

UTR 7.301
HUTCHINSON INDIGENOUS FELLOWSHIP AND RESIDENCY
Draft UTR Amendment to Faculty of Fine Arts and Music for approval
26 June 2020

Amendment of University trust record 7.301 certified by the General Counsel on the advice of the Faculty of Fine Arts and Music - To govern the Hutchinson Indigenous Fellowship and Residency.

The record as currently in force needs to be amended due to:

- *the amendment of the establishing Memorandum of Gift dated 25 August 2014, which was effective from 2019; and*
- *to reflect the change of the faculty's name from 'Faculty of Victorian College of the Arts and Melbourne Conservatorium of Music' to 'Faculty of Fine Arts and Music', which was effective from 1 January 2019.*

It is proposed that the record be amended to:

- *permit the fellowship to be overseen by the Pro Vice-Chancellor Community and Cultural Partnerships or the equivalent responsible officer in the Chancellery; and*
- *to reflect the new name of the faculty.*

The amendment of the record is intended to facilitate the administration by the University of the trust established by the bequest in a manner that is consistent with the trust terms.

The proposed amendment of the record does not require the sanction of the Attorney-General for Victoria or the Supreme Court of Victoria as the amendment of the operative provisions of the record-

- *relates to the administrative arrangements for the implementation and ongoing performance of the trust terms, as determined by the University from time to time; and*
- *is within the trust terms.*

The faculty has-

- *confirmed that it has provided all details required to prepare this proposed amendment of the record; and*
- *approved the contents of this document and the amendment of the record.*

Proposed Amendment

UTR 7.301 – Hutchinson Indigenous Fellowship Residency

Amend UTR 7.301 as shown below.

UTR7.301 – HUTCHINSON INDIGENOUS FELLOWSHIP AND RESIDENCY

Background

- A. By Memorandum of Gift (**MoG**) dated 28 August 2014, HMS Nominees Ltd as trustee for the Helen Macpherson Smith Trust (Donor) announced its intention to donate the sum of \$1,045,000 to the University (**Gift**) for the purpose of establishing an annual fellowship and residency program to be known as the 'Hutchinson Indigenous Fellowship and Residency' (**Fellowship**).
- B. The Fellowship is intended to provide Victorian Aboriginal emerging artists with financial support to enable them to explore ideas and develop skills that will lead to new iterations of cultural practice and development, and build their practice into the future (**Stated Purpose**).
- C. On 12 September 2014, the University received the Gift from the Donor. The Donor expressly stated that the sum of \$45,000 to be awarded to the first 'Hutchinson Fellow' in 2015, while the remaining sum of \$1,000,000 will be capitalised in order to generate income for future years. Accordingly, the sum of \$45,000 will not form part of the capital sum.
- D. The Donor is the trustee of an independent perpetual philanthropic trust which makes grants to support the immediate and long term needs of the wider community of Victoria across a range of targeted program areas to help build fair, creative and resilient Victorian communities.
- E. By making the Gift, the Donor wishes to honour Mr Darvell Martin Hutchinson AM. Mr. Hutchinson was appointed a trustee of the Helen Macpherson Smith Trust, then known as the Helen M Schutt Trust, in 1964 and was Chairman of Trustees during the period 1969-2014. 2014 marks the 50th anniversary of his direct stewardship of the Trust's activities.

Early in his career, Mr Hutchinson was a practising chartered accountant and company director, and held various public company directorships including Bank of Melbourne Ltd and Resi-Statewide Building Society. A partner of PKF, a global network of accountancy firms, he retired in 1987 to give more time to the community as a board member of charities, and to take an active management role in the philanthropic sector. His community roles have included the National Institute of Circus Arts (Chairman), National Gallery of Victoria (Trustee and Treasurer), The Asthma Foundation of Victoria (President) and the Lord Mayor's Charitable Fund (Vice - President). He was made a member of the Order of Australia for service to the community in 1994, and was awarded an honorary Doctor of Laws from Monash University for his contribution to the Victorian community and to Melbourne's role as the major centre of philanthropy in Australia.

- F. The University accepted the Gift upon the trusts specified by the Donor, and the Gift (less the sum of \$45,000) became the capital subject to those trusts (Capital Sum).

- G. This University trust record is the means by which the University records:
- (1) the trusts specified by the Donor upon which the University as trustee holds trust property, including the Capital Sum; and
 - (2) the administrative arrangements for the implementation and ongoing performance of those trusts, as determined by the University from time to time.

The terms and administration of the gift are as follows.

Name of the fund

1. The Capital sum, all income arising from the Capital Sum, and any accumulations and additions thereto together form a fund called the 'Hutchinson Indigenous Fellowship and Residency' (**Fund**).

Trust terms

2. A perpetual trust was established for the Fellowship on receipt of the Gift by the University and the University is the trustee of that trust.
3. The Fund is to be transferred to the University's long - term investment common fund by no later than 31 December 2014, and remain there until Council otherwise directs.
4. The University must invest and preserve the Fund and apply only the net annual income arising from the Fund to award one or more fellowships. Where such income falls short in a given year, the University must consult with the Donor about what action, if any, is to be taken until sufficient funds become available.
5. Any unexpended income arising from the Capital Sum referred to above in any year may be:
 - (a) retained as income in which case it will be available in any subsequent year to be applied for the Fellowship; or
 - (b) added to the Capital Sum in which case that unexpended income will forever be regarded as capital and will therefore be preserved in the same manner as the Capital Sum. Noting that the Donor's preference is for this option.
6. As trustee of the Fund, the University is obliged by the trusts specified by the Donor:
 - (a) to establish the 'Hutchinson Indigenous Fellowship and Residency', an annual fellowship and residency program for Victorian Aboriginal emerging artists
 - (b) to refer to Fellowship recipients as 'Hutchinson Fellows';
 - (c) to apply the sum of \$45,000 to provide the first award in 2015 while capitalising the remaining \$1,000,000 to generate income for future years;

(d) to review the program every ten years in order to ensure that it remains true to the Stated Purpose and where the Stated Purpose is no longer practicable, the University reserves the right, following consultation with the Donor, to apply the gift for a purpose which is as close as possible to the Stated Purpose;

(e) that the terms of the MoG can be amended by mutual agreement between the Donor and the University, in order to allow each party to respond to future circumstances and opportunities to enhance the delivery of the Stated Purpose.

Administrative arrangements

In order to implement the trust terms, the University has determined that:

1. The Fellowship will be offered by the University of Melbourne and overseen by the Pro Vice-Chancellor Community and Cultural Partnerships or the equivalent responsible officer in the Chancellery.
2. A selection panel will be convened to determine the Fellowship awardee including the Pro Vice-Chancellor Community and Cultural Partnerships or equivalent responsible officer in Chancellery. Members may be chosen from a range of creative disciplines and expertise but all times the University will have the majority of members.

New UTR Certified 20 July 2015; Recital E, s 6(a), admin arr. am 26/03/21]