Subject to the provisions of this Act and to subsections (2) and (3) of this section the Board shall in respect of Eastwoodhill have and exercise all the powers, authorities, and discretions conferred on trustees by the Trustee Act 1956 and shall have all such other powers as may be reasonably necessary to enable it to carry out its functions, including the power to accept donations, gifts, and legacies for the purposes of the Board. 35 40

(2) The Board shall not be entitled to sell or lease any portion of Eastwoodhill without—

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(a) A unanimous resolution of the Board supporting such action; and

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5 (a) A resolution of the Board to do so in favour of which every member of the Board has voted; and

(b) The written consent of the Minister of Lands.

10 (3) The powers to carry on business set out in section 32 of the Trustee Act 1956 shall be varied to permit the Board to carry on the business of sheep and cattle farming on any portion of Eastwoodhill which is not for the time being occupied by the arboretum or on any of the remaining portion of Eastwoodhill to the extent that the use of such lands for grazing may in the Board's opinion be advantageous to the
15 main purposes of the Board.

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13A. Bylaws—The Board may from time to time by resolution make bylaws for all or any of the following purposes:

- 20 (a) For controlling the admission of persons, animals, or vehicles to Eastwoodhill:
(b) For preventing disorderly or unseemly conduct or behaviour of persons in Eastwoodhill:
25 (c) For preventing persons gaining or attempting to gain admission to Eastwoodhill without the authority of the Board:
(d) For the regular and efficient government and management of Eastwoodhill:
30 (e) For the safety and preservation of Eastwood and to prevent damage thereto.

13B. Penalty for breach of bylaws—(1) Every person who contravenes or fails to comply with any bylaw made under this Act commits an offence and shall be liable on summary conviction to a fine not exceeding \$100, and shall also be
35 civilly liable for all damage caused by the contravention or non-compliance.

(2) The Board is hereby declared to be a public body for the purposes of section 109 of the Public Revenues Act 1953.

14. Purposes declared charitable—It is hereby declared
40 that the purposes of the Board are charitable purposes.

15. Refund of expenditure by board members—The members of the Board and of every committee shall be entitled to receive from the funds of the Board a refund of all money reasonably expended by them in respect of their attendance at meetings of the Board or otherwise in transacting the business of the Board. 5

16. Books of account—The Board shall cause proper books of account to be kept in respect of all matters relating to the administration of Eastwoodhill.

17. Annual financial report—(1) At the end of each financial year ending with the 31st day of March the Board shall cause to be prepared a report of the operations of the Board for the year. 10

(2) The report shall contain a statement of the total assets and liabilities as at the end of the year, together with an account of receipts and payments and of income and expenditure showing the financial transactions for the year. 15

(3) No person shall be qualified for appointment as auditor of the Board unless he would be qualified for appointment as auditor of a company under the Companies Act 1955. 20

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(4) As soon as practicable after the 30th day of June in each year the Board shall furnish to the Minister of Lands a copy of the report referred to in subsection (1) of this section including a copy of its audited accounts. 25

18. Exemption of Board members from personal liability—No member of the Board shall be personally liable for any act done or omitted by the Board or by any member thereof in good faith in the course of the operations of the Board.

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19. Vesting Eastwoodhill in Board—The land described in the Schedule hereto is hereby vested in the Board, and the District Land Registrar at Gisborne is hereby authorised to call in the title to the said land and re-issue it in the name of the Board without further authority. 30
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19. **Vesting Eastwoodhill in Board**—The land described in the Schedule hereto is hereby vested in the Board, and the District Land Registrar for the Gisborne Land Registration 5 District is hereby authorised and directed, upon receipt of an application in a form acceptable to him, to register the Board as the registered proprietor of the said land and to do all such other things as are necessary to give effect to this Act.

20. **Private Act**—This Act is hereby declared to be a private 10 Act.

SCHEDULE

Section 19

AN estate in fee simple in all that parcel of land containing (323 acres 3 roods 04.1 perches) 131.02734 ha (323 acres 3 roods 04.1 perches), more or less, being part Lot 1, Deposited Plan 4294, situate in Blocks IX and X, Waikohu Survey District, and being the balance of the land comprised in certificate of title No. 1A/687, Gisborne Land Registry.