

# Te Wairoa Tapokorau Mai Tawhiti Trust

Oha Manuel, Bubby Maranui McGregor, Peter Riki Mihaere,  
Phillecity Wilson, Rangimarie Pere, Jennifer Robinson and  
Austin Royce King

(the **Initial Trustees**)

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## TE WAIROA TAPOKORAU MAI TAWHITI TRUST

Date:

20<sup>th</sup> January 2019

### PARTIES

Oha Manuel, Bubby Maranui McGregor, Peter Riki Mihaere, Phillecity Wilson, Rangimarie Pere, Jennifer Robinson and Austin Royce King (the **Initial Trustees**)

### BACKGROUND

- A The Trust established by this Deed is to be known as 'Te Wairoa Tapokorau Mai Tawhiti Trust'.
- B The Trust is established for the uri who descend from Tipuna of the whanau Hapu who together form the Kahuiknown as Te Wairoa Tapokorau 1.
- C Te Wairoa Tapokorau Mai Tawhiti Trust comprise the Hapu of Ngai Tauira, Te Uri o Te O, Te Aitanga a Puata, Ngati Kurupakiaka, Ngai Tiakiwai, Ngati Momokore, Ngati Waiaha, Ngai Te Rangituanui, Ngai Taitau, Ngati Matangirau, , Ngati Matua, Ngai Tahu (acknowledge is Iwitea), Kahu, Ngati Koropi, Ngai Te Huki, Ngai Te Aihurangi, Ngai Ta Maha, Ngati Kiato, Ngati Koroheke, Ngati Manuka, Ngati Patupuku, Ngati Pomarangai, Ngati Poutawa, Ngati Rakonga, Ngai Te Apatari and any Hapu appointed under clause 7.5 of Schedule Two.
- D The Trustees are to adhere to the rangatiratanga and mana of the Whanau and Hapu of the Kahuiand the Trustees acknowledge that they hold the initial Trust Fund (being the sum of \$10) for the benefit of the Hapu, Whanau and Uri.
- E The Trustees will seek approval for the Trust to be a Beneficial Entity of the Tatau Tatau o Te Wairoa Trust as the entity representing Te Wairoa Tapokorau 1 Kahui.
- F The Trust shall be governed and administered by the Trustees in accordance with this Deed (which requires adherence to Tikanga and recognition of the Mana Motuhake and Rangatiratanga of Whanau and Hapu).

### NOW THIS DEED RECORDS:

#### 1 DEFINITIONS AND CONSTRUCTION

##### 1.1 Defined terms

In this deed, unless the context requires otherwise:

*Adult Member* means a Member who is 18 years and over and is part of Whanau and Hapu

*AGM* means an annual general meeting held in accordance with clause 16;

*Ahi Kaa* means an Uri who is resident in the rohe of their Hapu and keeps the home fires burning;

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*Annual Plan* means a plan in respect of the Trust prepared and approved by the Trustees under clause 8.10 prior to the commencement of each Income Year;

*Assets* means all property of the Trust (whether real or personal) and includes choses in action, rights, interests and money;

*Balance Date* means 31 March or any other date adopted by the Trustees by written resolution as the date up to which accounts are to be made in each year;

*Beneficial Entity* has the meaning set out in the Tatau Tatau Trust Deed;

*Corporate Trustee* means an entity incorporated to act as corporate trustee of the Trust from time to time, in which case any other Trustees appointed in accordance with this Deed will be appointed as directors of the corporate trustee and all provisions which would otherwise apply to those individuals as Trustees will apply to those individuals as directors of the Corporate Trustee;

*Deed* means this trust deed for Te Wairoa Tapokorau Mai Tawhiti Trust;

*Disputes Committee* means the committee appointed in accordance with clause 19.4;

*Distribution Date* means the date that occurs 80 years less one day from the date of this Deed or such earlier or later date within the Perpetuity Period applicable to this Deed from time to time as provided in clause 2.4;

*Election Closing Date* has the meaning set out in clause 13.1 of Schedule One;

*First Elected Trustees* means the Trustees appointed prior to the first AGM in accordance with Schedule One;

*First Elected Tatau Tatau Representative* means the Tatau Tatau Representative elected no later than four (4) months after the ratification of the unit trust model for Tatau Tatau in accordance with Schedule One;

*Hapu* means a collective of Whanau and which groupings comprise:

- (a) Ngai Taurira, Te Uri o Te O, Te Aitanga a Puata, Ngati Kurupakiaka, Ngai Tiakiwai, Ngati Momokore, Ngati Waiaha, Ngai Te Rangituanui, Ngai Taitau, Ngati Matangirau, Ngati Matua, Ngai Tahu (acknowledge is Iwitea), Kahu, Ngati Koropi, Ngai Te Huki, Ngai Te Aihurangi, Ngai Ta Maha, Ngati Kiato, Ngati Koroheke, Ngati Manuka, Ngati Patupuku, Ngati Pomarangai, Ngati Poutawa, Ngati Rakonga, Ngai Te Apatari.
- (b) any Hapu appointed under clause 7.5 of Schedule Two;

*Income* means income as that term is defined in the Income Tax Act 2007;

*Income Year* means:

- (a) the period from the date of this Deed to the first Balance Date;

- (b) each year ending on a Balance Date during the term of the trusts created by this Deed; and
- (c) the period from the Balance Date immediately preceding the Distribution Date to the Distribution Date;

*Initial Tatau Tatau Representatives* means the individuals referred to in clause 4.2 of Schedule One;

*Initial Trustees* means the individuals listed in clause 4.1 of Schedule One;

*Iwi and Hapu of Te Rohe o Te Wairoa Ancestor* has the meaning set out in the Tatau Tatau Trust Deed;

*Kahui* means Te Wairoa Tapokorau 1 as defined in Schedule 4 of the Tatau Tatau Trust Deed and comprise the Hapu within this Trust Deed;

*Kahui Membership Committee* means the committee appointed in accordance with clause 4.1 of Schedule Three;

*Kahui Register* means the register of Members that is to be maintained by the Trustees in accordance with Schedule Three;

*Kaumatua* means an elder who possesses knowledge, skill, expertise and experience in matters relating to te reo, whakapapa, tikanga and kawa and is recognised as such by the Whanau and Hapu;

*Kaumatua Council* means the council appointed in accordance with the Tatau Trust Deed;

*Kawa* means the customary protocols of the Whanau and Hapu;

*Major Transaction* means a transaction that has or is likely to have the effect of the Trust acquiring rights or interests or incurring obligations or liabilities the value of which is more than 50% of the value of the Assets before the transaction;

*Mana Motuhake* means the independent right to self-governance;

*Marae means* Taihoa, Te Poho o Te Kawiti (Kauiti), Whaakirangi, Te Poho o Tiakiwai and Te Hauariki respectively;

*Member* means an Uri who:

- (a) descends from tipuna of the Hapu; and
- (b) is registered on the Kahui Register;

*Nominations Closing Date* has the meaning set out in clause 11.4 of Schedule One;

*Perpetuity Period* means the perpetuity period applicable to this Deed from time to time as specified or established under clause 2.4;



*Rangatiratanga* means self-determination;

*Returning Officer* means the individual appointed in accordance with clause 14.1 of Schedule One or clause 5.1 of Schedule Four;

*SGM* means a special general meeting held in accordance with Schedule Four;

*Special Resolution* means a resolution in accordance with Schedule Four;

*Specified Period* in relation to an Income Year means a period commencing at the end of that Income Year, being such period as is from time to time specified by law for determining whether income arising from a trust fund is assessable as Uri income or Trustee income;

*Spouse* means a person who is married to that person or to a person who, while not being married to that person, is in a civil union with that person or is living with that person in a de facto relationship (as defined in the Property (Relationships) Act 1976) or a relationship which, in the Trustees' opinion, is in the nature of marriage or civil union;

*Surplus Income* means that part of the income arising from the Trust Fund in an Income Year which the Trustees may not have accumulated, paid, applied or appropriated under clauses 3.1 to 3.3 during that Income Year, or within the Specified Period;

*Tatau Tatau* means Tatau Tatau o Te Wairoa Trust;

*Tatau Tatau Representative* means the representative elected or co-opted by the Adult Members who have chosen Te Wairoa Tapokorau 1 as their primary Kahui, to be the representative of the Kahui from time to time in accordance with Schedule One whether original, additional or substituted and includes the Initial Representatives;

*Tatau Tatau Trust Deed* means the trust deed of Tatau Tatau as amended from time to time;

*Teleconference Meeting* means a meeting where the participants are contemporaneously linked by telephone or some other means of instant audio or audio and visual communication;

*Te Reo* means the Maori language;

*Tikanga* means the customary concepts, values, principles, procedures and practices of the Whanau and Hapu;

*Trust* means the Te Wairoa Tapokorau Mai Tawhiti Trust created by this Deed;

*Trustees* means the Trustees or Trustee elected or co-opted from time to time in accordance with Schedule One whether original, additional or substituted;

*Trust Fund* means the sum of \$10 referred to in Background D of this Deed and includes any money, investments or other property paid or given to or acquired by the Trustees after this Deed has been signed with the intention that it be held by the Trustees subject to the trusts and other provisions set out in this Deed;

*Trust Information* includes any information regarding the terms of the Trust, the administration of the Trust or the Trust Fund that it may, from time to time, be reasonable for Uri, Whanau or Hapu to have in order for the Trust to be enforced by the Uri, Whanau or Hapu but does not include the Trustees' deliberations in respect of the exercise of any discretion or powers under this Deed nor the reasons for any decisions of the Trustees, nor any information received by the Trustees that is determined by them to be confidential;

*Uri* is a beneficial owner of the Trust and means a descendant of Tipuna of the Hapu, and who is a Member of the Kahui;

*Whakapapa* means genealogy, lineage and descent;

*Whanau* means a family grouping made up of a number of Uri who whakapapa to any of the Hapu;

## 1.2 CONSTRUCTION

In the construction of this Deed:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a clause or a schedule is to a clause or schedule of this Deed, and a reference in a schedule to a clause is a reference to a clause in that schedule;
- (c) a reference to a person includes a trustee corporation, and a corporation sole, and also a body of persons, whether incorporated or unincorporated;
- (d) a reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations that have been substituted for that enactment or those regulations; and
- (e) headings appear as a matter of convenience and will not affect the construction of this Deed.

## 2 CREATION OF TE WAIROA TAPOKORAU MAI TAWHITI TRUST

### 2.1 Purpose of Trust

The Trust is created for the benefit of the Hapu, Whanau and Uri who make up the Hapu and Whanau of the Kahui and the Trustees must exercise their powers in accordance with the purpose of giving effect to the Rangatiratanga and Mana Motuhake of the Whanau and Hapu.

## 2.2 Declaration of trust

The Initial Trustees direct, and the Trustees acknowledge, that the Trustees hold the Trust Fund upon the trusts and with the powers set out in this Deed.

## 2.3 Name of Trust

The Trust created by this Deed is to be known as 'Te Wairoa Tapokorau Mai Tawhiti Trust'.

## 2.4 Perpetuity period

- (a) The Perpetuity Period is the period of 80 years less one day from the date of this Deed (being the maximum perpetuity period under the Perpetuities Act 1964).
- (b) The Trustees declare that if any change in any rule or law applicable to this Deed from time to time permits the Perpetuity Period to be extended or deleted, the Trustees may vary this Deed pursuant to the power to do so under clause 21:
  - (i) to extend the Perpetuity Period or duration of the Trust (as the case may be) up to the maximum period then permitted; or
  - (ii) to delete the Perpetuity Period; and/or
  - (iii) to make any corresponding changes to this Deed as they determine necessary or appropriate.

# 3 INCOME TRUSTS

## 3.1 Discretionary power to accumulate Income

- (a) At any time before the Distribution Date the Trustees may accumulate all or part of the Income of the Trust in an Income Year. The accumulated Income will be added to the capital of the Trust, becoming part of the Trust Fund, subject to the trusts and powers applicable to capital under this Deed. The Trustees may however still resort to the accumulated Income at any time and pay, apply or appropriate all or part of it as if it were Income of the Trust Fund.
- (b) This power to resort to accumulated Income extends to a payment, application, or appropriation made to or for a Hapu, Whanau or Uri.

## 3.2 Discretionary power to pay, apply or appropriate Income

At any time before the Distribution Date the Trustees may pay, apply or appropriate all or part of the Income arising from the Trust Fund in an Income Year to, or for the maintenance, education or advancement, or in any other way for the benefit, of Hapu, Whanau or Uri.

## 3.3 Provisions relating to payments, applications and appropriations of Income

- (a) At any time before the Distribution Date the Trustees, by written resolution, may transfer any investments to Hapu, Whanau or Uri in satisfaction of a payment, application or appropriation under clause 3.2.

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- (b) The Trustees may make an appropriation of Income even though at the time of appropriation they have not received the Income being appropriated.
- (c) The Trustees may treat any Income appropriated to a minor as if that Income had arisen from investments held on trust for the minor, and accordingly, had become available under section 40 of the Trustee Act 1956 for his or her maintenance, education, advancement or in any other way for his or her benefit.
- (d) If the Trustees appropriate any Income to a Hapu, Whanau or Uri, that Hapu, Whanau or Uri will take an absolute and indefeasible interest in that Income as from the date on which it is appropriated.
- (e) This clause 3 will not operate to vest any part of the capital of the Trust Fund in any Hapu, Whanau or Uri.

#### 3.4 **Accumulation of Surplus Income**

- (a) The Trustees will accumulate any Surplus Income and add it to the capital of the Trust so that it becomes part of the Trust Fund, subject to the trusts and powers applicable to capital under this Deed. The Trustees may however still resort to the accumulated Surplus Income at any time and pay, apply or appropriate all or part of it as if it were income of the Trust Fund.
- (b) This power to resort to accumulated Surplus Income extends to a payment, application, or appropriation made to or for a Hapu, Whanau or Uri, Hapu, Whanau or Uri who at the time of accumulation of that Surplus Income was not a Hapu, Whanau or Uri.

### 4 **CAPITAL TRUSTS UNTIL THE DISTRIBUTION DATE**

#### 4.1 **Discretionary power to pay, apply or appropriate capital**

- (a) At any time before the Distribution Date the Trustees may pay, apply or appropriate as much of the capital of the Trust Fund as they think fit to, or for the maintenance, education or advancement, or in any other way for the benefit, of, one or more of the Hapu, Whanau or Uri.
- (b) This power to pay, apply or appropriate capital extends to a payment, application, or appropriation of capital made from Income accumulated under clause 3.1 or Surplus Income accumulated under clause 3.4 to or for Hapu, Whanau or Uri, Hapu, Whanau or Uri who at the time of accumulation was not a Hapu, Whanau or Uri.
- (c) Any payment, application or appropriation of capital may be made either in addition to or in place of any payment, application or appropriation of Income.

#### 4.2 **Provisions relating to payments, applications and appropriations of capital**

- (a) At any time before the Distribution Date the Trustees, by written resolution, may transfer any investments to one or more of the Hapu, Whanau or Uri in satisfaction of a payment, application or appropriation under clause 4.1.

- (b) If the Trustees appropriate any capital to a Hapu, Whanau or Uri under clause 4.1, that Hapu, Whanau or Uri will take an absolute and indefeasible interest in that capital as from the date on which it is appropriated.

## **5 CAPITAL TRUSTS FROM THE DISTRIBUTION DATE**

### **5.1 Residual Capital Trusts**

From the Distribution Date, the Trustees will hold the Trust Fund (or what remains of it) in accordance with any determination made by the Trustees under clause 7.6 of Schedule 2.

### **5.2 Further trusts**

If the Trustees make no such determination, or make a limited or partial determination then, from the Distribution Date and in so far as the determination does not extend, the Trustees will hold the Trust Fund (or what remains of it) on trust for such one or more of the Uri (who comprise Hapu and Whanau), in such shares (if any) as the Trustees may determine in their absolute discretion.

## **6 CONDITIONAL PAYMENTS, APPLICATIONS, APPROPRIATIONS**

### **6.1 Conditional Payments**

The Trustees may make any payment, application, appropriation or transfer of Income or capital of the Trust Fund to or for the benefit of any Hapu, Whanau or Uri under clauses 3, 4 or 5 conditional on:

- (a) that Hapu, Whanau or Uri entering into an agreement in relation to the payment, application, appropriation or transfer (whether under section 21 of the Property (Relationships) Act 1976 or otherwise), on terms acceptable to the Trustees; or
- (b) the payment, application, appropriation or transfer being subject to an existing agreement (whether under section 21 of the Property (Relationships) Act 1976 or otherwise), the terms of which are acceptable to the Trustees.

## **7 TRUSTEES**

### **7.1 Appointment and removal**

Trustees may be elected and removed in accordance with the procedure set out in Schedule One.

## **8 TRUSTEE PROCEDURAL PROVISIONS**

### **8.1 Meetings**

The Trustees and the Tatau Tatau Representative will meet as often as they consider desirable for the efficient and proper conduct of the affairs of the Trust, provided that the Trustees and the Tatau Tatau Representative meet no less than four (4) times every year.

### **8.2 Quorum**

A quorum for meetings of the Trustees is a majority of the Trustees in office.

### 8.3 Notice of meetings

- (a) Written notice of every meeting of Trustees will be hand-delivered, posted or sent by email to each Trustee at least 7 days before the date of the meeting.
- (b) Every notice of a meeting will state the place, day and time, subject-matter of the meeting, and may also state the agenda for the meeting.
- (c) The requirement for notice of a meeting may be waived if all the Trustees give their consent to such a waiver.

### 8.4 Adjournment

If a quorum is not present within 30 minutes after the time appointed for any meeting the Trustee or Trustees present may adjourn the meeting.

### 8.5 Resolutions

- (a) Unless specified otherwise in this Deed, a decision is taken and a resolution is validly made when it is passed by a simple majority of those Trustees present and entitled to vote.
- (b) The chairperson does not have a casting vote.
- (c) The Trustees may vary or cancel any resolution at a meeting.
- (d) A written resolution signed by all the Trustees will be as effective for all purposes as a resolution passed at a properly convened and conducted meeting of the Trustees. Such a resolution may comprise several duplicated documents, each signed by one or more of the Trustees.

### 8.6 Reporting

The Tatau Tatau Representative will report to the Trustees on Tatau Tatau activities generally at every meeting held in accordance with clause 8.1.

### 8.7 Minutes

- (a) The Trustees will keep a proper record in a minute book of all decisions taken and business transacted at every meeting of the Trustees.
- (b) Where minutes of the proceedings at a meeting of the Trustees have been made in accordance with the provisions of this clause then, until the contrary is proved, the meeting will be deemed to have been properly convened and its proceedings to have been properly conducted.

### 8.8 Teleconference Meetings

- (a) The Trustees will use best endeavours to meet kanohi ki te kanohi (in person) in accordance with Tikanga. However, if a Trustee or Trustees are unable to attend in person, then a Teleconference Meeting between a number of Trustees who constitute a quorum, will be deemed to constitute a meeting of the Trustees. All the provisions in this Deed relating to meetings will apply to Teleconference Meetings so long as the following conditions are met:
  - (i) all of the Trustees for the time being entitled to receive notice of a meeting will be entitled to notice of a Teleconference Meeting and to be



linked for the purposes of such a meeting. Notice of a Teleconference Meeting may be given on the telephone;

- (ii) throughout the Teleconference Meeting each participant must be able to hear each of the other participants taking part;
- (iii) at the beginning of the Teleconference Meeting each participant must acknowledge his or her presence for the purpose of that meeting to all the others taking part;
- (iv) a participant may not leave the Teleconference Meeting by disconnecting his or her telephone or other means of communication without first obtaining the consent of the chairperson, or if there is no chairperson, the consent of the other participants. Accordingly, a participant will be conclusively presumed to have been present and to have formed part of the quorum at all times during the Teleconference Meeting unless he or she leaves the meeting with such consent; and
- (v) minutes of the proceedings at the Teleconference Meeting will be sufficient evidence of those proceedings, and of the observance of all necessary formalities.

#### 8.9 **Appointment of chairperson**

The Trustees will elect one of their number to act as chairperson on such terms as the Trustees agree. If the chairperson cannot be present at a meeting, or is not present within 10 minutes of the time appointed for any meeting, the Trustees present may elect one of their number to be the chairperson of that meeting.

#### 8.10 **Trustees to prepare and approve Annual Plan**

- (a) The Trustees shall prepare and approve, no later than two months before the commencement of each Income Year, an Annual Plan which shall include:
  - (i) the strategic vision of the Trust;
  - (ii) the objectives of the Annual Plan;
  - (iii) the steps to be taken in relation to the strategic vision of the Trust and the objectives of the Annual Plan;
  - (iv) the performance targets and measurements by which performance of the Trust may be judged, which shall include a description of how the mauri of the Hapu and Whanau are expected to alter in the upcoming Income Year; and
  - (v) any proposals for the ongoing management of the Assets having regard to the interests of Hapu, Whanau or Uri.

## 9 DISCLOSURE OF INTERESTS

### 9.1 Interested Trustee

(a) A Trustee will be interested in a transaction to which the Trust is a party if the Trustee:

(i) is a party to, or will derive a material financial benefit from that transaction;

(ii) has material financial interest in another party to the transaction;

(iii) is a director, officer or trustee of another party to, or person who will or may derive a material financial benefit from the transaction, not being a party that is wholly owned by the Trust;

(iv) is the parent, child or spouse of another party to, or person who will or may derive a material financial benefit from the transaction; or

(v) is otherwise directly or indirectly interested in the transaction.

(b) For the avoidance of doubt, a Trustee will not be interested in a transaction if the same material financial benefit from that transaction will be derived by the majority or a large number of the Uri.

(c) As soon as a Trustee becomes aware of the fact that he or she is interested in a transaction or proposed transaction with the Trust, he or she must disclose to his or her co-trustees:

(i) the nature and monetary value of that interest (if the monetary value of the Trustee's interest is able to quantified); or

(ii) if the monetary value of the Trustee's interest cannot be quantified, the nature and extent of that interest.

(d) A disclosure of interest by a Trustee must be recorded in the minute book of the Trust.

### 9.2 Interested Trustee may not vote

A Trustee who is interested in a transaction entered into, or to be entered into, by the Trust may not vote on, or participate in the discussions on a matter relating to the transaction, nor be included among the Trustees present at the meeting for the purpose of determining a quorum.

### 9.3 Dealing with interested Trustees

Subject to clauses 9.1 and 9.2, each Trustee may act as a Trustee and still contract or otherwise deal with the Trustees in his or her personal capacity or in any other capacity as if he or she had not been appointed as a Trustee.

## 10 LIABILITY, INSURANCE, INDEMNITY AND STANDARD OF CARE

### 10.1 Liability of Trustees

- (a) A Trustee will be liable only for any loss attributable to his or her dishonesty or to his or her wilful commission or omission of an act which he or she knows to be a breach of trust.
- (b) No Trustee will be liable for any loss attributable to any breach of trust by any co-Trustee and nor will any Trustee be bound to take, or liable for failing to take, any proceedings against a co-Trustee for breach or alleged breach of trust.
- (c) For the purposes of this clause 10.1, "Trustee" includes a director of a Corporate Trustee.

### 10.2 Trustees' Liability Insurance

- (a) The Trustees, in respect of one or more of the Trustees, may take out trustees' liability insurance for such cover (including defence cover) and on such terms as the Trustees think fit.
- (b) Rather than having such insurance arranged by the Trustees, a Trustee, in respect of that Trustee, may take out trustees' liability insurance for such cover and on such terms as that Trustee thinks fit.
- (c) In each case, the reasonable cost of premiums is to be treated as a legitimate expense of the Trust, and may be paid directly from the Trust Fund or by way of reimbursement to the Trustees.
- (d) Any insurance cover under this clause 10.2 may extend to the directors of a Corporate Trustee.

### 10.3 Trustees' Indemnity

A Trustee will be entitled to exoneration, indemnity and reimbursement out of the assets of the Trust for any liability (including without limitation, any expenses) which that Trustee incurs in relation to the Trust and which is not attributable to that Trustee's dishonesty or to his or her wilful commission or omission of an act which he or she knows to be a breach of trust. For the purposes of this clause 10.3, "Trustee" includes a director of a Corporate Trustee.

### 10.4 Trustees' Standard of Care

Where a Trustee is engaged in a profession, employment or business which includes acting as a trustee or investing money on behalf of others, then in exercising any power of investment, that Trustee will not be required to exercise the care, diligence and skill that a prudent person engaged in that profession, employment or business would exercise in managing the affairs of others. Rather, that Trustee will be required only to exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others. This clause 10.4 will constitute a contrary intention for the purposes of clause 13D of the Trustee Act 1956. For the purposes of this clause 10.4, "Trustee" includes a director of a Corporate Trustee.



## **11 TRUSTEES' POWERS**

### **11.1 Tikanga is paramount**

- (a) In exercising their powers under this Deed, the Trustees must give effect to the principles set out in this clause 11.1.
- (b) the Trustees will place Tikanga at the forefront when exercising their powers under this Deed.
- (c) Trustees must have regard to the principle that Mana Motuhake and Rangatiratanga rests with the Hapu and Whanau in accordance with Tikanga.
- (d) the Trustees will uphold the Tikanga of the Hapu and Whanau at all times.

### **11.2 Trustees' General Power**

Subject to clause 11.1, the Trustees have the fullest possible powers in relation to the Trust Fund, and they may do anything pertaining to the Trust Fund which they think fit as if they owned it absolutely.

### **11.3 Review of Trust**

The Trust may undertake a review of this Deed within six (6) months of the date from its execution. Then, three (3) years from the date of the first AGM, or earlier if deemed necessary, the Trust shall undertake a review of this Deed and its operation with a view to reporting to the next AGM after the completion of the review on the effectiveness of the arrangements set out in this Deed. The report shall include recommendations as to the amendments (if any) that should be made to this Deed. A review of this Deed shall occur every three (3) years thereafter.

### **11.4 Trustees' Specific Powers**

Without prejudice to the generality of clause 11.2, or to any of the Trustees' express or implied powers, the Trustees will have the powers specified in Schedule Three, and may exercise them either alone or with any other person(s).

### **11.5 Restriction on exercise of Trustees' Powers**

Notwithstanding clauses 11.2 and 11.4, the Trustees must not enter into a Major Transaction unless that Major Transaction is approved by way of Special Resolution in accordance with Schedule Four and due diligence has been conducted on the Major Transaction to which the Special Resolution relates.

## **12 ADVICE OF KAUMATUA**

The Trustees, when exercising powers or performing duties as Trustees, may rely on advice provided by Kaumatua in relation to Te Reo, Whakapapa, Tikanga and Kawa and related matters.

## **13 ADVICE OF COUNSEL**

If the Trustees are in doubt over any matter relating to the administration of the Trust Fund, or over the exercise of any power vested in them, they may obtain and act upon the opinion of a barrister or solicitor of the High Court of New Zealand who has held a practicing certificate for at least 7 years, and they may act upon the

barrister's or solicitor's opinion without being liable to any person who may claim to be beneficially interested in respect of anything done in accordance with that opinion. This right to obtain and act upon a barrister's or solicitor's opinion, however, will not restrict the Trustees' right to apply to the High Court of New Zealand for directions.

#### **14 AUDIT, ANNUAL REPORT AND FINANCIAL STATEMENTS**

- 14.1 At their first meeting in each Income Year the Trustees will present a report dealing with the affairs of the Trust, supported by a statement of the Trust's income and expenditure during the previous Income Year and a statement of its assets and liabilities at the end of that Income Year. The report must also include a statement about the mauri or wellbeing of the Hapu, Whanau or Uri and the achievement of measurements set out in the Annual Plan.
- 14.2 The Trustees must ensure that the financial statements of the Trust for each Income Year are audited by a chartered accountant in public practice generally within 4 months after the end of that Income Year or in any event, prior to the next AGM. The person appointed as auditor must not be a Trustee.

#### **15 CONTROL OF FUNDS**

All money received by or on behalf of the Trust will be paid immediately to the credit of the Trust in an account or accounts with a Bank or Banks selected from time to time by the Trustees. All cheques and other negotiable instruments, withdrawal slips and receipts for money will be signed, drawn, accepted, endorsed or otherwise executed (as the case may be) on behalf of the Trust in such manner as the Trustees decide from time to time.

#### **16 ANNUAL GENERAL MEETING**

##### **16.1 Procedure**

- (a) The Trustees must call an AGM of the Members no less than 6 months after the Balance Date, provided that the AGM must not be scheduled on the same date as the date for the AGM for Tatau Tatau.
- (b) The AGM must be advertised not less than 30 working days' in advance, by way of newspaper advertisement and/or any other means as determined by the Trustees having regard to the reasonable costs of notification including email and social media, and must state the agenda of the AGM (including whether the results of an election of Trustees will be notified, if any).
- (c) One or more Special Resolutions may also be considered at an AGM, so long as the "Procedure for passing a Special Resolution" in accordance with Schedule Four is followed as if the AGM was an SGM (though other AGM business can also be transacted). The business of the AGM must include:
- (i) the chairperson's report;
  - (ii) presentation by the Trustees of an annual report for the previous Income Year, including an explanation of the Trust's general activities;

- (iii) presentation by the Trustees of financial statements for the previous Income Year;
  - (iv) presentation by the Trustees of the Annual Plan for the previous Income Year, including an explanation of the Trust's performance or non-performance of the matters in the Annual Plan for the previous Income Year;
  - (v) presentation by the Trustees of the Annual Plan prepared and approved by the Trustees for the next Income Year including an explanation of the matters in the Annual Plan for the next Income Year;
  - (vi) approval of the appointment of the auditor for the next Income Year;
  - (vii) presentation by the Tatau Tatau Representative on Tatau Tatau general activities;
  - (viii) announcing the names of all newly elected Trustees in accordance with Schedules One (if applicable);
  - (ix) approval of the Trustees' remuneration;
  - (x) setting a date for the next AGM; and
  - (xi) any other general business as determined by the Trustees.
- (d) A quorum for an AGM is 35 Adult Members.

#### 16.2 **Approval of Trustees' remuneration and appointment of auditor**

- (a) Subject to clause 16.2(b), no remuneration will be paid to a Trustee in his or her capacity as a Trustee unless that remuneration has been authorised by a resolution of the Adult Members present at the AGM. Each such resolution will express the remuneration to be paid to the Trustees as a monetary sum per annum payable either to all Trustees taken together or to any person who from time to time holds office as a Trustee.
- (b) Clause 16.2(a) does not apply to any remuneration paid to the Initial Trustees or any co-opted Trustee appointed under Schedule One. Remuneration shall be set by the Initial Trustees or any co-opted Trustee for the period they hold office, on the basis of professional advice they must seek.
- (c) The appointment of the auditor for the next Income Year must be authorised by a resolution of the Adult Members present at the AGM.
- (d) A resolution of the Adult Members present at an AGM is validly made when it is passed by show of hands by a simple majority of those Adult Members present and entitled to vote.



## 17 URI RIGHTS

### 17.1 Rights to Trust Information

- (a) If requested to do so by any Hapu, Whanau or Uri or any of them, in writing, the Trustees will, subject to clause 17.1(b), provide such Trust Information within a reasonable time of receiving such request.
- (b) The Trustees will consider any request for Trust Information under clause 17.1(a) having regard to the following factors:
  - (i) any issues of personal or commercial confidentiality;
  - (ii) the practicality of providing information where there is a large number of Uri;
  - (iii) the age and circumstances of the Uri;
  - (iv) the impact of provision of the requested Trust Information on the Trustees, other Hapu, Whanau or Uri, the Trust Fund and Trust property and third parties;
  - (v) the impact of provision of the requested Trust Information on family relationships, relations between Hapu, Whanau or Uri, relations between Trustees and Hapu, Whanau or Uri; and
  - (vi) whether the provision of the requested Trust Information is, in the opinion of the Trustees based on reasonable grounds, in the best interests of Hapu, Whanau or Uri as a whole.
- (c) Taking all such factors into account together with any other matters the Trustees consider relevant, the Trustees will decide:
  - (i) what (if any) of the requested Trust Information should be provided to the Hapu, Whanau or Uri;
  - (ii) whether such Trust Information is to be provided in full or in redacted form; and
  - (iii) whether and if so, what safeguards should be imposed on the provision and/or use of the Trust Information.
- (d) Uri, Whanau or Hapu may be charged for the reasonable costs of the provision by the Trustees of the Trust Information requested by that Uri, Whanau or Hapu.

## 18 RELATIONSHIP WITH TATAU TATAU

### 18.1 The Trust a Beneficial Entity of Tatau Tatau

- (a) It is intended that the Trust will be a Beneficial Entity of Tatau Tatau as contemplated in the Tatau Tatau Trust Deed as the representative of the interests of all of the Uri of the Kahui.

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- (b) The Trust, in its capacity as a Beneficial Entity of Tatau Tatau, will not become independent of Tatau Tatau in accordance with the Tatau Tatau Trust Deed unless independence is approved by way of Special Resolution in accordance with Schedule Four.
- (c) The Trustees will make all other decisions as the holders of units in Tatau Tatau, including but not limited to the transfer of units.

#### 18.2 **Election of the Tatau Tatau Representative**

For so long as the Trust is a Beneficial Entity in Tatau Tatau, the Adult Members who have chosen to Te Wairoa Tapokorau 1 (refer to section 3.5 (a) p8 Tatau Tatau TD) as their primary Kahui will elect one of their number who is 20 years or older and Ahi Kaa (or a member chosen at the discretion of the Ahi Kaa) to be the Tatau Tatau Representative for the Beneficial Entity and act as a director of the corporate trustee of Tatau Tatau in accordance with Schedule One.

#### 18.3 **Reporting**

The Tatau Tatau Representative will report to Tatau Tatau on all business covered at the AGM and the Kahui activities generally within 3 months of the AGM.

#### 18.4 **Appointment of members of Kaumatua Council**

The Trustees will appoint one Kaumatua to the Kaumatua Council from time to time in accordance with the Tatau Tatau Trust Deed based on recommendations of the Adult Members.

### 19 **DISPUTE RESOLUTION**

#### 19.1 **Disputes**

In the event that a dispute arises between:

- (a) any Members; or
- (b) the Trustees and any Members,

regarding membership of the Trust, the Trust generally or otherwise in connection with the Tikanga, Reo, Kawa, Whakapapa or Korero of the Beneficial Entity as representative of the Kahui then that dispute will be referred in first instance to the Trustees.

#### 19.2 **Notice of Disputes**

- (a) All disputes referred to the Trustees in accordance with clause 19.1 will be submitted to the Trustees by notice in writing and the Trustees will acknowledge receipt in writing within 10 working days of the date of receipt of the notice.
- (b) Upon receipt of the notice Trustees will contact the affected parties and (if appropriate) assist in convening a hui to resolve the dispute.

#### 19.3 **Formal reference to Disputes Committee**

If the dispute is not resolved within 30 working days of the receipt by the Trustees of written notice of the dispute in accordance with clause 19.2, then it will be

referred to a Disputes Committee constituted in accordance with clauses 19.4 and 19.5.

**19.4 Disputes Committee to be appointed as required**

There will not be a permanent Disputes Committee, but the Trustees will appoint a Disputes Committee:

- (a) on a case by case basis having regard to the precise subject matter of the dispute in question; and
- (b) only after the expiry of the 30 working day period referred to in clause 19.3.

**19.5 Appointment and composition of Disputes Committee**

A Disputes Committee will comprise three Members appointed by the Trustees as follows:

- (a) one Kaumatua;
- (b) one Adult Member appointed for their skills and expertise in dealing with the issues that are the subject of the relevant dispute, provided that such Member cannot also be Trustee or employee of the Trust; and
- (c) one independent (non-Member) individual, such individual to be a barrister or solicitor with 7 or more years' experience or expert with equivalent experience in the relevant field the subject of dispute.

**19.6 Role of Disputes Committee**

The role of a Disputes Committee will be to facilitate and make findings and decisions on the disputes referred to it.

**19.7 Hui to resolve disputes**

The Disputes Committee may convene a hui between the affected parties. Such hui shall be held in accordance with Tikanga. The location for the Hui shall be determined by the Disputes Committee unless the affected parties agree on a suitable location. The affected parties may invite support people to the hui such as Whanau. The requirements of this clause shall also apply to any hui convened under clause 19.2(b).

**19.8 Deliberations of Disputes Committee**

In dealing with any dispute a Disputes Committee will, subject to meeting the requirements of natural justice, have the sole discretion to call for evidence and determine the manner in which a dispute before it should be dealt with. The findings and decisions of a Disputes Committee will be final and binding on the parties.

**19.9 Notification of Outcome**

A Disputes Committee will give its findings and decision, together with reasons, in writing to the Trustees and any other party to the dispute.

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## 20 RESETTLEMENT OF THE TRUST FUND

At any time before the Distribution Date the Trustees may resettle (without infringing the Perpetuity Period) all or part of the Income or capital of the Trust Fund on the trusts and with the powers of any other trust approved by the Trustees, being a trust for the benefit of one or more Hapu, Whanau or Uri, so long as such resettlement is approved by way of Special Resolution in accordance with Schedule Four.

20.1 There is to be no fragmentation of Assets at Kahui or Trust level.

## 21 VARIATIONS

### 21.1 Variations by deed

(a) The Trustees may by revocable or irrevocable deed vary the terms of this Deed as long as in doing so:

- (i) the Perpetuity Period is not infringed;
- (ii) the Trustee are of the opinion that the variation will benefit all or any one or more of the Uri as members of Hapu and Whanau;
- (iii) the variation does not affect the beneficial entitlement of any Uri to any amount set aside by the Trustee for that Uri before the date of the variation;
- (iv) the variation is approved by way of Special Resolution in accordance with Schedule Four;
- (v) the variation does not undermine the Mana Motuhake and Rangatiratanga of the Hapu and Whanau; and
- (vi) the variation is not inconsistent with Kawa and Tikanga.

(b) The powers granted by this clause 21.1 are in addition to and not in derogation of any applicable statutory power to vary the trusts of this deed.

## 22 GOVERNING LAW

### 22.1 New Zealand forum

This Deed is governed by and construed in accordance with New Zealand law until the forum of administration and jurisdiction is changed under clause 22.2.

### 22.2 Change of forum

At any time the Trustees may change the forum of administration and jurisdiction by way of deed, in which event the Trust will be governed according to the laws of the new forum of administration and jurisdiction adopted by the Trustees.

## 23 WITHDRAW OPTION

Te Wairoa Tapokorau Cluster 1 and this Trust may 'withdraw' from Tatau Tatau o Te Wairoa Trust through its own process as well as through the independence option outlined in the Tatau Tatau o Te Wairoa Trust Deed at clause 11.

## **SCHEDULE ONE: ELECTION AND REMOVAL OF TRUSTEES AND THE TATAU TATAU REPRESENTATIVE**

### **1 Construction**

Unless stated otherwise, reference to clauses are reference to clauses in this Schedule.

### **2 This Schedule to apply**

The Trustees and the Tatau Tatau Representative must be elected to office in accordance with the rules and procedures set out in this Schedule.

### **3 Number of Trustees and Tatau Tatau Representative**

3.1 Other than the Initial Trustees (of which there will be seven (7)), or where a sole Corporate Trustee is appointed, there must be no fewer than five (5) and no more than seven (7) Trustees at any time.

3.2 Except for the Initial Tatau Tatau Representatives of which there will be two (2), there must only be one (1) Tatau Tatau Representative at any time.

### **4 Initial Trustees and Initial Tatau Tatau Representatives**

4.1 The Initial Trustees are Oha Manuel, Bubby Maranui McGregor, Peter Riki Mihaere, Phillecity Wilson, Rangimarie Pere, Jennifer Robinson and Austin Royce King.

4.2 Upon ratification of the unit trust model for Tatau Tatau, the Initial Tatau Tatau Representatives are Oha Manuel and Bubby Maranui McGregor.

### **5 Corporate Trustee**

5.1 A sole Corporate trustee may be appointed in the place of the natural person Trustees provided that the directors of the sole Corporate Trustee are elected by the Adult Members who choose Te Wairoa Tapokorau 1 as their primary Kahui (refer to clause 3.5(a), p8 of the Tatau Tatau o Te Wairoa Trust Deed 2018) in the manner of the election of natural person Trustees under this Schedule.

5.2 The Trustees have the power to appoint a sole Corporate Trustee that complies with the requirements as to director election in clause 5.1 above to act as Trustee in their place. Any such sole Corporate Trustee will have the power to appoint a replacement Corporate Trustee, again provided that the requirements as to director election in clause 5.1 above are complied with.

5.3 If the Trustees propose to appoint a Corporate Trustee or replacement Corporate Trustee they will raise it in the general business of an AGM as a notification to the attendees prior to the appointment and may only exercise the appointment following that meeting and notification.

5.4 If a sole Corporate Trustee is appointed then the persons who were Trustees on the day of appointment of the corporate as Trustee will be the first directors of the Corporate Trustee and will serve the remainder of the terms that they would have served as Trustees.

5.5 In the case of the appointment of a sole Corporate Trustee, the clauses in this Schedule from clause 6 to clause 20 will apply to the nomination and appointment of directors of that Corporate Trustee and the words 'Director of the corporate Trustee' will be substituted for the word 'Trustee' in each place where it appears in those clauses, with the following exceptions:

- (a) any references to Initial Trustees;
- (b) any references to First Elected Trustees;
- (c) in clauses 11.1, 11.2, 11.2(c), 11.4, 13.1, 13.2, 14.1 (the first two instances in that clause only), 16.3, 16.6, 17, 19.1(a) of this Schedule, where the reference to Trustees will read 'Trustee', being the sole Corporate Trustee.

## 6 **Election of Trustees**

6.1 Other than for the Initial Trustees, elections will be held to elect the Trustees of the Trust.

6.2 The first election will be held prior to the first AGM, in order to elect the First Elected Trustees.

6.3 After the first election and first AGM, elections will be held prior to every third anniversary of the first AGM to elect Trustees.

## 7 **Election of the Tatau Tatau Representative**

7.1 Elections will be held to elect the Tatau Tatau Representative to be a director of the corporate trustee of Tatau Tatau.

7.2 The first election will be held no later than four (4) months after the ratification of the unit trust model for Tatau Tatau, to elect the First Elected Tatau Tatau Representative.

7.3 After the first election, elections will be held prior to every third anniversary of the first AGM to elect the Tatau Tatau Representative.

## 8 **Eligibility to be a Trustee or Tatau Tatau Representative**

8.1 The Adult Members who choose Te Wairoa Tapokorau 1 as their primary Kahui (refer to clause 3.5(a), p8 of the Tatau Tatau o Te Wairoa Trust Deed 2018) will elect the Trustees of Te Wairoa Tapokorau Mai Tawhiti and the Tatau Tatau Representative from their number. There is no prohibition on:

- (a) a present or previous Trustee or a candidate to be a Trustee being elected or holding the Tatau Tatau Representative position; or
- (b) a present or previous Tatau Tatau Representative being elected or holding a Trustee position.

8.2 To be eligible to be a Trustee or a Tatau Tatau Representative, a person must:



- (a) be a Member who is 20 years or older;
- (b) not be disqualified from being a director under the Companies Act 1993; and
- (c) in the case of the Tatau Tatau Representative, be Ahi Kaa.

**9 Term of office**

- 9.1 Subject to clauses 9.2 and 8.3, the Trustees and the Tatau Tatau Representative (other than a Trustee or a Tatau Tatau Representative co-opted in accordance with clauses 17 and 18 below) will hold office for a term of three (3) years from the date of election, but will be eligible for re-election for a further term or terms.
- 9.2 At the end of the first AGM following the date of this Deed, the Initial Trustees will retire from office and the First Elected Trustees will be elected.
- 9.3 At the end of the first election for the First Elected Tatau Tatau Representative (to be held no later than four (4) months after the ratification of the unit trust model for Tatau Tatau), the Initial Tatau Tatau Representatives will retire from office and the First Elected Tatau Tatau Representative will be elected.
- 9.4 To ensure orderly rotation of Trustees, the First Elected Trustees will retire by rotation on terms agreed between them, but failing agreement, at the end of the third AGM, half of the First Elected Trustees for the time being or the number nearest to half will retire from office and the remaining First Elected Trustees will serve their full three (3) year term.
- 9.5 Nothing in clause 9 restricts the Initial Trustees who have retired or the First Elected Trustees who have retired early because of rotation from seeking re-election for a further term or terms.
- 9.6 The First Elected Trustees to retire in each election year will be determined by lot if the Trustees cannot agree amongst themselves.

**10 Eligibility to vote and to nominate**

Each Adult Member who choose Te Wairoa Tapokorau 1 as their primary Kahui (refer to clause 3.5(a), p8 of the Tatau Tatau o Te Wairoa Trust Deed 2018) is an eligible voter for Trustees.

**11 Nomination of Trustee candidates**

- 11.1 At least 3 months prior to the first AGM (in the case of the election for the First Elected Trustees) and every third anniversary of the first AGM thereafter, the Trustees must give notice of an election of Trustees and call for the nomination of candidates.

- 11.2 Notice under clause 11 must be given:

- (a) by posting or sending to a physical or electronic address the Trustees hold for an Adult Member;

- (b) by newspaper advertisement, published on at least two separate days in a newspaper the Trustees consider circulates in an area where a significant number of Adult Members reside; and
- (c) any other means as determined by the Trustees, including email and social media.

11.3 Such notice must specify:

- (a) the method of nominating candidates; and
- (b) the latest date by which nominations must be made and lodged with the Trustees.

11.4 All nominations must be lodged with the Trustees no later than 1 month following the date upon which the notice calling for nominations is given, being the *Nominations Closing Date*.

11.5 The intention is that each nominee will have the following skills and attributes:

- (a) leadership and governance experience;
- (b) experience, skill and knowledge in Tikanga and the Ahi Kaa way of life;
- (c) experience, skill and knowledge in networking, negotiation and business leadership; and
- (d) a commitment to meeting the needs and aspirations of the Hapu, Whanau or Uri.

11.6 Each Adult Member may:

- (a) nominate themselves as a candidate to be a Trustee; or
- (b) nominate one other person as a candidate to be a Trustee.

11.7 Each nomination must include:

- (a) written consent to the nomination from the nominee; and
- (b) a declaration from the nominee that he or she:
  - (i) is not precluded from holding office as a Trustee on the basis of a matter specified in clause 8.2 above; and
  - (ii) agrees to be bound by the terms of this Deed and any other relevant Trustee obligations if that nominee is elected as a Trustee.



**12 Requirement for election following nominations**

12.1 If, at the Nominations Closing Date, the number of eligible nominees for Trustee positions:

- (a) exceeds the number of vacant Trustee positions, then an election for Trustees will be held in accordance with clauses 13 to 16;
- (b) equals the number of vacant Trustee positions, an election for Trustees need not be held, and the nominees eligible for election will be deemed to be elected as Trustees; or
- (c) is less than the number of vacant Trustee positions, further nominations for Trustees will be called for until the number of nominees is equal to the number of vacant Trustee positions, at which point the nominees eligible for election will be deemed to be elected as Trustees.

**13 Notice of Election**

13.1 If an election is required to be held under clause 12 for Trustees, then immediately following the Nominations Closing Date, the Trustees must fix a closing date for the election, being:

- (a) the last day upon which a vote may be validly cast; and
- (b) at least four days before the AGM,

(the *Election Closing Date*).

13.2 The Trustees will give not less than 1 months' notice to each Adult Member of the Election Closing Date, and the mode of voting as described in the below clause 15.

13.3 Notice under this clause 13 must take the form of notice required for nominations under clause 11.2, but must specify:

- (a) the list of nominees for vacant Trustee positions (if applicable);
- (b) details on the method of voting;
- (c) the Election Closing Date; and
- (d) for notice posted or emailed to an Adult Member who choose Te Wairoa Tapokorau 1 as their primary Kahui (refer to clause 3.5(a), p8 of the Tatau Tatau o Te Wairoa Trust Deed 2018) a valid voting form that contains sufficient information to identify the Adult Member to whom the form was sent.

**14 Returning Officer**

14.1 The Trustees will appoint a Returning Officer for the purposes of any election. The Trustees may appoint anyone they think fit to perform the tasks of the Returning Officer, provided that a Trustee or a nominee may not act as Returning Officer.

- 14.2 The Returning Officer is responsible for co-ordinating the election, and may appoint others to assist with that co-ordination as they consider necessary, provided that such persons may not be a Trustee or a nominee.

## 15 **Mode of voting**

- 15.1 Voting at the initial elections can be by show of hands.
- 15.2 Voting at any election will be by show of hands or by a secret ballot at the discretion of the majority of the registered Adult Members who choose Te Wairoa Tapokorau 1 as their primary Kahui (refer to clause 3.5(a), p8 of the Tatau Tatau o Te Wairoa Trust Deed 2018) at a Hui called for the determination of whether the forthcoming election will be by show of hands or secret ballot. Each Adult registered member who have chosen Te Wairoa Tapokorau Cluster 1 as their primary Kahui will each have one vote for one nominee in respect of each Trustee position that is vacant.
- 15.3 An Adult Member who chooses Te Wairoa Tapokorau 1 as their primary Kahui (refer to clause 3.5(a), p8 of the Tatau Tatau o Te Wairoa Trust Deed 2018) that is also a nominee may vote for him or herself.
- 15.4 Voting forms must be delivered to the Returning Officer by way of post, or electronic means. The Returning Officer must ensure each Adult Member who chooses Te Wairoa Tapokorau 1 as their primary Kahui (refer to clause 3.5(a), p8 of the Tatau Tatau o Te Wairoa Trust Deed 2018) votes only once in respect of each vacant Trustee position.

## 16 **Election of nominees**

- 16.1 On the third day following the Election Closing Date, the Returning Officer must record and count all votes validly cast.
- 16.2 Votes are validly cast if received by the Returning Officer by the third day following the Election Closing Date, provided that the envelope containing the voting form is post-marked on or before the Election Closing Date.
- 16.3 Once all the votes have been counted and recorded by the Returning Officer, and the results of the election determined, the Returning Officer will inform the Trustees of the results.
- 16.4 The number of highest polling nominees for Trustee positions, corresponding to the number of vacant Trustee positions will be elected as Trustees.
- 16.5 Where there is an equality of valid votes between eligible nominees, and the maximum number of Trustees has been elected, the Returning Officer will inquire as to whether any of the nominees wish to concede election to the other highest polling nominee and if such concession is made, the other highest polling nominee will be deemed to be elected. If no such concession is made, the election will be determined by lot.
- 16.6 The Trustees will inform the nominees of the election results, and announce the name of all newly appointed Trustees at the AGM.

16.7 Elected nominees for Trustee positions take office immediately following the AGM of the Trust.

**17 Co-opting Trustees**

17.1 Other than in the case of the Initial Trustees, or where there is a sole corporate Trustee, if at any time a Trustee ceases to hold their position under clause 19.1(a) to 19.1(f) the Trustees may co-opt any person eligible for election under clause 8.2 to replace the Trustee who has ceased to hold their position, to have the full rights and powers of a Trustee in accordance with this Deed and any other law.

17.2 Where a Trustee has been co-opted under clause 17.1, that Trustee must retire at the next scheduled election where the Trustee the co-opted Trustee is replacing would have been required to retire. The co-opted Trustee may be nominated for election at that election.

**18 Co-opting Tatau Tatau Representative**

18.1 Other than in the case of the Initial Tatau Tatau Representatives, if a Tatau Tatau Representative ceases to hold their position under clause 19.1(a) to 19.1(f) or clause 19.3 the Trustees may co-opt any person eligible for election under clause 8.2 to replace the Tatau Tatau Representative who has ceased to hold their position, to have the full rights and powers of the Tatau Tatau Representative in accordance with this Deed and any other law.

18.2 Where the Tatau Tatau Representative has been co-opted under clause 18.1, that Tatau Tatau Representative must retire at the next scheduled election where the Tatau Tatau Representative the co-opted Tatau Tatau Representative is replacing would have been required to retire. The co-opted Tatau Tatau Representative may be nominated for election at that election.

**19 Termination of office**

19.1 A Trustee or a Tatau Tatau Representative will cease to hold their position if he or she:

- (a) retires from office by giving written notice to the Trustees or the secretary of the Trust;
- (b) refuses to act;
- (c) is absent without leave from 3 consecutive ordinary meetings of the Trustees, without reasonable excuse;
- (d) becomes physically or mentally incapacitated to the extent that in the opinion of the other Trustees, expressed in a resolution, he or she is unable to perform the duties of a Trustee properly;
- (e) ceases to fulfil the eligibility requirements for election under clause 8.2;
- (f) becomes bankrupt; or
- (g) completes his or her term of office without being re-appointed.



19.2 All Trustees will cease to be Trustees if they are replaced by a sole corporate trustee in accordance with clause 5.2 of this Schedule.

19.3 In addition to the matters in clause 19.1(a) to 19.1(g) above, a Tatau Tatau Representative will cease to hold their position if he or she:

(a) is censured under the Tatau Tatau Trust Deed for acting in a manner that brings or is likely to bring into disrepute Tatau Tatau or any member of the Tatau Tatau o Te Wairoa Group; or

(b) the Trust becomes independent of Tatau Tatau under clause 18.1(b).

20 **Record of changes of Trustees and the Tatau Tatau Representative**

Upon every election, appointment, retirement, re-election, re-appointment or termination of office of any Trustee or Tatau Tatau Representative, the Trustees will ensure that an entry is made in the minute book of the Trust to that effect for administrative purposes and so that any statutory requirements as to the vesting of the Trust Fund in the Trustees are satisfied.

21 **Validity of Proceedings**

Where, for any reason, a Trustee or a Tatau Tatau Representative is not properly elected or is disqualified from holding office, anything done by that Trustee or Tatau Tatau Representative (or by a meeting at which that Trustee or Tatau Tatau Representative was present as a Trustee) before discovery of the irregularity, will be as valid as if that Trustee or Tatau Tatau Representative had been duly elected or had not been disqualified (as the case may be).

## SCHEDULE TWO: TRUSTEES' POWERS

### 1 Powers of investment

#### 1.1 *To invest*

To invest the Trust Fund, and the income from it, in any form of investment, and to vary any such investment from time to time.

#### 1.2 *To retain investments*

To retain any investments coming into the Trustees' hands as part of the Trust Fund for as long as the Trustees think proper, even if they are not investments which could be properly made by a trustee.

#### 1.3 *To hold the Trust Fund uninvested*

To hold any part of the Trust Fund uninvested and in any currency for as long as the Trustees think fit without being liable for any loss due to devaluation or any foreign exchange or other governmental restriction.

#### 1.4 *Investment Policy*

To have regard in formulating investment policy and making investment decisions from time to time to such matters as the Trustees consider in their absolute discretion appropriate having regard to the interests of the Hapu, Whanau or Uri or any of them from time to time.

#### 1.5 *To appoint an investment manager*

To appoint any person as an investment manager to invest and manage all or any investments forming part of the Trust Fund in accordance with the investment policies determined by the Trustees from time to time, on such terms as the Trustees think fit, including regular review of the investment manager's performance.

#### 1.6 *To deposit funds*

To deposit all or part of the Trust Fund in any currency in a savings or other interest or non-interest bearing account with any bank, trust, company or other financial or investment institution in any jurisdiction in the world. In making any deposit the Trustees will not be liable for any loss due to devaluation or any foreign exchange or other governmental restriction.

#### 1.7 *No Diversification*

To hold investments from time to time without any obligation to diversify between types and nature of investments without being liable for any resultant loss to the Trust Fund.

#### 1.8 *To hold units*

To hold units in Tatau Tatau in accordance with the Tatau Tatau Trust Deed and to exercise all powers and rights in relation to those units under the Tatau Tatau Trust Deed.

### 2 Funding

#### 2.1 *To borrow*

To borrow any money at whatever rate of interest and upon whatever other terms and conditions the Trustees may think fit. For this purpose the Trustees may give

security for repayment over the entire Trust Fund or any part of it, whether or not any part over which the security is given benefits from the borrowing.

2.2 *To lend*

To make any loans or advances (with or without security and with or without payment of interest) to any person in such manner and on such terms and conditions as the Trustees think fit. In particular, but without limiting the foregoing, the Trustees may make loans or advances, with or without security and with or without payment of interest and otherwise on such terms as they think fit, to any Hapu, Whanau or Uri.

2.3 *To provide guarantees and give security*

To enter into any guarantee or indemnity which the Trustees consider to be in the best interests of the Trust Fund or any Hapu, Whanau or Uri, and to give security for the guarantee or indemnity obligations over the entire Trust Fund or any part of it, whether or not any part over which the security is given benefits from the guarantee or indemnity.

2.4 *Bank accounts*

To open and maintain any bank accounts in any name(s) either on the Trustees own behalf or jointly with some other person(s), and to overdraw any such account with or without giving security. The Trustees may also make arrangements with any bank for any one or more of the following persons to operate on any of the Trustees' accounts at that bank:

- (a) the Trustees; and
- (b) any delegate(s) named in writing by all the Trustees.

2.5 *To waive debts and effect compromises*

The Trustees will have power without being liable for loss to:

- (a) waive any debts due to the Trust Fund, either absolutely or on such terms as the Trustees think expedient;
- (b) accept any property whether movable or immovable before the time at which it is transferable or payable;
- (c) pay or allow any debt or claim on any evidence which they may think sufficient;
- (d) accept any composition or any security movable or immovable for any debt or any property due to or claimed by the Trustees;
- (e) allow any time for payment of any debt; and
- (f) compromise, compound, abandon, submit to arbitration or otherwise settle any debt, account, claim or otherwise relating to the Trust Fund without being liable for any loss to the Trust Fund thereby occurring.



### 3 **Real and Personal Property**

#### 3.1 *To purchase property*

To purchase as an asset of the Trust Fund any property or interest in property which the Trustees consider will benefit the Trust Fund. In exercising this power the Trustees will not be taken to be exercising a power of investment.

#### 3.2 *To sell*

To sell any real or personal property forming part of the Trust Fund in the manner and on the terms and conditions the Trustees think fit, including (without limitation) power to allow such part of the purchase price as the Trustees think fit to remain on loan, with or without security and with or without payment of interest, or to be payable by instalments.

#### 3.3 *To postpone sale*

To postpone the sale of any real or personal property forming part of the Trust Fund for as long as the Trustees think fit without being liable for any resultant loss to the Trust Fund.

#### 3.4 *To let*

To let or licence any real and personal property at such rent and on such terms and conditions (including an option to purchase) as the Trustees think fit, and to accept surrenders of any leases, licences and tenancies.

#### 3.5 *To subdivide*

To subdivide any real property forming part of the Trust Fund and meet the costs of subdivision out of the Trust Fund.

#### 3.6 *To maintain property*

To maintain, manage and improve property which, or any interest in which, forms part of the Trust Fund, in whatever manner the Trustees think fit. For those purposes, the Trustees may pay and apply any of the capital and income of the Trust Fund as they think fit.

#### 3.7 *To develop*

To spend any sums out of the capital or income of the Trust Fund the Trustees think fit in developing any real property forming part of the Trust Fund, and to dedicate any roads required in respect of the development.

#### 3.8 *To grant and acquire options*

To grant, acquire, dispose of and exercise any option to purchase, lease or exchange any interest in real or personal property of any value, whether the option is incidental to, or independent of, any sale, lease, exchange or other disposition. An option may be granted, acquired or disposed of on such terms and conditions as the Trustees think fit, and in respect of a grant, may be granted at a price determined at the time of the grant or at such later date as the Trustees think fit. The Trustees will not be personally liable for any loss arising from their exercise of this power and will be indemnified accordingly out of the Trust Fund.

3.9 *To permit occupation of property*

To permit any person to occupy or use any real property forming part of the Trust Fund free of rent or with payment of outgoings and maintenance in place of rent, or otherwise, and generally on such terms and conditions as the Trustees think fit.

3.10 *To insure*

To insure any building or other insurable property to any amount up to its full insurable value, or at the Trustees' option, up to its full replacement value, against destruction or damage by fire, earthquake, fire following earthquake and such other risks as the Trustees think fit. The Trustees may effect any such insurances and pay the premiums out of income or capital without obtaining the consent of any of the Hapu, Whanau or Uri of the Trust Fund.

3.11 *To protect or enhance assets*

To enter into any type of contract whatever to protect, maintain or enhance the value of any assets acquired or held by the Trustees or which they have the right to acquire or hold.

4 **Carrying on business**

4.1 *To carry on business*

(a) To carry on any business anywhere in the world, whether through a company, in partnership, limited partnership, joint venture or otherwise, for as long as the Trustees think fit. The Trustees may use any part of the Trust Fund as capital in the business, and may also employ in the business such managers, agents, employees and other persons (including any Trustee or anyone who for the time being is the sole Trustee of the Trust Fund) as they think fit.

(b) The Trustees will be absolutely indemnified out of the Trust Fund for any losses which they may sustain in so carrying on any such business.

(c) Subject to the terms and conditions on which any business is carried on by the Trustees, the net annual profits from any business will, at the Trustees' discretion, be distributable as Income in the Trustees' hands without having to be first applied in making good any earlier business losses. Any business losses for any year, unless the Trustees decide otherwise, will be borne by the capital of the Trust Fund and not recouped out of later profits.

4.2 *To act in relation to certain companies*

In respect of any company in which the Trust Fund holds or is the beneficial owner of shares, notes, stock or debentures:

(a) to act as a director of the company and to receive and retain fees or other remuneration for so acting without having to account to the Trust Fund, unless the Trustees otherwise require;

(b) to provide out of the Trust Fund on such terms as the Trustees think fit further capital for the company either by way of advances, loans, deposits or otherwise (with or without security and with or without payment of interest) or by taking further shares in the company;



- (c) to concur in the winding up, reconstruction or amalgamation of the company or in the modification of its regulations, on whatever terms the Trustees think fit; and
- (d) generally to act in relation to the company in whatever manner the Trustees consider to be in the best interests of the Trust Fund.

4.3 *To accept payment in company securities*

In the sale of any business to a company, to accept payment for all or part of the purchase price in ordinary deferred or preference shares (whether fully paid or partly contributory) or debentures or debenture stock of such company. In exercising this power the Trustees will not be taken to be exercising a power of investment.

4.4 *To promote a company*

To promote, form or concur in forming a company or companies for any purpose, including the purpose of acquiring any business or the assets of any business.

4.5 *Not bound to interfere in business*

The Trustees will not be bound to participate or interfere in the management or conduct of any company, partnership or limited partnership, any shares or interest in which may be comprised in the Trust Fund and so long as the Trustees have no notice of any misconduct on the part of the officers of the company or managing or general partners of the partnership, the Trustees will incur no liability in leaving the conduct of the business of such company or partnership wholly to the officers of the company or managing or general partners of the partnership (including the payment of dividends or any distributions) wholly to the officers of the company or managing or general partners of the partnership. Nor will the Trustees be bound to obtain additional information regarding the affairs of the company or partnership over and above what would ordinarily be available to a shareholder or partner in the ordinary course of business and no Whanau/Hapu will be entitled to oblige the Trustees to procure distributions or dividends or other payments or otherwise interfere in the company or partnership.

5 **Delegation, employees, agents, attorneys**

5.1 *To appoint officers or employees*

The Trustees may appoint persons as officers or employees (including Trustees) of the Trust if, in their opinion, the affairs of the Trust require such appointments, on such terms and conditions as they think fit. The Trustees may also remove and replace any person so appointed.

5.2 *To delegate collectively administrative functions*

To employ and pay a person or persons to be an agent or attorney of the Trustees and to authorise them to exercise or perform any or all of the functions of the Trustees except Excluded Functions on such terms and conditions as the Trustees think fit provided that such authorisation is given in writing and such arrangements are kept under review. For the purposes of this clause, Excluded Functions means a function that is, or is related to:

- (a) the exercise of a discretion to pay, apply or appropriate or decide to pay, apply or appropriate, the whole or any part of the Trust Fund;



- (b) the exercise of a discretion to determine whether any payment from the Trust Fund is a payment from Income or capital;
- (c) the exercise of a discretion to determine whether any payment received by the Trustees should be appropriated to Income or capital;
- (d) a right conferred on Trustees to apply to the Court; or
- (e) a right to delegate the exercise of the Trustees' functions.

## 6 **Contracts**

### 6.1 *To enter into contracts and arrangements*

To enter into any type of contract, commitment, arrangement or understanding to assume or reallocate risk, rewards, rights or obligations on such terms as the Trustees think fit.

### 6.2 *To vary contracts and arrangements*

To vary, assign, novate, waive, terminate or otherwise deal with on such terms as the Trustees think fit any contract, commitment, arrangement or understanding to which the Trustees are party.

## 7 **Miscellaneous powers**

### 7.1 *Capital, income and blended funds*

To determine whether any money is to be considered as capital or income, and which expenses should be paid out of capital and out of income respectively, and also to apportion blended funds. Each determination or apportionment will be final and binding on all persons beneficially interested in the Trust Fund.

### 7.2 *Depreciation or replacement funds*

To set up and maintain any depreciation or replacement funds for any purpose the Trustees may consider advisable, and in this regard to determine in their discretion the amount of Income to be credited from time to time to any of those funds and whether those funds are Income or capital.

### 7.3 *To receive gifts*

To receive gifts of property and investments as additions to the Trust Fund and refuse or disclaim any gifts of property or investments as additions to the Trust Fund.

### 7.4 *Maintenance of Hapu, Whanau or Uri*

To use all or any part of the Income or capital of the vested or contingent interest of any Hapu, Whanau or Uri in the capital of the Trust Fund for the maintenance, education, advancement or in any other way for the benefit of the Hapu, Whanau or Uri (as applicable). Payments may be made for those purposes to the parent(s) or guardian(s) of, or to the person(s) having the care of, Uri without requiring the recipient or recipients of the payment to account. The Trustees may exercise this power in favour of an Uri even though that Uri's interest may be liable to be defeated by the exercise of a power of appointment or revocation or to be diminished by the increase of the class to which he or she belongs.

7.5 *To add Hapu, Whanau or Uri*

At any time before the Distribution Date the Trustees may, by revocable or irrevocable deed, appoint any person or any class of persons to be a Hapu, Whanau or Uri.

A Whanau or Hapu may only be appointed under this clause if that Whanau or Hapu is representative of Uri who fall under the definition of "Iwi and Hapu of Te Rohe o Te Wairoa Ancestor" and descend from the groupings included within the Kahui. Such Whanau or Hapu may only be encompassed by the Kahui (which would enable its members to register as Members of the Kahui and have the rights of a Member of the Kahui) with approval by Special Resolution.

The appointment will take effect from the date of the deed or such other date specified in the deed.

7.6 *To determine final Uri*

For the purposes of clause 5.1 of this Deed, at any time before the Distribution Date the Trustees may determine by revocable resolution in writing to hold the Trust Fund (or what remains of it) for one or more of the Uri (who together comprise Hapu and Whanau).

7.7 *To grant annuities*

To grant an annuity to any person and to cancel or redeem it on such terms as the Trustees think fit.

7.8 *To take legal, financial or other professional advice*

To take legal, financial or other professional advice in New Zealand or elsewhere concerning any matter in any way relating to the Trust or to the Trustees' duties under this Trust, and in all matters to act in accordance with such advice.

7.9 *To change name of trusts*

The Trustees may change the name of the trusts created by this Deed by passing a written resolution to that effect.

7.10 *To change the Distribution Date*

At any time before the Distribution Date and with approval by Special Resolution, the Trustees may by revocable or irrevocable deed appoint that from the date of the deed, or such other date specified in the deed for that purpose, the Distribution Date will be a date earlier than the date first specified in the definition of Distribution Date in clause 1.1 of this Deed or such other date as is permitted under clause 2.4 of this Deed. As long as they do not make an irrevocable appointment, the Trustees may exercise this power more than once.

8 **Do all other necessary or desirable things**

The Trustees may do all other lawful things that are necessary or desirable in their opinion for the benefit of the Hapu, Whanau or Uri of the Trust.

### **SCHEDULE THREE: KAHUI REGISTER**

#### **1 TRUST TO KEEP REGISTER**

##### **1.1 Trust to maintain register**

The Trustees will administer and maintain the Kahui Register which is a register of Members of the Kahui.

##### **1.2 Register to comply with this Schedule**

(a) The Kahui Register will be maintained in accordance with the rules and procedures set out in this Schedule.

(b) Unless stated otherwise, reference to clauses are reference to clauses in this Schedule.

#### **2 CONTENTS OF REGISTER**

##### **2.1 Register to contain Members' details**

The Kahui Register will record in respect of each Adult Member, the full name, date of birth, postal address and email address (if available) and their primary Kahui for the purposes of Trustee elections.

##### **2.2 Uri Registration Number**

The Trustees will allocate an Uri identification number to each Member. The Trustees will, immediately after allocation, notify the relevant Member of his or her Uri identification number.

#### **3 APPLICATIONS FOR REGISTRATION**

##### **3.1 Form of applications**

All applications for registration as a Member of the Kahui must be made in writing or by electronic means (if available) to the Trustees in the application form approved from time to time by the Trustees. The application must contain:

- (a) the full name, date of birth, postal and email address (if available) of the applicant;
- (b) such evidence as the Trustees may from time to time require as to that applicant's status as a Member of the Kahui, including details of the whakapapa connection of the applicant to the Iwi and Hapu of Te Rohe o Te Wairoa Ancestor and the Kahui;
- (c) the Marae, Iwi, Hapu and Whanau to which the applicant affiliates;
- (d) the ability for the Members of the Iwi and Hapu of Te Rohe o Te Wairoa to indicate that they agree that his or her details on the Kahui Register may be made available to Tatau Tatau and Marae to which the applicant claims to affiliate, in accordance with clause 5.5.



### 3.2 **Applications to be made by**

An application for registration as a Member of the Kahui may be made by:

- (a) individuals who affiliate to the Kahui who are 18 years of age or older, on their own behalf or by their legal guardian; or
- (b) other individuals who affiliate to the Kahui who are under the age of 18 years, by their parent or legal guardian on their behalf.

## 4 **DECISIONS AS TO MEMBERSHIP**

### 4.1 **Membership Committees**

The Trustees will establish a Kahui Membership Committee from time to time to make decisions on all applications made pursuant to clause 3.1 for registration as a Member of the Kahui.

### 4.2 **Composition of Membership Committee**

The Kahui Membership Committee will comprise up to five (5) Adult Members appointed by the Trustees, two of which must be Kaumatua, with the expertise and knowledge of the Whakapapa of the Kahui and the Hapu and Whanau necessary to make determinations regarding membership applications.

### 4.3 **Consideration of applications**

All applications for membership pursuant to clause 3.1 together with any supporting evidence shall be forwarded by the Trustees to the relevant Kahui Membership Committee.

### 4.4 **Decisions to be made on applications**

- (a) Upon receipt of an application for membership in accordance with clause 3.1 of this Schedule the Kahui Membership Committee will consider the application and will make a decision as to whether or not the applicant should be registered as a Member of the Kāhui.
- (b) The Kahui Membership Committee may seek the opinion of other Adult Members or other Kaumatua with the expertise and knowledge of the whakapapa of the Kahui necessary to make determinations regarding membership applications to assist with determining an application for membership from time to time. The Trustees may also require an applicant to provide evidence verifying his or her whakapapa to the Whanau and Hapu.

### 4.5 **Successful applicants to be notified and registered**

In the event that the Kahui Membership Committee decides that the application should be accepted then such decision will be notified in writing to the Trustees, who will in turn notify the applicant and enter the applicants name and other relevant details (including Uri identification number in accordance with clause 2.2) in the appropriate part of the Kahui Register.

### 4.6 **Notification to unsuccessful applicants**

In the event that the Kahui Membership Committee decides to decline the application then such decision will be conveyed in writing to the Trustees together

with the reasons for the decision. The Trustees will then notify the applicant in writing of the decision together with the reasons given for the decision.

**4.7 Unsuccessful applicant may reapply**

Any applicant whose application has been declined may:

- (a) dispute the basis on which the application was declined in accordance with clause 19 of this Deed; and
- (b) at any time seek to have his or her application reconsidered by the Kahui Membership Committee provided that such application for reconsideration may only be made on the basis of new evidence (being evidence that was not submitted or considered as part of the initial or, if more than one (1), any previous application) as to the applicant's status as a Member of the Kahui.

**5 MAINTENANCE OF REGISTER**

**5.1 Trustees to establish policies**

The Trustees will take such steps and institute such policies as are necessary to ensure that the Kahui Register is maintained in a condition that is as up to date, accurate and complete as possible in recording Members of the Kahui.

**5.2 Assistance in identifying membership**

In maintaining the Kahui Register the Trustees will include in the policies that it develops policies for assisting in the identification and registration of those Members of the Kahui who are not for the time being on the Kahui Register. Such policies will include policies as to the nature of the assistance that the Trustees will provide to those persons who believe that they are Members of the Kahui but for whatever reason are not able to establish such membership

**5.3 Responsibility of Members of Kahui**

Notwithstanding clause 0 it will be the responsibility of each person who is a Member of Kahui (or in the case of those persons under 18 years of age, the parent or guardian of that person) to ensure that his or her name is included in the Kahui Register and that his or her address details for the time being are provided and updated. Any Member of the Kahui may choose to terminate their registration of membership of the Kahui, by notifying the Trustees in writing.

**5.4 Consequences of registration**

Registration of any person on the Kahui Register as a Member of the Kahui will be conclusive evidence of that person's status as a Member of the Kahui.

**5.5 Information available to Tatau Tatau and Marae**

The Kahui may provide to Tatau Tatau and/or the Marae the details of Members. Tatau Tatau or the Marae that receive such information may only use that information for purposes in connection with Tatau Tatau or the Marae.

## **SCHEDULE FOUR: PROCEDURE FOR PASSING SPECIAL RESOLUTION**

### **1 THIS SCHEDULE TO APPLY**

#### **1.2 A Special Resolution to:**

- (a) approve a Major Transaction in accordance with clause 11.5 of this Deed; or
- (b) the Trust becoming independent of Tatau Tatau in accordance with clause 18.1 of this Deed;
- (c) approve a resettlement in accordance with clause 20 of this Deed;
- (d) approve a variation in accordance with clause 21 of this Deed;
- (e) approving an Uri, Whanau or Hapu who has been added to be encompassed by the Kahui in accordance with clause 7.5 of Schedule Two; and
- (f) to change the Distribution Date in accordance with clause 7.10 of Schedule Two;

will only be passed as set out in this Schedule.

### **2 VOTING**

- 2.1 In order for a Special Resolution to be passed it must receive the approval of not less than 75% of those Adult Members of the Kahui who validly cast a vote in favour of the proposed Special Resolution in accordance with this Schedule.

### **3 SPECIAL GENERAL MEETING REQUIRED**

- 3.1 A SGM must be called for the purposes of considering one or more Special Resolutions. No other business may be transacted at such SGM.
- 3.2 One or more Special Resolutions may be considered at an AGM, so long as the "Procedure for passing a Special Resolution" in accordance with this Schedule Five is followed as if the AGM was an SGM (though other AGM business can also be transacted).

### **4 NOTICE OF SPECIAL GENERAL MEETING**

- 4.1 If an SGM is required to be held under this Deed, the Trustees will give not less than thirty (30) working days' notice of the date, time and place of the SGM called for the purposes of considering any Special Resolution and the details and reasons for the proposed Special Resolution.
- 4.2 Notice under this clause 4.1 of this Schedule must be given:
- (a) by posting to a physical or electronic address the Trustees hold for an Adult Member;



- (b) by newspaper advertisement, published on at least two separate days in a newspaper the Trustees consider circulates in an area where a significant number of Adult Members reside; and
- (c) any other means as determined by the Trustees, including email and social media.

4.3 Notices posted or emailed to an Adult Member must include:

- (a) a valid voting form for the Special Resolution that contains sufficient information to identify the Adult Member to whom the form was sent;
- (b) sufficient detail to inform the Adult Member of the Special Resolution or Special Resolutions being considered at the SGM.

## 5 **RETURNING OFFICER**

- 5.1 The Trustees will appoint a Returning Officer for the purposes of any Special Resolution. The Trustees may appoint anyone they think fit to perform the tasks of the Returning Officer, provided that a Trustee or a nominee may not act as Returning Officer.
- 5.2 The Returning Officer is responsible for co-ordinating the Special Resolution, and may appoint others to assist with that co-ordination as they consider necessary, provided that such persons may not be a Trustee or a nominee.

## 6 **MODE OF VOTING**


- 6.1 Voting on any Special Resolution will be by secret ballot. Adult Members who choose Te Wairoa Tapokorau 1 as their primary Kahui (refer to clause 3.5(a), p8 of the Tatau Tatau o Te Wairoa Trust Deed 2018) will each have one vote in respect of a Special Resolution.
- 6.2 Voting forms must be delivered to the Returning Officer by way of post, electronic means or hand delivery on the day of the SGM. The Returning Officer must ensure each Adult Member votes only once.

## 7 **COUNTING VOTES**

- 7.1 Once the Special Resolution has been discussed at the SGM and all attendees have been given the opportunity to hand deliver their voting forms, the Returning Officer must record and count all votes validly cast.
- 7.2 Once all the votes have been counted and recorded by the Returning Officer, and the result of the Special Resolution is determined, the Returning Officer will inform the Trustees of the result.
- 7.3 The Trustees will inform the Members of the result of the Special Resolution.

## EXECUTION

Signed by Oha Manuel as Trustee

  
\_\_\_\_\_

in the presence of:

  
\_\_\_\_\_

Name:

James M. Heron, JP

#95497

Occupation:

WAIROA

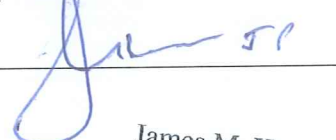
Justice of the Peace for New Zealand

Address:

Signed by Bubby Maranui McGregor as Trustee

  
\_\_\_\_\_

in the presence of:

  
\_\_\_\_\_

Name:

James M. Heron, JP

#95497

Occupation:

WAIROA


Justice of the Peace for New Zealand

Address:

Signed by Peter Riki Mihaere, as Trustee

  
\_\_\_\_\_

in the presence of:

  
\_\_\_\_\_

Name:

James M. Heron, JP

#95497

Occupation:

WAIROA

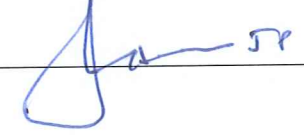
Justice of the Peace for New Zealand

Address:

Signed by Philicity Wilson as Trustee

  
\_\_\_\_\_

in the presence of:

  
\_\_\_\_\_

Name:

James M. Heron, JP

#95497

Occupation:

WAIROA

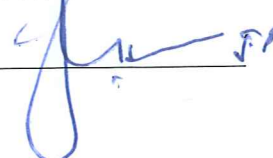
Justice of the Peace for New Zealand

Address:

Signed by Rangimarie Pere as Trustee

  
\_\_\_\_\_

in the presence of:

  
\_\_\_\_\_

Name:

James M. Heron, JP

#95497

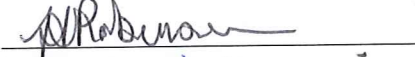
Occupation:

WAIROA


Justice of the Peace for New Zealand

Address:

Signed by Jennifer Robinson as Trustee

  
\_\_\_\_\_

in the presence of:

  
\_\_\_\_\_

Name:

James M. Heron, JP

#95497


Occupation:

WAIROA

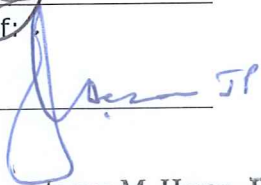
Justice of the Peace for New Zealand

Address:

Signed by Austin Royce King as Trustee

  
\_\_\_\_\_

in the presence of:

  
\_\_\_\_\_

Name:

James M. Heron, JP

Occupation:

#95497

WAIROA

Justice of the Peace for New Zealand

Address:



Signatures of Hapu, Whanau and Uri members present

Name

Signature

Bang Atareta Beatto

OT Beatto

Sophie Lewis

S Lewis

Hine Kohn

H Kohn

Aroha McAdam

A McAdam

Waituni McAdam

W McAdam

Vanessa McAdam

V McAdam

Dale Robinson

D Robinson

Rona Hood

R Hood

Se Raehina Sai

S Sai

Jo Wharstope

J Wharstope

Amiria Te Amo

A Te Amo

Zak Williams

Z Williams

Bobbi Manuel

B Manuel

Ngan Connell

N Connell

Place Wharstope

P Wharstope

CHERYL HOCKAMAY

C.H. Hockamay

Ricardo Carroll

R Carroll



