



# Māori Purposes Act 2017

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Commencement see section 2

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**Transitional, savings, and related provisions for amendments to Te Ture Whenua Maori Act 1993**

**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Māori Purposes Act 2017.

**2 Commencement**

- (1) Part 2 comes into force—
  - (a) on the day after the date on which this Act receives the Royal assent, if section 39 of Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 has commenced when this Act receives the Royal assent; or
  - (b) on the commencement of that section, if it has not commenced when this Act receives the Royal assent.
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

## Part 1

### Amendments to Māori Purposes (Wi Pere Trust) Act 1991

#### 3 Principal Act

This Part amends the Act that was previously called the Maori Purposes Act 1991 (the **principal Act**).

#### 4 Long Title repealed

Repeal the Long Title.

#### 5 Name of principal Act changed

- (1) As from the commencement of this section,—
  - (a) the principal Act is called the Māori Purposes (Wi Pere Trust) Act 1991; and
  - (b) every reference in an enactment or a document to the Maori Purposes Act 1991 must, unless the context otherwise requires, be read as a reference to the Māori Purposes (Wi Pere Trust) Act 1991.
- (2) In the heading to section 1, delete “**Short**”.
- (3) In section 1, replace “may be cited as the Maori Purposes Act 1991” with “is the Māori Purposes (Wi Pere Trust) Act 1991”.

#### 6 New Part 1 heading inserted

After section 1, insert:

## Part 1 Preliminary provisions

#### 7 Section 2 amended (Wi Pere Trust)

- (1) In the Preamble to section 2, replace “and Anthony Halbert, the last 3 being the holders of that office at the time of the enactment of this section: And whereas Nonoi Haronga wishes to retire from the office of trustee and it has been agreed that she should do so and be replaced by her son Alan Parekura Torohina Haronga: And whereas it is expedient, having regard to the intentions express or implied and contained in the trust deed, that new trusts should be declared in respect of the residue of the real and personal property now remaining subject to the trust, and that further powers should be conferred on the trustees, and that provision should be made for the administration of the trusts and the release and discharge of the former trustees as follows: Be it therefore enacted as follows:” with “Anthony Halbert, Albert Horsfall, Alan Parekura Torohina Haronga, Henare Kingi Lardelli, Trudy Vivienne Daisy Meredith, Kingi Winia-ta Smiler, and Hector John Pere, the last 5 being the trustees of the trust on the day on which the Māori Purposes Act 2017 is enacted: Now the trust wishes to

restructure itself and appoint a trust board to oversee the governance of the trust.”

- (2) Repeal section 2(1) to (27).

## 8 Section 3 replaced (Repeals)

Replace section 3 with:

### 3 Interpretation

In this Act, unless the context otherwise requires,—

**1993 Act** means Te Ture Whenua Maori Act 1993

**beneficial interest** has the meaning given to it in section 18

**beneficiary** means a beneficiary of the trust who has succeeded to a beneficial interest, but does not include a discretionary beneficiary

**child**, in relation to a person, includes an adopted child or a tamaiti whāngai of the person

**constitution** means the constitution required by section 15

**court** means the Māori Land Court

**descendant**, in relation to a person (the **ancestor**), means a person descended from the ancestor, including by legal adoption or whāngai

**discretionary beneficiary** means—

- (a) a spouse of a beneficiary; or
- (b) a child of a beneficiary, if that child is also a lineal descendant of Wi Pere; or
- (c) any person who can succeed to an interest of a beneficiary under this Act

**former trustees** means the persons holding office as trustees of the trust immediately before the commencement of this section

**general land** has the same meaning given to General land in section 4 of the 1993 Act

**lineal descendant of Wi Pere** means a person who is a direct descendant of Wi Pere by blood

**Māori freehold land** has the same meaning given to Maori freehold land in section 4 of the 1993 Act

**member** means a member of the trust board

**spouse** means—

- (a) a husband or wife by legal marriage; or
- (b) a partner to a de facto relationship (as defined in section 2D of the Property (Relationships) Act 1976); or

- (c) a partner to a civil union solemnised under the Civil Union Act 2004; but
- (d) does not include a person referred to in paragraphs (a) to (c) if—
  - (i) the marriage, relationship, or union in question is a relationship of short duration (as defined in section 2E of the Property (Relationships) Act 1976); or
  - (ii) a separation order or separation agreement is in force in respect of the marriage, union, or relationship

**trust** means the Wi Pere Trust referred to in section 4(1)

**trust board** means the Wi Pere Trust Board established by section 6

**trust property** means all real and personal property that is held by the trust board from time to time.

## 9 New Parts 2 to 4 inserted

After section 3 (as inserted by section 8 of this Act), insert:

### Part 2

#### Continuation of trust and establishment of trust board

##### *Continuation of trust*

#### 4 Trust continues

- (1) The trust created as recited in the preamble to section 2 and known as the Wi Pere Trust continues to exist.
- (2) On the commencement of this section, each beneficiary holds the beneficial interest in the trust property that he or she held immediately before that commencement.

#### 5 Trust subject to Trustee Act 1956 and jurisdiction of High Court

- (1) The Trustee Act 1956 applies to the trust but subject to the provisions of this Act and the constitution.
- (2) The High Court has jurisdiction to determine any dispute relating to the administration and governance of the trust.
- (3) To avoid doubt, the Māori Land Court has no jurisdiction to determine any dispute relating to the administration and governance of the trust.

##### *Establishment of trust board*

#### 6 Establishment of Wi Pere Trust Board

- (1) This section establishes the Wi Pere Trust Board.
- (2) The trust board is a body corporate with perpetual succession.

- (3) Except as provided in this Act, the trust board has and may exercise—
- (a) all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity; and
  - (b) the power to do any other thing it is authorised or required to do—
    - (i) by this Act; or
    - (ii) by the constitution; or
    - (iii) by the Trustee Act 1956 or any other enactment; or
    - (iv) by any rule of law.
- (4) The trust board may not exercise any of its rights, powers, or privileges except for the purpose of performing its function.

#### **7 First members of trust board**

- (1) The former trustees are the first members of the trust board.
- (2) The former trustees and any preceding trustees are released and discharged from all actions, claims, and demands for or in respect of any act, matter, or thing done, omitted, or suffered by them or any of them as trustees in good faith arising out of the administration of the trust property before the commencement of this section.

#### **8 Trust board succeeds to rights and liabilities of former trustees in relation to trust**

- (1) On the commencement of this section,—
- (a) the trust board succeeds to the rights and liabilities of the former trustees in relation to the affairs of the trust; and
  - (b) those rights and liabilities are enforceable by and against the trust board and are not enforceable by and against the former trustees.
- (2) For the purposes of this section, but without limitation, **rights and liabilities** includes—
- (a) rights and liabilities arising under any contract, agreement, arrangement, or process validly and properly entered into by the former trustees;
  - (b) rights and liabilities under any enactment;
  - (c) rights and liabilities under any order of a court or other tribunal;
  - (d) status as parties to any legal proceeding;
  - (e) liability to taxation, penalties, and local body rates and fees.

#### **9 Transfer of trust property to trust board**

- (1) On the commencement of this section, all real and personal property, including the land listed in Schedules 2 and 3, held by the former trustees for the purposes of the trust vests in the trust board without the need for an instrument of transfer.



- (2) The Registrar-General of Land must, as soon as practicable,—
- (a) register the trust board as the proprietor of the fee simple estate in the land that vests in it under subsection (1); and
  - (b) record any entry on the relevant computer freehold registers for that land, and do anything else necessary to give effect to the vesting of that land in the trust board.
- (3) The Registrar of the Māori Land Court must ensure that the records of the court are amended to reflect the changes made under subsection (2).

## 10 Tax

- (1) This section applies for the purpose of the Inland Revenue Acts.
- (2) On the commencement of this section,—
- (a) the trust board is deemed to be the same person as the former trustees; and
  - (b) everything done by the former trustees before the assets and liabilities and voting interests and market value interests become the trust board's is deemed to have been done by the trust board on the date on which it was done by the former trustees; and
  - (c) income derived or expenditure incurred by the former trustees before the assets and liabilities become the trust board's does not become income derived or expenditure incurred by the trust board just because the assets and liabilities become the trust board's.
- (3) The establishment of the trust board and the transfer of trust property to the trust board does not interrupt the voting interests and market value interests—
- (a) of any subsidiaries beneficially owned by the trust; or
  - (b) of the new trust board in relation to its use of tax losses of the trust.
- (4) In this section,—
- (a) **assets and liabilities** means the assets and liabilities of the former trustees in relation to the trust; and
  - (b) **Inland Revenue Acts** has the meaning given to it by section 3(1) of the Tax Administration Act 1994; and
  - (c) **voting interests and market value interests** means the voting interests and market value interests held by the former trustees in relation to the trust; and
  - (d) terms used that are not defined in this Act but are defined in the Inland Revenue Acts have the meanings given to them by those Acts.

## 11 Trust board holds property on trust for purpose of trust

The trust board holds the trust property on trust for the purpose of the trust; that is, to receive, hold, manage, and administer the trust property for the benefit

and advancement of the beneficiaries, and at the sole discretion of the board, for the benefit of the discretionary beneficiaries.

## **12 Trust not subject to rule against perpetuities**

The trust is not subject to any enactment or rule of law that restricts the period for which a trust may run.

Compare: 1993 No 4 s 235

### *Trust board*

## **13 Function and powers of trust board**

- (1) The function of the trust board is to hold and manage the trust property.
- (2) The trust board must perform its function by exercising its powers in accordance with—
  - (a) this Act; and
  - (b) the constitution; and
  - (c) the Trustee Act 1956 or any other enactment; and
  - (d) any rule of law.

## **14 Members of trust board not personally liable**

- (1) A member is not personally liable for his or her acts or omissions as a member unless the act or omission involves dishonesty, wilful breach of trust, or lack of good faith.
- (2) A member (**member A**) is not personally liable for acts or omissions of any other member in that person's capacity as member of the trust board unless—
  - (a) the act or omission involves dishonesty, wilful breach of trust, or lack of good faith; and
  - (b) member A knew, or should have known, of the dishonesty, wilful breach of trust, or lack of good faith.
- (3) The trust board must not indemnify, or directly or indirectly effect insurance for, a member or an employee of the trust board for—
  - (a) liability for any act or omission that involves dishonesty, wilful breach of trust, or lack of good faith in his or her capacity as a member or employee of the trust board; or
  - (b) costs incurred by that member or employee in defending any claim or proceeding relating to a liability referred to in paragraph (a), unless judgment is given in his or her favour, or he or she is acquitted, or the claim or proceeding is discontinued.

*Constitution***15 Trust board must have constitution**

- (1) The trust board must have a constitution.
- (2) On the commencement of this section, the first constitution of the trust board is the constitution set out in Schedule 1, but nothing in this Act precludes the subsequent amendment or replacement of the first constitution.
- (3) The constitution must include the following matters as a minimum:
  - (a) the procedure for electing members:
  - (b) the composition of the trust board:
  - (c) the term of office of members:
  - (d) the resignation and removal of members:
  - (e) the disclosure of members' interests, and how any conflicts of interest must be managed:
  - (f) remuneration of members and payment of expenses:
  - (g) arrangements for meetings of beneficiaries and for voting:
  - (h) provision for beneficiaries to inspect the constitution, the register of beneficial interests, and financial statements:
  - (i) dispute resolution procedures:
  - (j) how the constitution may be varied:
  - (k) the circumstances in which the trust board may indemnify or insure members and employees of the trust board.
- (4) The constitution may include—
  - (a) the trust board's duties and powers concerning the holding and management of trust property; and
  - (b) any other matter.
- (5) However,—
  - (a) the constitution must be consistent with this Act; and
  - (b) if there is an inconsistency between the constitution and this Act, this Act prevails.

*Financial statements and audit***16 Preparation of financial statements**

- (1) The trust board must prepare financial statements for the trust for each accounting period in accordance with the requirements of the Financial Reporting Act 2013.
- (2) The financial statements must be prepared no later than 5 months after the end of the accounting period to which they relate.

**17 Audit requirements**

- (1) The trust board must—
  - (a) have the trust's financial statements for each accounting period audited by a qualified auditor; and
  - (b) obtain the auditor's report on the financial statements; and
  - (c) provide the audited financial statements and the auditor's report to the beneficiaries in accordance with the constitution.
- (2) In subsection (1), **qualified auditor** has the same meaning as in section 35 of the Financial Reporting Act 2013.

**Part 3****Beneficial interests in trust property****18 Meaning of beneficial interest**

In this Act, **beneficial interest** means, in relation to trust property, the undivided beneficial interest of a beneficiary in the Māori freehold land vested in the board for the purpose of the trust, and includes that beneficiary's corresponding undivided interest in all other trust property comprised in the trust.

**19 Manner of holding beneficial interest**

- (1) A beneficiary may hold his or her beneficial interest only—
  - (a) in his or her personal capacity; or
  - (b) through a trust.
- (2) Sections 22 to 26, which relate to the disposal of a beneficial interest, apply whether the beneficial interest is held in the beneficiary's personal capacity or through a trust.
- (3) The holding of a beneficial interest through a trust is no bar to succession to that interest.

**20 Register of beneficial interests in trust property**

The trust board must maintain a register that records—

- (a) each beneficiary's beneficial interest; and
- (b) each beneficiary's beneficial interest as a proportion of the total beneficial interests of all beneficiaries; and
- (c) all changes to each beneficiary's beneficial interest; and
- (d) the capacity in which a beneficiary holds his or her beneficial interest, that is,—
  - (i) in his or her personal capacity; or
  - (ii) through a trust; and

- (e) the interest of each person who inherits a life interest in the trust property under section 24 or 25; and
- (f) all orders made by the Māori Land Court that relate to Māori freehold land that is trust property.

## **21 Notification of changes affecting register**

- (1) The trust board must notify the Registrar of the Māori Land Court of any change made in the register of beneficial interests in trust property.
- (2) The Registrar of the Māori Land Court must notify the trust board of any order of the court that affects the information held in the register of beneficial interests in trust property.

### *Disposal of beneficial interest*

## **22 Restrictions on disposal of beneficial interest**

- (1) A beneficial interest in trust property may not be disposed of except—
  - (a) by transfer to a trust through which the beneficiary holds the beneficial interest in accordance with section 19(1)(b); or
  - (b) by sale to the trust board under section 23 (trust board may purchase beneficial interest); or
  - (c) by gift by will, in accordance with section 24 (disposal of beneficial interest under beneficiary's will); or
  - (d) on intestacy, in accordance with section 25 (disposal of beneficial interest if beneficiary dies intestate); or
  - (e) by gift during the beneficiary's lifetime, in accordance with section 26 (disposal of beneficial interest by way of gift during beneficiary's lifetime); or
  - (f) by operation of law.
- (2) A beneficial interest may not be split on disposition between the beneficial interest in Māori freehold land and the corresponding beneficial interest in other trust property; that is, the disposition of a beneficial interest in trust property necessarily comprises both the beneficial interest in Māori freehold land and the corresponding beneficial interest in other trust property.

## **23 Trust board may purchase beneficial interest**

- (1) The trust board may purchase the beneficial interest of a beneficiary who wishes to dispose of that interest.
- (2) If the trust board purchases the beneficial interest of a beneficiary, the trust board may—
  - (a) cancel the interest, and increase the shares of the other beneficiaries proportionately; or

- (b) resell the interest to any other beneficiary at a price agreed between the trust board and the purchasing beneficiary; or
- (c) retain the interest until resale under paragraph (b).

#### **24 Disposal of beneficial interest under beneficiary's will**

- (1) A beneficiary may gift by will his or her beneficial interest only to—
- (a) a lineal descendant of Wi Pere;
  - (b) the beneficiary's spouse who is not also a lineal descendant of Wi Pere, but only to the extent of a life interest in the beneficial interest;
  - (c) a child or further descendant of the beneficiary who is not also a lineal descendant of Wi Pere, but only to the extent of a life interest in the beneficial interest;
  - (d) a trustee of a person referred to in paragraph (a);
  - (e) a trustee of a person referred to in paragraph (b) or (c), but only to the extent of a life interest in the beneficial interest.
- (2) To the extent that a provision in a beneficiary's will purports to dispose of the beneficiary's beneficial interest in breach of the requirements of subsection (1),—
- (a) the provision is void; and
  - (b) succession to the beneficial interest must be determined under section 25.
- (3) Subsection (2) applies regardless of whether the will was made before or after this section came into force.

#### **25 Disposal of beneficial interest if beneficiary dies intestate**

If a beneficiary dies intestate or if section 24(2) applies, succession to the beneficiary's beneficial interest is determined as follows:

##### **Person or people who survive beneficiary**

1 Surviving spouse

##### **Who succeeds to beneficial interest**

- (1) The spouse succeeds to an interest in the beneficial interest, but that interest ends on the earliest of—
- (a) the date that the spouse surrenders his or her interest in writing; and
  - (b) the date that the spouse remarries or enters into a civil union or de facto relationship; and
  - (c) the spouse's death.
- (2) On the extinguishment of the spouse's interest, the beneficial interest is distributed in accordance with items 2 to 4.

<b>Person or people who survive beneficiary</b>	<b>Who succeeds to beneficial interest</b>
2 Descendants; no surviving spouse or surviving spouse's interest has been extinguished	<p>(1) The beneficiary's children succeed to the beneficial interest in equal portions unless paragraph (2) applies.</p> <p>(2) If 1 or more of the beneficiary's children died before the beneficiary but left descendants who survived the beneficiary,—</p> <ul style="list-style-type: none"> <li>(a) the beneficial interest is divided into equal portions, the number of portions being the number of surviving children plus the number of children who died before the beneficiary but left descendants who survived the beneficiary; and</li> <li>(b) the surviving children each succeed to a portion; and</li> <li>(c) a portion is allocated to each child who died before the beneficiary but left descendants who survived the beneficiary and succession to that portion is determined by applying paragraphs (1) and (2) of this item as if the child were a beneficiary and the portion were the child's beneficial interest.</li> </ul> <p>(3) If a child or descendant who is not a lineal descendant of Wi Pere succeeds to the beneficial interest, the child or descendant succeeds only to a life interest in the beneficial interest. At the extinguishment of that life interest, the reversionary interest in the beneficial interest is succeeded to by the person or people who—</p> <ul style="list-style-type: none"> <li>(a) are entitled to succeed to the interest under items 2 to 4; and</li> <li>(b) are lineal descendants of Wi Pere.</li> </ul>
3 Siblings; no descendants; no surviving spouse or surviving spouse's interest has been extinguished	<p>(1) The beneficiary's siblings succeed to the beneficial interest in equal portions unless paragraph (2) applies.</p> <p>(2) If 1 or more of the beneficiary's siblings died before the beneficiary but left qualifying descendants,—</p> <ul style="list-style-type: none"> <li>(a) the beneficial interest is divided into equal portions, the number of portions being the number of surviving siblings plus the number of siblings who died before the beneficiary but left qualifying descendants; and</li> <li>(b) the surviving siblings each succeed to a portion; and</li> <li>(c) a portion is allocated to each sibling who died before the beneficiary but left</li> </ul>

<b>Person or people who survive beneficiary</b>	<b>Who succeeds to beneficial interest</b>
<p>4 No siblings; no descendants; no surviving spouse or surviving spouse's interest has been extinguished</p>	<p>qualifying descendants and succession to that portion is determined by applying paragraphs (1) and (2) of item 2 as if the sibling were a beneficiary and the portion were that sibling's beneficial interest, except that only lineal descendants of Wi Pere may succeed to the beneficial interest.</p> <p>(3) In this item,—</p> <p><b>qualifying descendant</b> means a person who—</p> <p>(a) is a child or descendant of a sibling of the beneficiary; and</p> <p>(b) survived the beneficiary; and</p> <p>(c) is a lineal descendant of Wi Pere</p> <p><b>sibling</b>—</p> <p>(a) includes half-siblings; but</p> <p>(b) excludes siblings and half-siblings that are not also lineal descendants of Wi Pere.</p> <p>The beneficiary's closest living relative or relatives who are lineal descendants of Wi Pere succeed to the beneficial interest in equal portions.</p>
<b>26</b>	<b>Disposal of beneficial interest by way of gift during beneficiary's lifetime</b>
(1)	<p>A beneficiary may transfer his or her beneficial interest by way of gift during the beneficiary's lifetime if—</p> <p>(a) the transferee is a lineal descendant of Wi Pere; and</p> <p>(b) the transferor has applied to the trust board for approval of the transfer; and</p> <p>(c) the trust board has approved the transfer.</p>
(2)	<p>The transfer of a beneficial interest under this section has no effect unless and until it is registered in the register of beneficial interests.</p>
(3)	<p>The trust board may refuse to approve a transfer, but must not unreasonably withhold approval.</p>
<b>27</b>	<b>Māori Land Court may determine who is lineal descendant of Wi Pere</b>
(1)	<p>This section applies if there is a dispute as to whether a person is a lineal descendant of Wi Pere and the trust board has been unable to resolve the dispute.</p>
(2)	<p>On the application of any interested person, the Māori Land Court may make an order determining whether a person is a lineal descendant of Wi Pere.</p>



- (3) In exercising its jurisdiction under this section, the primary objective of the Māori Land Court is to give effect to this Act.

*Administration of beneficial interests*

**28 Trust board may adjust beneficial interests**

The trust board may increase or decrease a beneficiary's beneficial interest in trust property, provided that—

- (a) the beneficial interest of each beneficiary as a proportion of the total beneficial interests of all beneficiaries remains unchanged; and
- (b) the increase or decrease is made solely for the ease of the trust board's administration of the trust register.

*Miscellaneous*

**29 Property (Relationships) Act 1976 does not apply**

The Property (Relationships) Act 1976 does not apply to a beneficial interest in trust property.

**Part 4**

**Land held by trust board**

**Subpart 1—General land**

**30 Land that is general land**

- (1) For the purposes of classification of land under the 1993 Act and for the purposes of this Act, the land listed in Schedule 2 is, on the commencement of this section, general land.
- (2) The Registrar-General of Land must, as soon as practicable, update the relevant computer freehold register to reflect the changes to the status of the land listed in Schedule 2.
- (3) The Registrar of the Māori Land Court must ensure that the records of the court are amended to reflect the changes to the status of the land listed in Schedule 2.

**31 Application of 1993 Act to general land excluded**

- (1) The provisions of the 1993 Act do not apply in respect of general land that is trust property, except for the purpose of classifying land as general land or Māori freehold land (*see* section 34).
- (2) To avoid doubt, the fact that general land is trust property does not make it general land owned by Māori for the purposes of the 1993 Act.

## Subpart 2—Māori freehold land

### **32 Land that is Māori freehold land**

- (1) For the purposes of the 1993 Act and this Act, the land listed in Schedule 3 continues, on the commencement of this section, to be Māori freehold land.
- (2) The Registrar-General of Land must, as soon as practicable, update the relevant computer freehold register to reflect the status of the land listed in Schedule 3.
- (3) The Registrar of the Māori Land Court must ensure that the records of the court are amended to reflect the status of the land listed in Schedule 3.

### **33 Application of 1993 Act to Māori freehold land modified**

- (1) The provisions of the 1993 Act that are capable of applying in relation to Māori freehold land that is trust property apply or do not apply to that land as set out in Schedule 4, but subject to—
  - (a) the modifications and exclusions set out in this Act; and
  - (b) any other necessary modifications.
- (2) In the event of any inconsistency between this Act and the 1993 Act not already provided for, the provisions of this Act prevail.
- (3) A reference in this Act to a provision of the 1993 Act that is modified by Schedule 4 is a reference to that provision as modified.

## Subpart 3—Role of Māori Land Court in relation to land that is trust property

### *General land*

### **34 Jurisdiction of Māori Land Court excluded**

The Māori Land Court has no jurisdiction to hear any matter relating to general land that is trust property, except that it may make—

- (a) a status order under section 133 or 135 of the 1993 Act; and
- (b) a vesting order under section 134 of the 1993 Act.

### *Māori freehold land*

### **35 General objectives of Māori Land Court**

- (1) In exercising its jurisdiction and powers under the 1993 Act and under this Act in relation to Māori freehold land that is trust property, the primary objective of the Māori Land Court is to give effect to—
  - (a) this Act; and
  - (b) the constitution.

- (2) In applying subsection (1), the Māori Land Court must also seek to promote and assist in—
- (a) the retention of the land by the trust board; and
  - (b) the effective use, management, and development of the land by or on behalf of the trust board.

Compare: 1993 No 4 s 17(1), (2)(a), (b)

### **36 General jurisdiction of Māori Land Court**

Subject to the specific provisions of this Act, the Māori Land Court has the following jurisdiction in relation to Māori freehold land that is trust property:

- (a) to hear and determine any claim, whether at law or in equity, to the ownership or possession of the land, or to any right, title, estate, or interest in the land, or in the proceeds of the alienation of any such right, title, estate, or interest:
- (b) to determine the relative interests of the owners in common, whether at law or in equity, of the land:
- (c) to hear and determine any claim to recover damages for trespass or any other injury to the land:
- (d) to hear and determine any proceeding founded on contract or on tort where the debt, demand, or damage relates to the land:
- (e) to determine, for the purposes of any proceedings in the court or for any other purpose, whether any specified person is a Māori or the descendant of a Māori:
- (f) to determine whether any land or interest in land to which section 8A or 8HB of the Treaty of Waitangi Act 1975 applies should, under section 338 of the 1993 Act, be set aside as a reservation:
- (g) to determine, for the purposes of any proceedings in the court or for any other purpose, whether any specified land is or is not Māori customary land or Māori freehold land or general land owned by Māori or general land or Crown land.

Compare: 1993 No 4 s 18(1)

### **37 Other jurisdiction of Māori Land Court**

Subject to the specific provisions of this Act, the Māori Land Court may, for Māori freehold land that is trust property, and on the application of the trust board or a beneficiary,—

- (a) settle the lists of the beneficiaries in the land or any part of the land; and
- (b) appoint successors to a deceased beneficiary; and
- (c) appoint a trustee for a beneficiary under disability; and
- (d) make an order under a section of this Act that confers jurisdiction on the Māori Land Court; and

- (e) generally exercise jurisdiction so far as the equitable estate of the beneficiaries is concerned.

#### Subpart 4—Alienation or other disposition of land by trust board

### 38 Alienation of Māori freehold land

- (1) The trust board has the capacity to alienate Māori freehold land that is trust property if—
  - (a) the alienation would be permitted by sections 147, 147A, and 150A of the 1993 Act if the trust were constituted under Part 12 of the 1993 Act; or
  - (b) the alienation is permitted by section 33, 39, or 40.
- (2) Section 159 of the 1993 Act does not apply to the alienation of land under subsection (1).
- (3) In this section, **alienation**, in relation to Māori freehold land that is trust property, has the same meaning as in section 4 of the 1993 Act.

### 39 Setting land aside for use by beneficiary

The trust board may from time to time set aside any part of the land that is trust property and allow any beneficiary or beneficiaries to use it, whether for the purpose of papakāinga or other use, on such terms and subject to such conditions as the trust board thinks fit.

### 40 Transfer of land to beneficiary to provide residential building site

- (1) The trust board may apply to the Māori Land Court for an order that any Māori freehold land, or part of any Māori freehold land, that is trust property and is not subject to a mortgage be transferred to a beneficiary for the purpose of providing a residential building site or sites for the beneficiary.
- (2) The Māori Land Court may make an order requested under subsection (1) subject to the terms and conditions proposed by the trust board.
- (3) Where the court makes an order under subsection (2), the beneficiary's beneficial interest may, depending on the terms agreed between the trust board and the beneficiary,—
  - (a) be cancelled in whole; or
  - (b) be cancelled in part; or
  - (c) continue without any cancellation.
- (4) Where Māori freehold land has been transferred to a person under this section, there is vested in the trust board (without any further step being required of the trust board) the first option to purchase the land and any improvements at a fair market value if the person—
  - (a) dies; or

- (b) proposes to sell, gift, or otherwise permanently dispose of the land; or
  - (c) proposes to lease the land for more than 10 years; or
  - (d) ceases to personally occupy the land for more than 10 years; or
  - (e) uses the land for a purpose other than a residential building site.
- (5) In subsection (4), **fair market value** means the amount for which the land would be sold in a voluntary transaction between a buyer and a seller, neither of whom is under any obligation to buy or sell.
- (6) Section 296 and Part 15 of the 1993 Act do not apply to Māori freehold land held by the trust board.

### Subpart 5—Miscellaneous

#### **41 Jurisdiction of Māori Land Court under Fencing Act 1978**

- (1) This section applies if a claim, dispute, or question arises under the Fencing Act 1978 that—
- (a) relates to both Māori freehold land and general land held by the trust board; but
  - (b) does not relate to Māori freehold land or general land owned by Māori that is held by another party.
- (2) If this section applies, the trust board may elect to—
- (a) make an application to the Māori Land Court in respect of the Māori freehold land and an application to the District Court in respect of the general land; or
  - (b) make an application in respect of both the Māori freehold land and the general land to the District Court.
- (3) If the trust board elects to make an application under subsection (2)(b), section 26(2) of the 1993 Act does not apply.

Compare: 1993 No 4 s 26(2)

#### **10 New Schedules 1 to 4 inserted**

After section 41, as inserted by section 9 of this Act, insert the Schedules 1 to 4 set out in Schedule 1 of this Act.

#### **11 Consequential amendment to Māori Land Court Fees Regulations 2013**

- (1) This section amends the Māori Land Court Fees Regulations 2013.
- (2) In the Schedule, Part 12, item 26, replace “section 2 of the Maori Purposes Act 1991” with “the Māori Purposes (Wi Pere Trust) Act 1991”.

## Part 2

### Amendment to Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003

#### 12 Principal Act

This Part amends the Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003 (the **principal Act**).

#### 13 Section 39 amended (Contents of output agreement)

- (1) In section 39(2)(c), delete “; and”.
- (2) Repeal section 39(2)(d) and (5).

## Part 3

### Amendment to Te Rarawa Claims Settlement Act 2015

#### 14 Principal Act

This Part amends Te Rarawa Claims Settlement Act 2015 (the **principal Act**).

#### 15 New subpart 6 of Part 3 inserted

After section 231, insert:

Subpart 6—Te Rūnanga o Te Rarawa to become mandated iwi  
organisation

#### 232 Interpretation

In this subpart, unless the context otherwise requires—

**charitable trust** means the charitable trust of Te Rarawa, Te Runanga o Te Rarawa, with the registered number CC37801

**Te Rūnanga o Te Rarawa** has the meaning given in section 12.

#### 233 Recognition of new mandated iwi organisation

- (1) Te Rūnanga o Te Rarawa is the mandated iwi organisation for Te Rarawa (listed as Te Rarawa in Schedule 3 of the Maori Fisheries Act 2004), in place of the charitable trust, as if Te Rūnanga o Te Rarawa were recognised as the mandated iwi organisation under section 13(1) of that Act.
- (2) Te Waka Pūpuri Pūtea Limited is the asset-holding company of Te Rūnanga o Te Rarawa.
- (3) Subsections (1) and (2) are deemed to have taken effect on and from the commencement of this Act.
- (4) However, any reference in the Maori Fisheries Act 2004 to the date on which the mandated iwi organisation is recognised must be treated as a reference to

the date on which the first mandated iwi organisation for Te Rarawa was recognised.

- (5) On and from the commencement of this Act until the commencement of this section, Te Rūnanga o Te Rarawa is deemed to have—
- (a) met the criteria in section 14 of the Maori Fisheries Act 2004 for continuing recognition as a mandated iwi organisation; and
  - (b) satisfied section 12(1)(d) of the Maori Fisheries Act 2004.
- (6) To avoid doubt, on and from the commencement of this section, Te Rūnanga o Te Rarawa must—
- (a) meet the criteria in section 14 of the Maori Fisheries Act 2004 for continuing recognition as a mandated iwi organisation; and
  - (b) satisfy section 12(1)(d) of the Maori Fisheries Act 2004.

**234 Certain effects of recognition of new mandated iwi organisation**

- (1) Any registered coastline entitlement held by the charitable trust immediately before the commencement of this Act is to be treated as a registered coastline entitlement held by Te Rūnanga o Te Rarawa.
- (2) Any coastline claim, agreement, or written statement of the charitable trust made under Part 1 of Schedule 6 of the Maori Fisheries Act 2004 before the commencement of this Act is to be treated as a coastline claim, agreement, or written statement of Te Rūnanga o Te Rarawa.
- (3) Subsections (1) and (2) are deemed to have taken effect on and from the commencement of this Act.

**235 Functions of Te Ohu Kai Moana Trustee Limited**

Te Ohu Kai Moana Trustee Limited must, in accordance with the Maori Fisheries Act 2004 (with any necessary modifications), take all actions required to provide administratively for the matters set out in sections 233(1) to (3) and 234, including making the appropriate changes to the iwi register.

**Part 4**

**Amendment to Maori Trust Boards (Transitional Provisions) Order 2012**

**16 Amendment to Maori Trust Boards (Transitional Provisions) Order 2012**

This Part amends the Maori Trust Boards (Transitional Provisions) Order 2012.

**17 Clause 3 amended (Transition dates for specified Māori Trust Boards)**

In clause 3(a), after “Tauranga”, insert “Moana”.

## Part 5

### Amendments to Te Ture Whenua Maori Act 1993

#### 18 Principal Act

This Part amends Te Ture Whenua Maori Act 1993 (the **principal Act**).

#### 19 Section 4 amended (Interpretation)

(1) In section 4, replace the definition of **financial statements** with:

**financial statements**,—

- (a) in relation to a large Maori incorporation, has the same meaning as in section 6 of the Financial Reporting Act 2013; and
- (b) in the case of any other Maori incorporation, means financial statements that at least comply with the minimum requirements prescribed for companies under section 21C of the Tax Administration Act 1994 (regardless of whether the incorporation is exempt from those requirements)

(2) In section 4, repeal the definition of **non-GAAP standard**.

(3) In section 4, repeal the definition of **specified not-for-profit entity**.

(4) In section 4, insert in its appropriate alphabetical order:

**large**, in relation to a Maori incorporation, has the meaning set out in section 276A(5)

#### 20 New section 4A inserted (Transitional, savings, and related provisions)

After section 4, insert:

##### 4A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

#### 21 Section 276 amended (Accounting records to be kept)

Replace section 276(1)(c) with:

- (c) will enable the financial statements of the incorporation to be readily and properly audited (if those statements are required to be audited).

#### 22 Section 276A amended (Financial statements must be prepared)

(1) Replace section 276A(2) with:

(2) The financial statements must,—

- (a) in the case of a large Maori incorporation, be prepared in accordance with generally accepted accounting practice; and
- (b) in any other case, include a statement signed by the secretary of the incorporation to the effect that the secretary is satisfied that the financial



statements give a reasonable representation of the financial position and financial performance of the incorporation.

- (2) After section 276A(4), insert:
- (5) In this Act, a Maori incorporation is **large** in respect of a financial year if, in each of the 2 preceding financial years, the total revenue of the Maori incorporation and its subsidiaries (if any) exceeds \$10 million.

### **23 Section 277 amended (Appointment and duties of auditor)**

- (1) In section 277(1), replace “Maori incorporation (except the Maori incorporations referred to in subsection (1A))” with “large Maori incorporation”.
- (2) Repeal section 277(1A) and (6A).
- (3) In section 277(2), after “annual general meeting”, insert “of a large Maori incorporation”.
- (4) In section 277(4) and (9), replace “Maori incorporation” with “large Maori incorporation”.

### **24 Section 278 amended (Appointment of share valuer)**

- (1) Replace section 278(2) with:
- (2) No person may be appointed as the share valuer unless that person would be qualified to be appointed or to act as the auditor of the Maori incorporation under section 36 of the Financial Reporting Act 2013 (which applies with all necessary modifications as if the incorporation were a specified entity).
- (2) In section 278(4), replace “statement of financial position (as disclosed by the statement of financial position and the statement annexed to it)” with “financial statements (as disclosed by those statements and the accompanying statement”.
- (3) In section 278(4)(a) and (b), replace “statement of financial position” with “financial statements”.

### **25 New Schedule 1AA inserted**

Insert the Schedule 1AA set out in Schedule 2 of this Act as the first schedule to appear after the last section of the principal Act.

### **26 Consequential amendments to Maori Incorporations Constitution Regulations 1994**

- (1) This section amends the Maori Incorporations Constitution Regulations 1994.
- (2) In Schedule 1, replace rule 6(b) with:
  - (b) to receive and consider the financial statements, and the other reports and statements required by section 276A of the Act to accompany the financial statements, and, if thought fit, to adopt the same after hearing the auditor’s report (if any):
- (3) In Schedule 1, replace rule 10(3) with:

- (3) If any annual general meeting lapses, the chairperson must promptly transmit the financial statements and the other reports and statements referred to in rule 6(b) to the Registrar.

## Schedule 1

### New Schedules 1 to 4 inserted

s 10

### Schedule 1

#### Initial constitution of trust board

s 15(2)

#### 1 Interpretation

##### 1.1 Definitions

In this constitution, unless the context otherwise requires,—

**Act** means the Māori Purposes (Wi Pere Trust) Act 1991

**Annual General Meeting** means a general meeting of the beneficiaries held within 6 months of the end of the trust's financial year and once every 12 months or as soon thereafter as is practicable

**annual report** means an annual report on the business and affairs of the trust for a financial year, including the audited financial reports referred to in clause 8

**beneficial interest** means the undivided beneficial interest of a beneficiary in the Māori freehold land vested in the board for the purpose of the trust and includes that beneficiary's corresponding undivided interest in all other trust property comprised in the trust

**beneficiary** means a beneficiary of the trust who has succeeded to a beneficial interest, but does not include a discretionary beneficiary

**board** means the Wi Pere Trust Board established by the Act

**constitution** means this constitution

**corporate entity** means any company or trust or other entity wholly owned and directly or indirectly controlled by the trust

**corpus** or **corpus lands** means the Māori freehold land owned by Wi Pere and his family in 1899 when the trust was established, as recorded in Appendix 5

**discretionary beneficiary** means—

- (a) a spouse of a beneficiary; and
- (b) a child of a beneficiary, if that child is also a lineal descendant; and
- (c) anyone who can succeed to an interest of a beneficiary pursuant to the Act

**election** means an election to elect members in accordance with the provisions of Appendix 2

**financial year** means a period of 12 months ending on 30 June or such alternative date as the board nominates as the end of the trust's financial year

**former trustee** means a person holding office as a trustee of the trust immediately before commencement of the Act

**general meeting** means an Annual General Meeting or a Special General Meeting of beneficiaries convened and conducted in accordance with clause 9.2 and Appendix 4

**independent member** means a person appointed pursuant to clause 2.8

**known beneficiary** means any beneficiary for whom the trust has a postal or electronic address and includes any person recorded on the register as holding a beneficial interest in a representative capacity

**lineal descendant** means a person who is a direct descendant of Wi Pere by blood

**major transaction** means—

- (a) the acquisition of, or agreement to acquire (whether contingent or not), real or personal property that is more than 50% of the value of the trust property before the acquisition:
- (b) the disposition of, or agreement to dispose of (whether contingent or not), any real or personal property that is more than 50% of the value of the trust property before the disposition:
- (c) 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 trust property before the transaction; however, this paragraph does not apply by reason only of the board giving, or entering into an agreement to give, a charge secured over assets of the trust the value of which is more than 50% of the value of the trust property for the purpose of securing the repayment of money or the performance of an obligation—

provided that, for the purposes of this definition, the value of the trust property is the value of the trust property as reported in the last audited financial reports, but excluding the value of the corpus lands as recorded in those reports

**Māori freehold land** means land comprised in the trust property that has the status of Māori freehold land in accordance with the Act or has the status of Māori freehold land when acquired by the trust

**member**—

- (a) means a member of the board; and
- (b) includes—
  - (i) a former trustee in office pursuant to clause 2.1; and
  - (ii) a member elected to office pursuant to clause 2.3; and
  - (iii) an independent member (unless otherwise specified)

**ordinary resolution** means a resolution that is approved by more than 50% of the beneficiaries who cast a vote in respect of the resolution, such votes to be tallied as set out in clause 9.1, except that where the Act or Te Ture Whenua Maori Act 1993 requires a long-term lease be approved by 50% of the beneficiaries, those provisions prevail where there is any inconsistency with this definition

**quorum** variously has the meanings prescribed in clause 1.6 of Appendix 3 and clause 2.4 of Appendix 4

**register** means the register as provided in clause 3

**Special General Meeting** means a meeting of the beneficiaries other than an Annual General Meeting, and convened in accordance with Appendix 4

**special resolution** means a resolution that is approved by more than 75% of the beneficiaries who cast a vote in respect of the resolution, such votes to be tallied as set out in clause 9.1, except that where the Act or Te Ture Whenua Maori Act 1993 requires a sale or gift of Māori freehold land be approved by 75% of the beneficiaries, those provisions prevail where there is any inconsistency with this definition

**spouse** means—

- (a) a husband or wife by legal marriage; or
- (b) a partner to a de facto relationship, as defined in section 2D of the Property (Relationships) Act 1976; or
- (c) a partner to a civil union solemnised under the Civil Union Act 2004; but
- (d) does not include a person referred to in paragraphs (a) to (c) if—
  - (i) the marriage, relationship, or union in question is a relationship of short duration (as defined in section 2E of the Property (Relationships) Act 1976); or
  - (ii) a separation order or separation agreement is in force in respect of the marriage, union, or relationship

**trust** means the Wi Pere Trust referred to in section 4(1) of the Act

**trust property** means all real and personal property that is held by the board from time to time

**voting paper** means either a physical voting paper by which a postal vote can be made or the means by which an electronic vote can be made as permitted or required in any election or for the purpose of any resolution

**Wi Pere** means Wiremu Pere, born on 7 March 1837 in Gisborne, New Zealand and who died on 9 December 1915

**working day** means a day of the week other than—

- (a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, and Labour Day; and

- (b) a day in the period commencing with 25 December in a year and ending with 2 January in the following year; and
- (c) if 1 January falls on a Friday, the following Monday; and
- (d) if 1 January falls on either a Saturday or a Sunday, the following Monday and Tuesday.

## **1.2 Interpretation of appendices**

In the interpretation of each appendix to this constitution, unless the context otherwise requires,—

- (a) terms or expressions have the meanings given to them by this constitution; and
- (b) a reference to a clause in an appendix is a reference to a clause in the constitution unless it is specified as a reference to a clause within that appendix or another appendix.

## **1.3 Statute**

Reference to a statute or statutory provision in this constitution includes that statute or provision as amended, modified, re-enacted, or replaced from time to time.

## **1.4 General references**

A reference in this constitution to—

- (a) a person includes an individual, a body corporate, an association of persons (whether corporate or not), and a trust (in each case, whether or not having separate legal personality);
- (b) one gender includes the other gender;
- (c) the singular includes the plural and vice versa;
- (d) a clause is a reference to a clause in this constitution and its appendices as provided in clause 1.2(b), and a reference to a section is a reference to a section in the Act; and
- (e) this constitution includes its appendices.

## **1.5 Headings**

Headings are for ease of reference only and must be ignored in interpreting this constitution.

## **2 Members and constitution of the board**

### *First members*

- 2.1 The first members of the board are the former trustees who comprise the board as provided in the Act.
- 2.2 Subject to clauses 2.7 and 2.10, each former trustee continuing in office pursuant to clause 2.1 remains in office until he or she is required to retire in accordance with Appendix 1.

*The board*

- 2.3 Subject to clauses 2.1 and 2.2, the board must comprise at least 5, but no more than 7, members, who must each be a beneficiary over the age of 18 years elected by the beneficiaries in accordance with the process set out in Appendix 2.
- 2.4 Subject to clauses 2.2 and 2.5, a member holds office for a period of 5 years, but on retiring is eligible for re-election.
- 2.5 Any person elected to replace a member vacating office prior to the expiry of his or her term serves only for the balance of the term that member had left to serve.
- 2.6 Subject to clauses 2.1 to 2.3, the board has the discretion to decide how many members will be elected to the board, and must give notice at the Annual General Meeting of any increase or decrease in the number of members that will be required to hold office from the next Annual General Meeting.
- 2.7 Where the term of office of a member expires (but not pursuant to clause 2.10), that member continues to hold office by virtue of the appointment for the expired term until—
- (a) the member is re-elected; or
  - (b) a successor to the member is elected.
- 2.8 The members in office pursuant to either or both of clauses 2.1 and 2.3 may decide to appoint up to 2 additional persons to join the board as independent members due to a need for specialist skill or knowledge if doing so would be in the best interests of the trust. Independent members may be appointed for such term as the appointing members decide, but for not more than 5 years. To be eligible for appointment as an independent member, a person need not be a beneficiary, but—
- (a) must be over the age of 18 years; and
  - (b) must not be disqualified from appointment for any of the reasons set out in clause 2.10(d) to (f).

*Resignation*

- 2.9 Any member may at any time resign by notice in writing signed by the member and addressed to the board.

*Removal from office*

- 2.10 A member will cease to hold office if he or she—
- (a) dies; or
  - (b) resigns as a member by notice in writing to the board; or
  - (c) fails or neglects to attend 3 consecutive meetings of the board or other meetings of members without leave of absence, unless it appears to the board at its first meeting after the last of such absences that there is a proper reason for such non-attendance; or

- (d) is not capable of undertaking the duties of a member, including becoming subject to an order under section 12, 30, or 31 of the Protection of Personal and Property Rights Act 1988; or
  - (e) has committed an act of bankruptcy or is an undischarged bankrupt; or
  - (f) is or has ever been convicted of a crime involving dishonesty as defined in section 2(1) of the Crimes Act 1961, or an offence specified in section 373(4) of the Companies Act 1993; or
  - (g) is removed from office by the High Court.
- 2.11 If a member becomes subject to a temporary property order under section 30 of the Protection of Personal and Property Rights Act 1988, clause 2.10(d) does not apply by virtue only of that order having been made. However, while such an order remains in force, the member is deemed to have been granted a leave of absence and is not capable of acting as a member during that period. If an order under section 31 is subsequently made, clause 2.10(d) applies.
- 2.12 If, due to vacancies on the board, there are for the time being less than 5 members in office pursuant to clause 2.1 or 2.3, the remaining members may exercise all the powers of the board as if there were no such vacancy on the board, provided that the remaining members ensure that an election is carried out in accordance with clause 4(a) of Appendix 2.
- 3 Register of beneficial interests**
- Register*
- 3.1 The board must maintain a register to record the beneficial interests of the beneficiaries, life interests as permitted by the Act, and any person entitled to hold a beneficial interest in a representative capacity, in accordance with the Act.
- Adjustment of beneficial interests*
- 3.2 The board may increase or decrease the total number of undivided beneficial interests in the Māori freehold land for the purposes of more effective management of the register and to avoid the succession to or acquisition of fractional undivided beneficial interests. If the board increases or decreases the total number of undivided beneficial interests, it must allocate the new beneficial interests in proportion to the beneficial interests that apply immediately prior to any such change.
- 4 Powers of the board**
- Specific powers*
- 4.1 Without limiting any powers of the board provided in the Act, and subject to any restrictions contained in the Act and clauses 4.2 and 4.3, to achieve the purposes of the trust,—
- (a) the board has, in the administration, management, and investment of the trust, all the rights, powers, and privileges of a natural person:



- (b) subject always to the trust imposed by the Act, the board may deal with the trust property as if the board was the absolute owner of and beneficially entitled to the trust property, but subject to complying with the provisions of the Act and this constitution:
- (c) accordingly, in addition to any specific powers vested in the board by law, in dealing with the trust property or acting as members of the board, the members or board may do any act or thing or procure the doing of any act or thing or enter into any obligation whatever, including, without limitation, exercising unrestricted powers to borrow and raise money, to give securities and guarantees, and to enter into limited partnerships:
- (d) except as otherwise expressly provided by the Act or this constitution, the board may exercise all the powers and discretions vested in the board by the Act in the absolute and uncontrolled discretion of the board, at such time or times, upon such terms and conditions, and in such manner as the board may decide:
- (e) after payment of or provision for all reasonable costs, charges, and expenses of the members in respect of the establishment, management, and administration of the trust,—
  - (i) the board may at any time pay or apply all or any of the income or capital of the trust for the purpose or purposes contained in the Act, including Māori community purposes, and this constitution; and
  - (ii) in the case of discretionary beneficiaries, the board may or may not pay or apply the income or capital of the trust for the benefit of a discretionary beneficiary or discretionary beneficiaries as the board, in its absolute discretion, thinks fit from time to time; and the board may apply the income or capital for the benefit of a discretionary beneficiary or discretionary beneficiaries upon such terms and conditions or subject to such limitations as the board may in its absolute discretion impose.

*Limits on powers*

- 4.2 The board may alienate Māori freehold land only in accordance with the Act.
- 4.3 The board may not enter into a major transaction unless that major transaction—
- (a) has been approved by ordinary resolution; or
  - (b) is contingent upon approval by the beneficiaries and the major transaction is subsequently approved by ordinary resolution; and
  - (c) otherwise complies with any requirements of the Act.

**5 Management of the trust***Officers and employees*

5.1 The board may from time to time appoint, remunerate, and dismiss officers or employees of the trust, unless, either generally or in a particular case, it has for the time being delegated any 1 or more of the powers of appointment, remuneration, or dismissal, as the case may be, to the Chief Executive of the trust.

5.2 Any individual may be appointed as an officer or employee of the trust, but no member may be appointed as an employee.

*Corporate entities*

5.3 The board may incorporate corporate entities to carry out administrative or commercial activities for or on behalf of the trust. The board must ensure that any corporate entity has a constitution that requires the corporate entity to conduct its business in accordance with the purposes of the trust.

5.4 The board may appoint 1 or more incorporated or unincorporated entities to provide services to the trust. In any case where the entity directly or indirectly procures, causes, permits, or otherwise makes available a member to carry out management services, the appointment will be of no effect and neither that entity nor that person will have any authority on behalf of nor claim against the trust, unless prior to that appointment the full terms and conditions of the proposed appointment were disclosed in writing to the board, and the board voted unanimously (subject to clause 6.1) in support of that appointment on those terms.

*Office of the trust*

5.5 The office of the trust will be at such place as the board determines from time to time. The board must notify the beneficiaries of the place of the office of the trust by such means as the board considers appropriate.

*Meetings of the board*

5.6 The board must convene meetings and conduct the administration, business, and affairs of the trust in accordance with the provisions set out in Appendix 3.

*Delegation of powers*

5.7 The board may delegate its powers as provided in Appendix 3.

*Reliance on advice*

5.8 The board, when exercising powers or performing its duties, may rely on reports, statements, financial data, and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:

- (a) an employee of the trust whom the board believes on reasonable grounds to be reliable and competent in relation to the matters concerned:
- (b) a professional adviser or expert in relation to matters which the board believes on reasonable grounds to be within the person's professional or expert competence:

- (c) a committee of the board appointed and acting in accordance with Appendix 3.

5.9 Clause 5.8 applies only if the board—

- (a) acts in good faith; and
- (b) makes proper inquiry where the need for inquiry is indicated by the circumstances; and
- (c) has no knowledge that such reliance is unwarranted.

## 6 Disclosure and recording of interests

6.1 Any member who is or may be in any other capacity whatsoever interested or concerned directly or indirectly in any property or undertaking in which the trust is or may be in any way concerned or involved must disclose the nature and extent of that member's interest to the board, and must not take part in any deliberations or decision of the board concerning any matter in which that member is or may be interested other than as a member of the board, and must be disregarded for the purpose of forming a quorum for any such deliberation or decision.

6.2 For the purpose of clause 6.1, a member will be **interested** in a matter if the member—

- (a) is a party to, or will derive a material financial benefit from, that matter; or
- (b) has a material financial interest in another party to the matter; or
- (c) is a director, officer, or trustee of another party to the matter, or a person who will derive a material financial benefit from the matter, not being a party that is wholly owned by the trust or any subsidiary of the trust; or
- (d) is the parent, child, or spouse of another party to, or person who will or may derive a material financial benefit from, the matter; or
- (e) is otherwise directly or indirectly materially interested in the matter.

6.3 Notwithstanding clauses 6.1 and 6.2, no member will be required to disclose an interest in a matter where that member is a member of an iwi, hapū, or whānau and where his or her interest is not different in kind from the interests of other members of that iwi, hapū, or whānau.

6.4 A disclosure of interest by a member must be recorded in a register of interests to be maintained by the trust. Immediately following his or her election as a member, each member must enter into the register of interests, and must disclose in writing to the others, the name of any iwi of which he or she is a member, and each member must also, at any time after his or her election, enter into the register of interests and disclose to the next meeting of the board any interest of which that member becomes aware.

**7 Remuneration and expenses**

7.1 No private pecuniary profit may be made from the trust by any member or entity associated with a member, except that—

- (a) any member may receive full reimbursement for all expenses properly incurred by that member in connection with the affairs of the trust; and
- (b) the trust may pay reasonable remuneration to any member for services rendered to the trust as a member, provided that the total amount of remuneration available for payment to the members in any year must be approved by the beneficiaries by ordinary resolution; and
- (c) any member, or any entity of which that member is a partner, director, shareholder, member, employee, or associate, may be paid professional, business, trade, or director's fees or charges for services rendered to the trust or any corporate entity.

7.2 Any member or entity may retain any expenses, fees, or other remuneration properly payable to that member or entity as permitted by clause 7.1(a) to (c), provided that,—

- (a) before any remuneration is regarded as properly incurred or payable that remuneration must have been approved by a resolution of the board; and
- (b) with the exception of clause 7.1(b) (which is subject to an ordinary resolution of the beneficiaries) the board must not permit any member or any other person who will receive remuneration from the trust to participate in the deliberations or proceedings of the board relating to that remuneration; and
- (c) the board must disclose such expenses, remuneration, or charges in its annual report next published after payment has been made.

**8 Accounts and financial reporting***Financial reports*

8.1 The board must ensure financial reports are prepared for each financial year in accordance with the requirements of the Act. The audited financial reports must be available within 6 months of the end of the financial year to which the financial reports relate.

*Annual report*

8.2 The board must ensure an annual report is prepared for each financial year. The annual report must be available within 6 months of the end of the financial year to which the annual report relates.

8.3 The board must make available to all known beneficiaries, and to any person who has notified the board that he or she holds a power of attorney for a beneficiary, a copy of the annual report by email or other electronic means, or otherwise upon request.

*Bank accounts*

- 8.4 The board may keep an account or accounts at such bank or banks as the board may decide. Cheques, withdrawals, and authorities may be signed or endorsed, as the case may be, by such person or persons as the board may decide.

*Reporting responsibilities*

- 8.5 Without derogating from its duties under any enactment or at law, the board has, in accordance with the provisions of this clause, the reporting responsibilities in relation to—
- (a) the trust's performance; and
  - (b) any corporate entity.

**9 General meetings, representation, and voting***Voting entitlement*

- 9.1 The number of votes that each beneficiary is entitled to cast is as follows:
- (a) subject to subclauses (b) and (c), in the case of an ordinary resolution taken at a general meeting by a simple show of hands or by any other means, each beneficiary is entitled to cast 1 vote regardless of the beneficial interest he or she holds:
  - (b) subject to subclause (c), in the case of an ordinary resolution taken at a general meeting or by postal or electronic vote, in circumstances where a poll vote has been called for as permitted by clause 2.10 of Appendix 4, each beneficiary is entitled to cast 1 vote in the poll, but that vote must be tallied in accordance with the proportionate beneficial interest held by that beneficiary:
  - (c) in the case of any special resolution, or an ordinary resolution to approve a major transaction, and in the case of an election, each beneficiary is entitled to cast 1 vote, but that vote must be tallied in accordance with the proportionate beneficial interest held by that beneficiary.

*General meetings of beneficiaries*

- 9.2 Each year, the board must convene such general meetings as required in Appendix 4, but otherwise may convene general meetings as it thinks fit.
- 9.3 The board is entitled to determine the procedures that govern the conduct of such general meetings, including the method of voting, provided that such procedures comply with the provisions of this constitution and Appendix 4.
- 9.4 All beneficiaries are eligible to vote on any resolution required pursuant to the Act or this constitution.

*Powers of attorney*

- 9.5 Anyone purporting to hold power of attorney from a beneficiary must provide proof of the power of attorney to the board 10 working days before the first general meeting or election at or in which the power of attorney is intended to

be acted on. Thereafter, the holder of the power of attorney is entitled to exercise all the rights of the beneficiary including the right to vote, subject to the requirement that a certificate of currency must accompany any vote.

*Manner of holding beneficial interests*

- 9.6 If a beneficial interest is held by trustees on behalf of entitled beneficiaries, those trustees must notify the board of the name and address of a trustee who is designated to receive communications from the trust and to vote on their behalf. If no such notification is received, the board is entitled to treat the first named trustee on the Māori Land Court register (where applicable) as the person entitled to receive communications and to vote. In any other case, the board is entitled to treat the first named trustee in the trust deed as the person entitled to receive communications and to vote.

*Access to information*

- 9.7 Subject to clause 9.8, every beneficiary is entitled at all reasonable times to inspect this constitution, the register, and any annual report, or to request to be supplied with copies of or extracts from such documents at the beneficiary's own expense, provided that the register or any original documents may not leave the office of the trust.
- 9.8 The board must not release information if doing so would infringe the provisions of the Privacy Act 1993, provided that in the case of access to the register, the board is entitled to release the names, addresses, and other details of the beneficial interests of the beneficiaries to other beneficiaries and to any tribunal or court as required.

## **10 Dispute resolution procedures**

- 10.1 If any dispute arises between any of the members or beneficiaries, that dispute must be determined in accordance with the process set out in this clause.
- 10.2 Where any dispute arises between the members or beneficiaries concerning this trust, no party may commence any court or arbitration proceedings relating to the dispute unless that party has complied with the procedures set out in this clause, unless urgent injunctive relief is sought.
- 10.3 The party initiating the dispute (the **first party**) must provide written notice of the dispute to the board and to any other party to the dispute, and nominate in that notice the details of any representative for the first party for the negotiations. The board and any other party notified must, within 7 days of receipt of the notice, give written notice to the first party naming its representative for the negotiations. Each representative nominated has authority to settle or resolve the dispute.
- 10.4 If the parties to the dispute are unable to resolve the dispute by discussion and negotiation between themselves within 30 working days after the date of the written notice from the first party, then the parties may refer the matter to medi-

ation if they mutually agree to do so. Such mediation must be conducted on such terms and conditions as the board and the other parties mutually agree.

10.5 If the members and parties to the dispute are unable to resolve the matter by discussion and negotiation and do not wish to proceed to a mediation, the dispute must be referred to an Annual General Meeting for further discussion and negotiation or, if the requirements of clause 1.3 of Appendix 4 are met, the dispute must be referred to a Special General Meeting. If the dispute is not resolved at an Annual General Meeting or Special General Meeting, the board, members, or any party to the dispute may apply to any court with jurisdiction for such intervention or orders as may be necessary.

10.6 The provisions of this clause do not derogate from the rights or obligations of the trust or any beneficiary pursuant to the Trustee Act 1956 or any other act or provision of law or equity.

## **11 Execution of documents**

### *Contracts and documents*

11.1 Subject to clause 11.2 and any requirements in the Act, all documents required to be executed by the board will be deemed to be validly executed and binding if those documents have been signed by 2 members or by 1 member and 1 other person whom the board from time to time authorises in writing.

11.2 Subject to any contrary requirement in the Act, contracts on behalf of the board may be made as follows:

- (a) any contract that if made between private persons must be by deed must, if made by the board, be in writing signed by 2 members or by 1 member and 1 other person authorised by the board, acting pursuant to a resolution of the board to enter into such contract:
- (b) any contract that if made between private persons must be in writing signed by the parties to be charged therewith must, if made by the board, be in writing signed by 2 members or by 1 member and 1 other person authorised by the board, acting pursuant to a resolution of the board to enter into such contract:
- (c) any contract that if made between private persons may be made orally, may be similarly made by or on behalf of the board by 2 members or by 1 member and 1 other person authorised by the board, acting pursuant to a resolution of the board to enter into such contract:
- (d) notwithstanding anything to the contrary in the foregoing provisions of this clause, no contract made by or on behalf of the board is invalid by reason only that it was not made in the manner provided by this clause, provided that it was made pursuant to a resolution of the board.

**12 Indemnity and insurance**

- 12.1 Each member and every past trustee of the trust is entitled to be indemnified out of the trust property against all actions, proceedings, claims, damages, losses, demands, calls, liabilities, costs (including legal costs), and expenses (together called **liabilities**) suffered or incurred by that member or past trustee in connection with the trust, except to the extent that those liabilities are due to—
- (a) that member or past trustee's own dishonesty or lack of good faith; or
  - (b) that member or past trustee's wilful commission or omission of an act known by that member or trustee to be a breach of trust.
- 12.2 For the avoidance of doubt, references to members in clause 12.1 include independent members.
- 12.3 The board may take out insurance for any member, officer, or employee of the trust, or director, officer, or employee of any corporate entity, as the board thinks is just and equitable, subject to the restrictions in the Act or any other applicable legislation.

**13 Variation of constitution**

- 13.1 Subject to clause 13.2, the board may from time to time amend, revoke, or add to the provisions of this constitution, provided that—
- (a) no such amendment purports to alter or conflicts with the purpose of the trust as expressed in the Act; and
  - (b) no such amendment is otherwise inconsistent with the Act, or any legislation applicable to the trust; and
  - (c) any proposed amendment to this constitution is put to the beneficiaries for their consideration during a consultative process that must consist of 1 or more general meetings, and is subsequently approved by special resolution; and
  - (d) the board must not place a special resolution before the beneficiaries to amend this constitution until professional advice has been obtained confirming that the proposed amendment does not purport to alter the purpose of the trust or conflict with the Act or any other applicable legislation.
- 13.2 Notwithstanding clause 13.1, any amendment, revocation, or addition to this constitution may be made without a special resolution, provided that the amendment, revocation, or addition is made to—
- (a) correct a minor mistake in this constitution, provided the correction will not materially change the effect of the relevant provision or provisions of the constitution; or
  - (b) give effect to the Act or any other legislation affecting the operation of the trust (such as the Trustee Act 1956 and Te Ture Whenua Maori Act 1993), provided that the amendment, revocation, or addition to this con-



stitution will not materially change the meaning or effect of the relevant clause or clauses of this constitution; and

- (c) the beneficiaries are subsequently notified of that amendment, revocation, or addition.

13.3 The board must keep a record of any amendments made to this constitution in accordance with this clause, including records of any special resolution and notification to beneficiaries.

#### **14 Commencement date**

14.1 The terms of this constitution take effect from the date upon which the Act comes into force, and the board will thereafter have all the powers and duties expressed in this constitution.

14.2 The coming into force of this constitution will not terminate or invalidate any process validly commenced prior to this constitution coming into force.

#### **15 Review**

15.1 Within 5 years after the commencement date, the board must review the operation of the constitution.

15.2 At the first Annual General Meeting after the completion of the review, the board must report on—

- (a) the effectiveness of the constitution; and
- (b) any recommended changes to the constitution.

### **Appendix 1**

#### **Retirement of members of the board**

The members who form the board pursuant to clause 2.1 are as follows and must retire as specified:

- (a) Alan Parekura Torohina Haronga (or his replacement) must retire at the end of the first Annual General Meeting held after the date the Act comes into force; and
- (b) Trudy Vivienne Daisy Meredith (or her replacement) must retire at the end of the second Annual General Meeting held after the date the Act comes into force; and
- (c) Henare Kingi Lardelli (or his replacement) must retire at the end of the third Annual General Meeting held after the date the Act comes into force; and
- (d) Kingi Winiata Smiler (or his replacement) must retire at the end of the fourth Annual General Meeting held after the date the Act comes into force; and
- (e) Hector John Pere (or his replacement) must retire at the end of the fifth Annual General Meeting held after the date the Act comes into force.

## **Appendix 2**

### **Election of members of the board**

#### **1 Election of members**

- 1.1 No person may be eligible to be elected as a member who is under the age of 18 years or to whom the criteria in clause 2.10(d) to (f) apply.
- 1.2 At the Annual General Meeting each year the board must announce, pursuant to clause 2.6, any increase or decrease in the number of members that will be required to be elected to the board from the next Annual General Meeting.
- 1.3 The board may permit or require beneficiaries to cast a vote in an election by way of postal or electronic vote as the board considers appropriate.
- 1.4 The nominee or nominees who have received the highest number of valid votes will be the person or persons elected as members, provided that the number of persons elected as members must not exceed the number of members required to hold office.
- 1.5 The term for which any member is elected commences at the end of the Annual General Meeting at which his or her election as a member is announced by the board in accordance with this appendix. However, if there has been a delay in the election process as permitted by this appendix and the board cannot announce the results of the election at the Annual General Meeting in respect of all vacancies in the office of the board, the term for which any member is subsequently elected in accordance with the process set out in this appendix commences on a date to be determined by the board after it receives a declaration pursuant to clause 10(d) of this appendix. In the event that it is necessary for the board to make an appointment of a member in accordance with clause 3.3(b) of this appendix, the term of any person appointed as member will also commence on a date to be determined by the board.

#### **2 Frequency of elections**

Elections must be held as necessary by the board in accordance with the requirements of this constitution.

#### **3 Necessity for election process**

- 3.1 If, on the closing of nominations for election of members, the number of persons nominated for election exceeds the number of appointments to be made, an election must be held in accordance with the provisions of this appendix.
- 3.2 In any case where the number of nominations received is the same as the number of members required to hold positions on the board so that an election is rendered unnecessary, the persons nominated for election are deemed to have been duly elected as members in accordance with their nominations and the remaining election process set out in clauses 7 to 11 of this appendix does not apply. However, the returning officer must still make a declaration as provided in clause 10(d) of this appendix.

- 3.3 In the event that there is an insufficient number of nominations to enable election of the number of members required to hold office, the following applies:
- (a) those persons nominated are deemed to have been duly elected as members in accordance with their nominations and the remaining election process set out in clauses 7 to 11 of this appendix does not apply in respect of those positions, except that the returning officer must still make a declaration as provided in clause 10(d) of this appendix; and
  - (b) the election process must be repeated in respect of the remaining vacant positions for which nominations were not received. If this second election process still does not result in the nomination and subsequent election of such number of members as are required to be elected to the board, the members holding office pursuant to clauses 2.1 and 2.3 must, as soon as practicable, by majority decision appoint such persons eligible to hold office as members as they consider suitable to the remaining vacant positions; such persons so appointed are in all respects and for all purposes deemed to have been elected to the position of member in accordance with this appendix.

#### **4 Time of elections**

The board must arrange and conduct an election in accordance with the provisions set out in this appendix at such times as will ensure that,—

- (a) subject to a change in the number of members to be elected pursuant to clause 2.6, any vacancy in the office of the board that will arise either as a result of the retirement of a member or the expiry of the term of any member will be filled at the time the term of office of the member is due to expire or as soon thereafter as is practicable in all the circumstances; and
- (b) subject to clause 2.7, no person who is elected as a member may hold office for a period longer than 5 years without facing re-election.

#### **5 Eligibility to vote**

All beneficiaries are eligible to vote in an election and votes must be cast in accordance with this constitution and this appendix. Each beneficiary is entitled to cast only 1 vote in an election, but that 1 vote must be tallied in accordance with the proportionate beneficial interest held by that beneficiary as provided in clause 9.1(c).

#### **6 Nominations for election as member**

- 6.1 The board must, no later than 50 working days prior to each Annual General Meeting, notify all known beneficiaries and any person who has notified the board in accordance with clause 9.5 that he or she holds a power of attorney for a beneficiary—

- (a) of the number of members sought to be elected to the board, whether as a result of any vacancy caused by a member vacating office or due to an increase in the number of members required for office as notified by the board pursuant to clause 1.2 of this appendix (if any); and
  - (b) that nominations for the position of member may be lodged with the trust.
- 6.2 On the expiry of the term of office of any member (excluding independent members), the member is automatically nominated for re-election as a member, provided that he or she consents to such nomination.
- 6.3 A nomination must—
  - (a) contain details of the nominee’s full name, address, and contact number; and
  - (b) include a declaration signed by the nominee that declares that the nominee is not a person who is precluded from holding office as a member on the basis of 1 or other of the matters specified in clause 1.1 of this appendix; and
  - (c) include the written signature of both the candidate and the nominator; and
  - (d) be accompanied by a brief statement containing details of experience and objectives relevant to the position of member.
- 6.4 Subject to clause 6.2 of this appendix, nominations for the position of member may be made only by beneficiaries and must be received at the office of the trust no later than 3 weeks after the nomination process commences in accordance with clause 6.1 of this appendix.
- 6.5 On receiving a declaration referred to in clause 6.3(b) of this appendix, the board is entitled to satisfy itself that the declaration is true and correct, and, if the declaration is incorrect, the board may decline to accept the nomination.
- 7 Voting paper**

Not less than 25 working days prior to the Annual General Meeting to which the election relates, the board must send or make available a voting paper to all known beneficiaries entitled to vote in the election, and to any person who has notified the board in accordance with clause 9.5 that he or she holds a power of attorney in respect of a beneficiary.
- 8 Returning officer**

The board must appoint an appropriate person to act as returning officer for the purpose of elections who will be responsible for receiving nominations and receiving and counting all votes cast in every election.

**9 Voting**

All voting papers must be received by the returning officer no later than 10 working days prior to the date of the Annual General Meeting at which the results of the election will be announced.

**10 Counting of votes**

On completion of the voting in an election, the returning officer must—

- (a) reject as invalid—
- (i) any voting paper for which there is reasonable cause to believe that it was not prepared by the trust for the purposes of the election; and
  - (ii) any voting paper that does not clearly indicate the nominees for which the voter intended to vote; and
  - (iii) any voting paper in which the voter votes for a nominee who has withdrawn his or her nomination—

provided that no voting paper may be rejected as invalid by reason only of some informality in the manner in which it has been dealt with by the voter if the voting paper is otherwise regular and if, in the opinion of the returning officer, the intention of the voter is clearly indicated; and

- (b) then—
- (i) count the number of votes received by each nominee; and
  - (ii) count the number of votes rejected as invalid; and
- (c) where there is an equality of votes between nominees who would otherwise be appointed to the last position of member required for election, as soon as practicable commence a second postal or electronic vote in accordance with this appendix regarding which of those nominees should be elected to that position of member; and
- (d) make a declaration in writing stating—
- (i) the number of voting papers received, the number of votes received by each nominee, and the number of voting papers rejected as invalid; and
  - (ii) the nominees who receive the highest number of votes to be elected as members; and
  - (iii) whether the election process is complete and, if incomplete, what steps in the process are required to be repeated; and
  - (iv) if any steps in the election process are required to be completed, what time frames apply in respect of that repeated process; and
- (e) forward the declaration to the board so that it receives the declaration no later than 3 working days prior to the date of the Annual General Meeting.

**11 Notification**

Upon receipt by the board of a declaration pursuant to clause 10 of this appendix, the board must announce the results of the election at the Annual General Meeting. If any steps in the election process are required to be repeated, the board must announce the subsequent results of the election as soon as is practicable in a manner to be determined by the board.

**12 Retention of election records**

The board must keep all documentation relating to an election for a period of 3 months after the election, and thereafter the board may destroy or dispose of such records as it sees fit.

### **Appendix 3 Proceedings of the board**

**1 Meetings of the board**

- 1.1 The board may meet to conduct business at such intervals as the board may decide. The board may by a majority vote invite to such meeting whomever the board may decide will assist with their deliberations.
- 1.2 Except as expressly provided otherwise by this constitution, any matter requiring a decision at a meeting of the board must be decided by a simple majority of the members personally present and voting on the matter.
- 1.3 In the event of an equality of votes, the Chairperson does not have a second or casting vote.
- 1.4 Except as expressly provided otherwise by this constitution, a resolution in writing signed by all the members is as valid and effectual as if it had been passed at a meeting of the board duly convened and constituted. Any such resolution may consist of several like documents each signed by 1 or more members. Any such document sent by a member by facsimile or such other electronic means permitted by the board from time to time is deemed to have been duly signed by that member.
- 1.5 Any member may at any time give notice convening a meeting of the board. Such notice must be given to each member at least 15 working days before the date of the proposed meeting. No notice or other communication will be effective until received. It will, however, be deemed to have been received by the addressee,—
  - (a) in the case of an email or facsimile, on the business day on which it is transmitted or, if transmitted after 5 pm on a working day or dispatched on a non-working day, on the next working day after the date of dispatch; and
  - (b) in the case of personal delivery, when delivered; and
  - (c) in the case of a letter, on the fifth working day after posting by FastPost.

The notice must state the time and place of the meeting and, in sufficient terms, the nature of the business to be transacted.

- 1.6 The quorum for a meeting of the board is a majority of the members on the board, excluding independent members (if any).
- 1.7 The contemporaneous linking together of the members by telephone or other electronic means of communication constitutes a meeting of the board and the provisions of this appendix as to meetings of the board apply to such meetings provided the following conditions are met:
- (a) each member is entitled to notice of such a meeting and to be linked by electronic means for the purposes of the meeting; and
  - (b) each of the members taking part in the meeting must be able to hear each of the other members taking part during the whole of the meeting; and
  - (c) at the commencement and conclusion of the meeting the Chairperson must call upon each member to acknowledge his or her attendance; and
  - (d) a member may not withdraw from such a meeting unless that member has previously obtained the express consent of the Chairperson of the meeting to do so; and
  - (e) a member is conclusively presumed to have been personally present and to have formed part of the quorum of such a meeting at all times during the meeting unless that member has previously obtained the express consent of the Chairperson to withdraw from such a meeting.
- 1.8 Minutes of the proceedings of all meetings of the board must be recorded in a book to be kept for that purpose by the Secretary and must be signed by the Chairperson of the meeting at which the minutes are confirmed. Every such minute purporting to be so signed is prima facie evidence of the matters recorded. A minute of the proceedings of any meeting by telephone or other electronic means of communication is sufficient evidence of the observance of all necessary formalities if the minute of the meeting signed by the Chairperson of the meeting contains a certificate to that effect.

## **2 Chairperson, Deputy Chairperson, and Secretary**

- 2.1 The board must elect 1 member to act as Chairperson from year to year.
- 2.2 The board may also elect 1 member to act as Deputy Chairperson either as the need arises or from year to year or for such term of years as the board may decide. In the absence of the Chairperson, the Deputy Chairperson has and may exercise all the powers, and perform all the duties, of the Chairperson.
- 2.3 The board must appoint a Secretary, who may be a member or any other person.

**3 Delegation of powers**

- 3.1 The board may delegate in writing to any committee of the board, member, employee or officer of the Trust, or other person such of the powers of the board as the board may decide.
- 3.2 Any person or committee acting under delegated power must act in accordance with the terms of the Act and this constitution and, in the absence of proof to the contrary, is presumed to be acting within the terms of the delegation.
- 3.3 The board may revoke wholly or partly any delegation of the powers of the board at any time.
- 3.4 Subject to any directions given by the board or restrictions in this constitution, any person or committee to which any powers of the board have been delegated may exercise the delegation as that person or the committee may decide.
- 3.5 The board must, in delegating the powers of the board, provide restrictions or rules by or within which such delegated powers are to be exercised in accordance with this clause and in each case must require the delegate to report to the board on any action or decision taken as delegate.

**Appendix 4  
Proceedings at general meetings****1 Meetings**

- 1.1 The board must convene an Annual General Meeting in accordance with this appendix at which—
- (a) the contents of the annual report must be discussed and considered; and
  - (b) the performance of the trust must be discussed and considered; and
  - (c) the results of any election must be announced as provided in Appendix 2.
- 1.2 Annual General Meetings must be held within 6 months of the end of the financial year and no more than 12 months apart, or as soon thereafter as practicable.
- 1.3 A Special General Meeting must be convened by the board on the written request of—
- (a) the Chairperson of the board (or the Deputy Chairperson if the Chairperson is indisposed); or
  - (b) not less than 75% of the members; or
  - (c) such number of beneficiaries as hold not less than 10% of the beneficial interests.



**2 General procedures at meetings***Election*

- 2.1 The procedures set out in Appendix 2 must be complied with in respect of any election process that may form part of a general meeting.

*Eligibility to vote*

- 2.2 All beneficiaries are eligible to vote on any resolution required by this constitution and votes must be cast in accordance with this constitution and this appendix.

*Notice*

- 2.3 Beneficiaries must be given no less than 20 working days' notice of a general meeting.

*Quorum*

- 2.4 No business may be transacted at a general meeting unless a quorum is present. The quorum at a general meeting is—
- (a) a majority of the members on the board, excluding independent members (if any); and
  - (b) more than 10 beneficiaries (not including any member).

*Adjourned meeting*

- 2.5 If a quorum is not present within 1 hour of the time appointed for the start of a general meeting,—
- (a) the meeting is to stand adjourned until the same hour at the same place not less than 20 working days following the adjournment of that meeting unless the board otherwise determines; and
  - (b) notwithstanding clause 2.4 of this appendix, at the reconvened meeting the members and beneficiaries present constitute a quorum.

*Chairperson*

- 2.6 The Chairperson or, failing him or her, the Deputy Chairperson, will preside over and have control of every general meeting. If there is no Chairperson or Deputy Chairperson present at the time appointed for holding a general meeting, or if either of those persons is unwilling to preside over the meeting, the members present may choose a person to substitute as Chairperson for that meeting.

*Matters for discussion*

- 2.7 A beneficiary may propose a matter for discussion at a general meeting, which the Chairperson may or may not permit to proceed after considering a show of hands.

*Ordinary resolutions*

- 2.8 Except in the case of special resolutions referred to in clause 2.11 of this appendix, resolutions must be by ordinary resolution.

2.9 With the exception of any ordinary resolution to approve a major transaction, an ordinary resolution is not binding upon the board, which may still exercise its discretion to adopt another course of action.

*Right to require poll vote in respect of ordinary resolution*

2.10 Either the board or 5 beneficiaries together may require that a poll vote be taken on any matter that requires an ordinary resolution. Voting on a poll vote must be in accordance with clause 9.1(b).

*Special resolutions*

2.11 Special resolutions may only be proposed by the board, with the exception that such number of beneficiaries as hold not less than 10% of the beneficial interests may propose a special resolution to change the constitution, and the Board must facilitate the special resolution in accordance with clause 13 as if the board proposed that special resolution.

*Voting on resolutions*

2.12 Subject to clause 2.13 of this appendix, voting on an ordinary resolution may be by a simple show of hands at a general meeting or by way of postal or electronic voting, as permitted or required by the board, or both.

2.13 Voting on an ordinary resolution in respect of a major transaction and voting in respect of any special resolution must be by way of postal or electronic voting as permitted by the board.

2.14 Where voting on an ordinary resolution is permitted to be by personal vote at a general meeting (ie, show of hands), voting by proxy is permitted as set out in clauses 2.21 to 2.25 of this appendix.

2.15 The number of votes that each beneficiary is entitled to cast in respect of a resolution, and the tallying of votes cast, is determined by clause 9.1.

*Postal and electronic voting*

2.16 Subject to clause 3 of this appendix, where postal or electronic voting on any resolution is permitted or required, voting papers must be received by the returning officer by 5 pm on the fourth working day preceding the day of the general meeting to which the resolution relates.

2.17 Not less than 20 working days prior to the date of the general meeting to which the resolution relates, the board must send or make available a voting paper to all known beneficiaries and to any person who has notified the board in accordance with clause 9.5 that he or she holds a power of attorney in respect of a beneficiary.

2.18 The board must appoint an appropriate person to act as returning officer for the purpose of any resolution in respect of which postal or electronic voting is permitted. The returning officer will be responsible for receiving and counting all postal and electronic votes cast in respect of that resolution.

- 2.19 On completion of the postal and electronic voting on a resolution, the returning officer must—
- (a) reject as invalid—
    - (i) any voting paper for which there is reasonable cause to believe that it was not prepared by the trust for the purposes of the resolution; and
    - (ii) any voting paper that does not clearly indicate whether the voter approves the proposed resolution or not—  
provided that no voting paper may be rejected as invalid by reason only of some informality in the manner in which it has been dealt with by the voter if the voting paper is otherwise regular and if, in the opinion of the returning officer, the intention of the voter is clearly indicated; and
  - (b) then—
    - (i) count the number of postal and electronic votes cast in respect of the resolution; and
    - (ii) count the number of postal and electronic votes rejected as invalid; and
  - (c) advise the board of the outcome of the postal and electronic voting process in respect of the resolution.
- 2.20 The board must announce the result of the resolution at the general meeting after the counting of any votes cast in person or by proxy in respect of the resolution at that meeting (if any), or announce the result by such other means as the board considers appropriate, or both.
- Proxies*
- 2.21 Where a beneficiary would be entitled to exercise his or her right to vote in respect of an ordinary resolution by being present in person at a general meeting but cannot attend, he or she may appoint a proxy to act on his or her behalf at that general meeting or any adjournment of that general meeting.
- 2.22 Subject to clauses 2.23 to 2.25 of this appendix, a proxy for a beneficiary is entitled to attend and be heard at a meeting of beneficiaries as if the proxy were the beneficiary.
- 2.23 A proxy must be appointed by notice in writing using a form approved by the board and signed by the beneficiary and the notice must provide that the appointment is for a particular general meeting. The person appointed as proxy need not be a beneficiary, but must not be a member or a person nominated for election as a member.
- 2.24 Subject to clause 2.25 of this appendix, if the board receives more than 1 appointment of a proxy from a beneficiary and the proxies purport to relate to the same general meeting, the board is entitled to treat the most recent appointment as valid and to reject any prior appointments.

- 2.25 No proxy is effective in relation to a general meeting unless a copy of the notice of appointment is received by the board before 5 pm on the fourth working day preceding the day of the general meeting. If the beneficiary personally attends the general meeting to which the proxy relates, or more than 1 proxy attends a general meeting to which any proxy relates, the board is entitled to treat the appointment of any or all proxies as null and void at its discretion.

*Information provided prior to general meeting*

- 2.26 The board must ensure that clause 8.3 has been complied with at least 10 working days prior to an Annual General Meeting.
- 2.27 The board must post to all known beneficiaries such information as properly informs them of any proposed resolution for consideration at a general meeting. Any beneficiary may request further information from the board as to the proposed resolution, which, subject to the limitations referred to in clause 9.8, the board must provide at the expense of that beneficiary.

**3 Procedures to maximise voting**

- 3.1 The board may wish to maximise voting in respect of any resolution, whether that resolution is to be considered at an Annual General Meeting or at a Special General Meeting that is convened in stages at 1 or more different times and in 1 or more different locations.
- 3.2 In addition to the requirement in clause 2.17 of this appendix regulating when voting papers must be issued, the board may also issue or make available voting papers during or after a general meeting, including during and after any stage of a Special General Meeting.
- 3.3 Despite the requirement in clause 2.16 of this appendix, the board may permit beneficiaries to submit a voting paper at a general meeting, including during and after any stage of a Special General Meeting.
- 3.4 If the board wishes to adopt voting procedures in accordance with this clause, it must provide beneficiaries with a final date on which any postal or electronic votes must be received and beneficiaries must be permitted to withdraw or amend their vote at any time prior to that final date.
- 3.5 If the returning officer is not present at any general meeting or any stage of a Special General Meeting, any voting papers received must be placed in a sealed envelope and delivered to the returning officer.

## Appendix 5

### Schedule of corpus lands

#### Corpus lands set aside as Papakainga and Māra Kai

Title reference	Legal description
GS2A/336	Lots 41 and 42, Part Lot 43, and Part Lot 45 Deposited Plan 1154
GS2A/1029	Part Pukepapa F Block Deposited Plan 3487
GS2A/1100	Lots 1–11 Deposited Plan 3507
GS2A/1110	Lots 2–6, 8–9, and 11 Deposited Plan 3488
GS2B/145	Lot 1 Deposited Plan 5229
GS2B/877	Part Section 83 Block I Waimata Survey District
GS2B/1216	Karaka No 17 Block
GS4C/1377	Lot 1 Deposited Plan 6697
GS4C/1378	Part Lot 1 Deposited Plan 2274 and Part Lot 25 Deposited Plan 1154
GS4D/210	Lot 41 Deposited Plan 3863, Lot 5 Deposited Plan 4591, and Part Lots 2–4 Deposited Plan 3863

#### Title reference

#### Remainder of corpus lands

Title reference	Legal description
GS1D/806	Lot 2 Deposited Plan 5229
GS2A/1028	Part Repongaere 4B Block
GS2A/1361	Part Tangihanga 1A Block
GS2B/1215	Manukawhitikitiki 2H Block
GS2B/1217	Puhatikotiko 6B Block
GS2B/1221	Lot 3 Deposited Plan 1648
GS2B/1223	Part Okahuatiu 1D2B1 Block
GS2B/1225	Part Karaka No 15 Block
GS2B/1226	Manukawhitikitiki 1B2 Block
GS3B/1247	Tangihanga 1D Block
GS5D/697	Lots 1–6 Deposited Plan 8533
GS125/22	Lot 1 Deposited Plan 4831

## Schedule 2

### Land to have status of general land

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Title reference	Legal description
GS1A/1233	Part Puhatikotiko 5B2A Block
GS1D/1410	Lot 2 Deposited Plan 3168
GS2A/501	Lot 1 Deposited Plan 2950
GS2A/502	Lot 2 Deposited Plan 2950
GS2B/291	Puhatikotiko 5A Block
GS2B/292	Puhatikotiko 4B1 Block
GS2B/293	Puhatikotiko 5B1 Block
GS2B/294	Puhatikotiko 3B1 Block
GS2B/295	Part Puhatikotiko 1B1 Block and Part Puhatikotiko 4A Block
GS2B/1218	Lot 1 Deposited Plan 2405 and Lot 2 Deposited Plan 2193
GS2C/818	Part Puhatikotiko 7B1 Block
GS2C/1247	Manukawhitikitiki D2A2 Block
GS2C/1246	Manukawhitikitiki D2A1 Block
GS3C/1357	Waituhi 1D2A Block and Section 106 Block VIII Waimata Survey District
GS5B/246	Lots 1 and 2 Deposited Plan 6892
GS5D/58	Puhatikotiko 3A Block
GS5D/59	Lot 1 Deposited Plan 2596

### Schedule 3

#### Land to have status of Māori freehold land

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Title reference	Legal description
GS1D/806	Lot 2 Deposited Plan 5229
GS2A/336	Lots 41 and 42, Part Lot 43, and Part Lot 45 Deposited Plan 1154
GS2A/1028	Part Repongaere 4B Block
GS2A/1029	Part Pukepapa F Block Deposited Plan 3487
GS2A/1100	Lots 1–11 Deposited Plan 3507
GS2A/1110	Lots 2–6, 8–9, and 11 Deposited Plan 3488
GS2A/1361	Part Tangihanga 1A Block
GS2B/145	Lot 1 Deposited Plan 5229
GS2B/877	Part Section 83 Block I Waimata Survey District
GS2B/1215	Manukawhitikitiki 2H Block
GS2B/1216	Karaka No 17 Block
GS2B/1217	Puhatikotiko 6B Block
GS2B/1219	Puhatikotiko 5B2B2B Block
GS2B/1220	Puhatikotiko 5B2B1 Block
GS2B/1221	Lot 3 Deposited Plan 1648
GS2B/1222	Puhatikotiko 5B2B5 Block
GS2B/1223	Part Okahuatiu 1D2B1 Block
GS2B/1224	Poututu B5 Block
GS2B/1225	Part Karaka No 15 Block
GS2B/1226	Manukawhitikitiki 1B2 Block
GS2C/908	Puhatikotiko 6A Block
GS2D/1071	Puhatikotiko 5B2B2C Block
GS3B/214	Puhatikotiko 5B2B2A Block
GS3B/1247	Tangihanga 1D Block
GS4C/1377	Lot 1 Deposited Plan 6697
GS4C/1378	Part Lot 1 Deposited Plan 2274 and Part Lot 25 Deposited Plan 1154
GS4D/210	Lot 41 Deposited Plan 3863, Lot 5 Deposited Plan 4591, and Part Lots 2–4 Deposited Plan 3863
GS5B/255	Part Repongaere 4C Block
GS5D/697	Lots 1–6 Deposited Plan 8533
GS125/22	Lot 1 Deposited Plan 4831

<b>Schedule 4</b>		
<b>Application of provisions of 1993 Act to Māori freehold land that is trust property</b>		
<b>Provision of 1993 Act</b>	<b>Applies</b>	<b>Modifications</b>
Section 17	No, but <i>see</i> sections 27 and 35 of this Act	
Section 18(1)	No, but <i>see</i> sections 27 and 36 of this Act	
Sections 19–26	Yes	Section 26 is subject to section 41 of this Act.
Sections 27–29	Yes	
Sections 31–36	Yes	
Section 37	Yes	To avoid doubt, subject to sections 34 to 37 of this Act.
Sections 38–49	Yes	
Parts 2, 3	Yes	
Part 4	Yes	Subject to sections 24 and 25 of this Act.
Part 5	Yes	
Part 6 (except sections 136, 143)	Yes	Under sections 133 and 135, in addition to the jurisdiction conferred by those sections, the court may make an order if it is satisfied that the order is necessary to correct an error or omission in Schedule 2 or 3 of this Act.  Under sections 133, 134, 135, and 137, the court must also be satisfied that the trust board supports the making of the order.  For the purposes of section 137,— (a) the trust must be treated as if it were a trust constituted under Part 12 of the 1993 Act; and (b) section 137(1)(e) does not apply; and (c) the court must be satisfied that the requirements of section 150A(1)(a) are met by the trust.
Sections 136, 143	No	
Part 7 (except sections 145–147, 150A)	No	
Sections 145–147, 150A	Yes	Subject to the provisions of this Act. For the purposes of section 147, the trust must be treated as if it were an ahu whenua trust.
Part 8	Yes	For the purposes of section 159, the trust must be treated as if it were an ahu whenua trust.

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Provision of 1993 Act	Applies	Modifications
		For the purposes of a vesting order under section 164, the reference to the provisions of Part 7 of the 1993 Act must be read as a reference to sections 38 to 40 of this Act.
Part 9	No	
Part 10	No	
Part 11	No	
Part 12 (except section 218)	No	
Part 13	No	
Section 218	Yes	For the purposes of section 218, the trust must be treated as if it were constituted under Part 12 of the 1993 Act.
Part 14 (except sections 296, 298)	Yes	<p>Under section 288(1), the court must also have regard to the opinion of the trust board.</p> <p>Under section 288(2), the court must not make an order unless it is also satisfied that the trust board supports the application.</p> <p>Under section 288(4)(b), the court must not make a partition order unless it is satisfied that the order effects an alienation of land, by gift, to 1 or more lineal descendants of Wi Pere in accordance with the succession provisions of the trust.</p> <p>For the purposes of section 308(6), the trust must be treated as if it were an ahu whenua trust.</p> <p>Under section 308(6), the court must not make an aggregation order unless it has first consulted the trust board.</p> <p>Under section 312(1), the court must not make an order unless it is also satisfied that the trust board supports the exchange.</p> <p>For the purposes of section 317, the court must also be satisfied that the trust board supports the order.</p>
Sections 296, 298	No	
Part 15	No	
Parts 16, 17	Yes	
Part 18 (except sections 350–352, 354, 356–358A, 362)	Yes	
Sections 350–352, 354, 356–358A, 362	No	

**Schedule 2**  
**Transitional, savings, and related provisions for amendments to Te**  
**Ture Whenua Maori Act 1993**

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**Schedule 1AA**  
**Transitional, savings, and related provisions**

s 4A

**Part 1**  
**Provisions relating to Māori Purposes Act 2017**

**1 Application of financial reporting amendments**

- (1) This Act and the Maori Incorporations Constitution Regulations 1994, as amended by sections 19 to 26 of the Māori Purposes Act 2017, apply to a Maori incorporation in relation to financial years that commence on or after the commencement of this clause.
- (2) This Act and the Maori Incorporations Constitution Regulations 1994, as in force before the commencement of this clause, continue to apply to a Maori incorporation in relation to financial years that commenced before the commencement of this clause as if the Māori Purposes Act 2017 had not been enacted.
- (3) This clause is subject to clause 2.

**2 Financial reporting preparation requirements must be treated as satisfied**

- (1) This clause—
  - (a) applies to the financial years of a Maori incorporation that commenced on or after 1 April 2014 (which is the commencement date of amendments to this Act made by the Financial Reporting (Amendments to Other Enactments) Act 2013); but
  - (b) does not apply to the financial years of a Maori incorporation that commence on or after the commencement of this clause.
- (2) The financial statements of a Maori incorporation (other than a large Maori incorporation) for a financial year to which this clause applies must be treated as complying with section 276A(2) (as in force before the commencement of this clause) unless the financial statements are false or misleading in a material particular.
- (3) In this clause, **financial statements** has the same meaning as in section 6 of the Financial Reporting Act 2013.

### **Legislative history**

22 July 2015	Introduction (Bill 44–1)
15 September 2015	First reading and referral to Māori Affairs Committee
15 March 2016	Reported from Māori Affairs Committee (Bill 44–2)
13 September 2016	Second reading
2 May 2017	Committee of the whole House (Bill 44–3)
4 May 2017	Third reading
11 May 2017	Royal assent

This Act is administered by Te Puni Kōkiri.