



Tāmanuhiri Tūtū Poroporo Trust Deed Review INFORMATION BOOKLET

Prepared for the beneficiaries of the Tāmanuhiri Tūtū Poroporo Trust as part of this postal vote.

Background information

Kensington Swan was engaged by the Tāmanuhiri Tūtū Poroporo Trust (“TTPT”) in June 2018 to undertake an independent review of the TTPT Trust Deed.

The purpose of the review was:

- To ensure the entity is still fit for purpose as a post settlement governance entity (“PSGE”) for Ngai Tāmanuhiri;
- To ensure that the Trust Deed is compliant with all legislative amendments that have occurred since it was established;
- To enable amendments to the Trust Deed that reflect current best practice for PSGEs around Aotearoa; and
- “Future proofing” the Trust Deed so it is flexible in the future.

Consultation process

The table below outlines the consultation review process that has taken place:

	Date	No. Involved
A phone interview with the TTPT Chairperson	12 July 2018	2
A phone interview with the TTPT Chairperson	12 July 2018	2
Panui about the Deed Review was distributed via our iwi database.	19 July 2018	633
An initial meeting with the TTPT Trustees	19 July 2018	7
A short video prepared setting out the purpose of the review and shared on the Trusts’ Facebook page	19 July 2018	715 views
Panui about the Deed Review Consultation Hui was distributed via our iwi database.	28 July 2018	633
Two Online Zoom hui open to all iwi members	29 July 2018 and 5 August 2018	4
A consultation hui at Muriwai marae that all iwi members were invited to attend	11 August 2018	16
A second consultation hui at Muriwai marae that all iwi members were invited to attend	15 September 2018	30
A further meeting with the TTPT Trustees to discuss the proposed amendments as per the TTPT Trust Deed	19 September 2018	7
TTPT Trustees formally approved the final proposed amendments as per the TTPT Trust Deed	13 October 2018	6

There are no further consultation meetings planned and the next steps is for you, as beneficiaries of TTPT to vote on the proposed amendments.

Voting Process

Any amendments to the TTPT Deed need to be approved by iwi members, as beneficiaries of TTPT. A special resolution (i.e. a 75% majority) is required to be passed by iwi members in order for amendments to be properly made.

The 75% requirement is in relation to the iwi members who vote. For example, if 100 iwi members vote, 75 of those iwi members must vote in favour of the resolution, even though there are approximately 2,000 iwi members.

All iwi members will be given the opportunity to vote. Voting will occur by way of a postal vote, in addition, iwi members that attend the Hui-a-Tau can also vote at the meeting.

The purpose of this explanatory pack is to provide you with useful information so that you can make an informed decision when you vote.

Māori Fisheries Act compliance

During the TTPT Trust Deed review, it became apparent that Ngai Tāmanuhiri had a Māori Fisheries Act (“MFA”) compliance issue, namely that its Asset Holding Company is not wholly owned by the recognised Mandated Iwi Organisation (“MIO”). This is because TTPT is not the MIO (but rather Ngai Tāmanuhiri Whanui Trust is currently the MIO) as the transfer of MIO status did not occur as part of the Treaty settlement process.

In order to fix this issue, TOKM require a special resolution to be passed by Ngai Tāmanuhiri iwi members approving the transfer of MIO (and IAO) status from Ngai Tāmanuhiri Whanui Trust, to TTPT. It is proposed that this occurs after the TTPT Hui-a-Tau on 24 November 2018.

In addition, TOKM also require a number of amendments to the TTPT Trust Deed to ensure it is capable of being recognised as a MIO and IAO. **These amendments are critical if the MFA compliance issue is to be resolved.**

The formal transfer of MIO and IAO status will occur after the vote occurs and the TOKM Board of Directors formally meet and approve TTPT as the MIO and IAO.

Proposed amendments

Iwi members will be asked to vote on six separate resolutions. The next section sets out an explanation of each resolution. Each resolution will need to be separately passed by 75% of the iwi members who vote, in order to be passed.

The actual wording of each resolution is set out in Schedule One.

Additional information

A marked up version of the TTPT Trust Deed is available upon request.

Copies of the various PowerPoint presentations that were used at the various hui are also available upon request.

Please contact j.kamana@tamanuhiri.iwi.nz for any of the above.

If you would like to discuss the amendments with Kensington Swan direct prior to the Hui-a-Tau, you can email Mihiarangi Piripi on: mihiarangi.piripi@kensingtonswan.com

Resolution One – Amendments required under the Māori Fisheries Act

An explanation of the amendments is set out in the table below.

As outlined above, it is critical that these amendments are passed in order for TTPT to be considered the MIO and IAO by TOKM and for the MIO and IAO status to transfer accordingly. Once this occurs, and provided a separate vote (under the existing MIO) occurs to transfer MIO and IAO status, the MFA compliance issue will be rectified.

CLAUSE REFERENCE	NATURE OF AMENDMENT
Clause 1.1 – Definitions	Definitions of Asset-Holding Company and Fisheries Settlement Assets amended. A definition for MIO and IAO inserted.
Clause 4.1 – Objects	Broadening the objects to include the requirement to act for the benefit of all the members of the iwi, irrespective of where those members reside.
Clause 9.2 – Appointment of Directors	An amendment to change the existing process for appointing causal directors. Previously this could be done by the other Trustees, provided the casually appointed directors were ratified at the next Hui-a-Tau. This has been amended so that the Trustees must call an election if there is a vacancy and they wish to fill the position. This will be necessary if the number of trustees falls below 5, as there is a minimum requirement of 5 trustees. The Trustees could decide not to hold an election (and not fill the position) provided there are at least 5 trustees.
Clause 10 – Term of Office for Trustees	Making it clear that term of trustees are at least 3 years for trustees.
Clause 11.11 – Appointment of Trustees	Making it clear that all Adult Beneficiaries are entitled to vote in an election for the appointment of Trustees. Allowing voting to occur by placing a voting paper into the voting box. Making it clear that iwi members who are not registered may cast provisional votes provided they complete an application form. The vote is counted if that persons' membership application is accepted and discounted if it is not. Making it clear that iwi members do not have a right to vote in respect of the appointment of employees of the trust.
Clause 22 – Annual Report	Including additional reporting requirements (specific to the MFA) into the Annual Report requirements.
Clause 25.3 – Meetings of Beneficiaries	Including ability for iwi members who are not registered to receive notices, provided they have notified the Trust to receive notices. Amending notice requirements to make consistent with the MFA. Making it clear that iwi members who are not registered may cast provisional votes provided they complete an application form. The vote is counted if that persons' membership application is accepted and discounted if it is not.
Clause 31 – Compliance with the MFA	Insertion of a new clause that: <ul style="list-style-type: none"> • Specifies that an AHC must be established; and • That the AHC may establish subsidiaries; and • That no amendment can be made that is inconsistent with the MFA • That no amendment can be made within 2 years of being recognised as a MIO if that amendment relates to a "matter provided for under the Act" • That amendments must be for the collective benefit of Ngai Tāmanuhiri Whanui
Clause 35 – Dispute resolution and Schedule 2	Making it clear that disputes that are in relation to registration applications are caught by the process and also making it clear when the MFA processes apply.

The full schedule of clauses can be found on page 6.

Resolution Two – Amendments that were strongly supported throughout the consultation process

The following table sets out the amendments that were strongly supported in the various consultation hui that occurred. Accordingly, we are confident that they can be passed in one single resolution.

CLAUSE REFERENCE	NATURE OF AMENDMENT
Clause 1.1 – Definitions	Including definition of Code of Conduct.
Clause 4.2 – Objects	Amending the clause in relation to how Trustees may apply the Trust Property to make it clearer to link back to Ngai Tāmanuhiri, to separate out different areas (i.e. health and education) and to make it clear that environmental ‘initiatives’ can be funded (as opposed to just policies).
Clause 7 – Investments	Including requirement for Statement of Investment Policy (“SIPO”) and for the Trustees to present this at each Hui-a-Tau.
Clause 8 – Powers of Trustees	Removing requirement for Hui-a-Tau resolutions for when the Trustees need to raise or borrow money, or to provide any indemnity, surety, guarantee or security.
Clause 9.4 – Trustee Eligibility	Amending to include the following additional requirements: To not have been: <ul style="list-style-type: none"> • bankrupt, or adjudged bankrupt in the last 5 years; • convicted of an offence involving dishonesty (unless the Clean Slate Act applies); • disqualified as a director; • removed as a Trustee, either through Court, or through the trust deed of TTPT; • physically or mentally incapacitated; • subject under an order of the Personal Property Rights Act (generally due to a lack of capacity); • convicted in the last 10 years of an offence punishable by imprisonment of more than 3 years.
Clause 11 – Process for appointment of Trustees	Requiring call for nominations process and for nominees to submit a statement of skills and experience to be distributed to beneficiaries before the relevant Hui-a-Tau. Making it clear that Trustees who are seeking re-nomination must go through the same process.
Clause 13.7 – Meetings and resolutions of Trustees	Making it clear trustee meetings can occur by way of electronic conferencing.
Clause 15 – Interests of Trustees	Making it clear that the Trustees must maintain a Conflicts Register.
Clause 21 – Trustees may rely on advice	Insertion of new clause making it clear that Trustees can rely on advice. This clause is fairly common in trust deeds and protects trustees.
Clause 23 – Annual Plan	Making the Annual Plan more outcomes focussed, i.e. including items such as: <ul style="list-style-type: none"> • the nature and scope of proposed activities; • performance targets and measurements; and • any proposals for activities.
Clause 24 – Long term plan	Including requirement to consult with beneficiaries in relation to the Long term plan.
Clause 25 – Meetings of Beneficiaries	Making it clear that beneficiaries may attend any meeting by way of electronic conferencing, but that their attendance does not count for quorum purposes. Note: the deed does allow for electronic voting should this occur in the future. Including a requirement for minutes to be taken at beneficiary meetings.
Clause 27 – Adjournments	Inserting a clause allowing for adjournments to occur for beneficiary meetings. Note adjournments clause is useful for unexpected events such as tangihanga etc.
Clause 28 – Unruly Meetings	Inserting a clause that allows for: <ul style="list-style-type: none"> - A meeting to be adjourned by the Chairperson, if the meeting becomes too unruly. Note that the Chairperson may rely on the advice of Te Hunga Pakeke; or to - Put the matter to vote, i.e. stop discussion, if the meeting becomes too unruly. Note that the Chairperson may rely on the advice of Te Hunga Pakeke.
Amendments required to provide TTPT with the flexibility to move towards a corporate trustee model Clause 1.1 – Definitions Clause 9.6 – Trustees Clause 12.6 – Removal of Trustee	All of these amendments relate to the adoption of a corporate trustee model. <ul style="list-style-type: none"> - Definition of Trustee, to include corporate trustee. - Making it clear that a corporate trustee can be appointed, if a resolution is passed by iwi members. - Making it clear which provisions apply when a corporate trustee is in operation. - Making it clear when a corporate trustee ceases to be a trustee.

The full schedule of clauses can be found on page 7.

Resolution Three – Removal of Trustees

This proposed amendment was discussed at length throughout the consultation process. Whilst it was generally supported, there were some differing views around how the clause should operate, for this reason it is being proposed as a separate resolution.

CLAUSE REFERENCE	NATURE OF AMENDMENT
Clause 12 – Removal of Trustees	<p>Amending the process so that the matter does not go to a Hui-a-Tau or Meeting of Special Beneficiaries for a resolution to be passed. Instead, inserting a process whereby, the Trustees first meet with and obtain the views of Te Hunga Pakeke and then engage an independent legal expert to consider whether there was:</p> <ol style="list-style-type: none">a breach of the Code of Conduct; thatresulted in material detriment to the Trust. <p>The process allows for both parties to make submissions and the advice of the independent expert is final.</p> <p>The process still requires iwi members to be kept informed of the issues as there is a requirement to report back on this at a Hui-a-Tau.</p>

Resolution Four – Remuneration of Trustees

This proposed amendment was discussed at length throughout the consultation process. Whilst it was generally supported, there were some differing views around how the clause should operate, for this reason it is being proposed as a separate resolution

CLAUSE REFERENCE	NATURE OF AMENDMENT
Clause 16 – Remuneration of Trustees	<p>Amending the process so that the matter does not go to a Hui-a-Tau or Meeting of Special Beneficiaries for a resolution to be passed. Instead, inserting a process whereby an independent expert must be appointed to consider remuneration.</p> <p>The Trustees would need to share the independent report with beneficiaries at the Hui-a-Tau and cannot set their remuneration higher than what is included in the report. Note that the report is only used to ensure that the Trustees cannot remunerate themselves more than what is recommended. The Trustees are open to setting their remuneration at any level so long as it is not more than what the report recommends.</p>

Resolution Five – Trustee Composition

Trustee composition was discussed at length at the various consultation hui. Currently, TTPT have a model where all Trustees are elected on an 'iwi' basis, as opposed to their being entrenched positions for hapū representatives, marae representatives, kuia/kaumatua representatives etc.

Our recommendation is to retain the iwi model for the following reasons:

- the population of Ngai Tāmanuhiri. You are a relatively small iwi in comparison to other PSGEs, particularly those PSGEs that entrench positions;
- to avoid fragmentation;
- to avoid conflict around whether each marae should have equal representation; and
- to avoid a difficult transition period.

After discussions with iwi members at the various hui, it become apparent that there were concerns around:

- strengthening accountability between trustees and beneficiaries;
- the number of hui per year; and
- the disconnect between the various Tāmanuhiri marae trustees and TTPT.

To address some of the concerns raised above, the following amendments are proposed:

CLAUSE REFERENCE	NATURE OF AMENDMENT
Clause 18 – Trustee Responsibility	- To make it clear that Trustees have a responsibility to communicate and seek feedback from Tāmanuhiri marae trustees on a regular basis, no less frequently than twice year.
Clause 22.2(c) – Annual Report	- To include a requirement to report back to iwi members with information on the contribution and support provided by TTPT to marae.

Resolution Six – Adopting the new Trust Deed

The purpose of this resolution is to adopt the new, marked up Trust Deed, in its entirety, should all five of the previous resolutions be successful.

Frequently Asked Questions

What is a MIO?

MIO is the acronym for 'Mandated Iwi Organisation' and is a term that is used in the Māori Fisheries Act. Every iwi that receives fisheries settlement assets must have a MIO which Te Ohu Kaimoana must approve. Iwi may only have one MIO. MIOs must comply with certain requirements under the Māori Fisheries Act.

What is an IAO?

An IAO is like a MIO but for aquaculture settlement assets. IAO is the acronym for 'Iwi Aquaculture Organisation'. Many iwi have one entity that is both the MIO and the IAO.

What is a PSGE?

A PSGE is a post settlement governance entity. This means that the entity has received treaty settlement assets from the Crown. PSGEs must be approved by the Office of Treaty Settlements and are usually in the form of a non-charitable Trust, although there are other legal structures that can be used. Many iwi use their PSGE as their MIO and IAO to avoid complicated structures.

What is TOKM?

TOKM is the acronym for Te Ohu Kaimoana, sometimes referred to as Te Ohu. TOKM is responsible for overseeing and managing the Maori Fisheries Act, including ensuring compliance with that Act.

What will happen if the MFA Amendments are not passed by iwi members?

There is currently an identified MFA compliance issue, if this is not resolved and the MFA amendments are not passed by iwi members, TTPT would need to work with TOKM on a solution. There is a risk that:

- a) Further assets are not transferred due to the compliance issue;
- b) Assets are managed by Te Ohu Kaimoana on Tāmanuhiri's behalf (as opposed to Tāmanuhiri holding the assets themselves); or
- c) MIO status could be revoked under the MFA. If this occurs, the fisheries settlement assets would transfer back to Te Ohu Kaimoana.

What happens if I am not currently registered with TTPT or Ngai Tāmanuhiri Whanui Trust?

If you are not registered but still identify as an iwi member of Tāmanuhiri, you are able to attend the meetings and fill in a registration form, you will also be allowed to vote on the day, however your vote will only be counted once your registration has been accepted.

Registration forms can be obtained from the Tāmanuhiri website.

What will happen to Ngai Tāmanuhiri Whanui Trust if the MIO status is transferred?

Ngai Tāmanuhiri Whanui Trust will legally remain until it is dissolved. Ngai Tāmanuhiri Whanui Trust can be dissolved provided:

- a) The Trustees are of the opinion that it would be in the best interests of Ngai Tāmanuhiri to wind up and recommend this to the iwi; and
- b) The recommendation is ratified by a majority of Adult Beneficiaries present, or participating by way of postal vote at two successive meetings of beneficiaries, not less than 28 days apart.

Any assets that Ngai Tāmanuhiri Whanui Trust holds will stay with the Trust until it is dissolved. Upon dissolution, the assets will then be transferred to an entity the Trustees consider will serve the best interests of Ngai Tāmanuhiri Whanui provided that entity has charitable status.

Note that the assets and liabilities of Ngai Tāmanuhiri Whanui Trust (including fisheries assets) have already been transferred to TTPT through the Treaty settlement process so it holds minimal assets.

Why is a special resolution required to change the TTPT Trust Deed?

A special resolution is required to change the TTPT Trust Deed for two reasons, the first being that the Trust Deed itself requires a special resolution to be passed, and the second being that this is a requirement in the Māori Fisheries Act.

Note that a special resolution is of the persons present at a meeting, or participating by way of a postal vote, not 75% of iwi members in total.

For example, if 100 people vote (either at the meeting or by sending back their form through the postal vote process), the resolution would need to be passed by 75 of those people, this is the case even though there are approximately 2,000 iwi members in total.

Why does TOKM require a special resolution to transfer MIO and IAO status?

TOKM requires a special resolution as this is what the Māori Fisheries Act requires to enable the transfer of MIO status under the legislation.

What if I did not receive the voting pack in the mail or electronically?

If you did not receive the voting pack and you are a registered member, or you are not yet registered, but want to register, please contact [enter details].

If you are unable to do this before the meeting, iwi members are still entitled to attend and register on the day, if this happens you will be able to vote, but your vote will not be counted until your registration is accepted.

Why are the amendments being proposed in separate resolutions?

There are a number of ways that resolutions could be put forward to beneficiaries. Every amendment could be put separately, but given the large number of resolutions, this is not a practical option. It was therefore decided to 'group' the resolutions.

The first group are the MFA Amendments, these are grouped together as all of these amendments must be passed in order for TTPT to be MFA complaint.

The second group are amendments that were strongly supported in the various consultation hui that occurred.

Some amendments are being proposed separately, this is because some iwi members may have differing views on these issues and the resolution may not be passed by 75% of those voting. Hopefully this is not the case as by the end of the consultation process, the majority of those who attended hui and other forums were comfortable with the proposed changes. Nevertheless to remove the risk of the amendments affecting all of the other amendments (that were strongly supported), it was decided that some would be put separately to beneficiaries. This includes: trustee removal, trustee remuneration and the amendments around the concerns raised when we discussed the composition of Trustees.

Schedule One – Resolutions

Resolution One - Māori Fisheries Act amendments

The beneficiaries of TTPT, resolve to approve the following amendments to the Tāmanuhiri Tūtū Poroporo Trust Deed:

Clause 1.1: a change to the definition of Asset-Holding Company so that it reads: “means a Trust Entity established pursuant to and compliant with the Act, and where the context requires includes any subsidiaries of the Asset-Holding Company”

Clause 1.1: a change to the definition of Fisheries Settlement Assets so that it reads: “means any assets transferred to the Trust pursuant to the Act and held by the Asset-Holding Company”

Clause 1.1: an insertion of a new definition being: “Iwi Aquaculture Organisation” has the meaning given to it in the Act.”

Clause 1.1: an insertion of a new definition being: “Mandated Iwi Organisation” has the meaning given to it in the Act.”

Clause 4.1: an addition to clause 4.1, by inserting clause 4.1(e) to read: “act for the benefit of all the members of the iwi, irrespective of where those members reside” and moving the “and” after (c) to (d).

Clause 8.1(k): amending the term fisheries settlement assets so that the term is capitalised and reads “Fisheries Settlement Assets”

Clause 9.2” amending the clause so that it reads: Should: (a) there be no person elected to replace a Trustee following the expiry of a Trustee’s term of office; or (b) any casual vacancy arise prior to the expiry of any Trustee’s term of office, then the remaining Trustees may hold a further election in accordance with clause 11.

Clause 9.3: inserting a new clause 9.3 which reads: In the case of an election held pursuant to clause 9.4, the Trustee thereby elected shall, as the case may be, hold office: (a) in the case of a Trustee elected pursuant to clause 9.4(a) for the same term as that Trustee would have been elected had he or she been elected immediately following the retirement of the previous Trustee; or (b) in the case of a Trustee elected pursuant to clause 9.4(b), for the balance of the term of office of the Trustee that he or she has replaced. Note that this replaces the previous 9.2.

Clause 10.2: inserting the words “the earliest of three years from that date or” after the word expires, so that the clause reads: A Trustee’s term of office begins when the results of the election in which they were elected or re-elected are announced and expires the earliest of three years from that date or...”

Clause 11.11: inserting the words “for the appointment of trustees” after the word election, so that sentence reads: “All Adult Beneficiaries shall be eligible to vote in an election for the appointment of trustees, and any votes shall be cast..”

Clause 11.11(a)(iii): inserting a new sub clause that reads: “by placing a voting paper into the voting box”

Clause 11.14: inserting a new clause that reads: “Clauses 25.12 and 25.13 of this Deed apply to the election of trustees”.

Clause 11.15: inserting a new clause that reads: “For the avoidance of doubt, Adult Beneficiaries have no right to vote in respect of the appointment of employees of the Trust.”

Clause 22.1: inserting the words “for all Trust Entities” after the opening words “An annual report” so that the sentence reads “An annual report for all Trust Entities shall be prepared by the Trustees...”.

Clause 22.1(b): adding the word “including” at the end of the clause after the words annual plan and inserting two new sub-clauses that read: (i) “changes in shareholder or member value; and” (ii) “dividend performance or profit distribution.”

Clause 22.1(e): adding the word “including” at the end of the clause after the words Financial Year and inserting six new sub-clauses that read: (i) the quantity of settlement quota held by the Asset-Holding Company of the Mandated Iwi Organisation in that year; and (ii) the value of settlement quota sold or exchanged; and (iii) the identity of the purchaser or other party to the exchange; and (iv) any transaction with settlement quota that has resulted in a registered interest by

way of caveat or mortgage being placed over the quota; and (v) the settlement quota interests that have been registered against the quota shares of the Mandated Iwi Organisation; and (vi) the value of income shares sold, exchanged, or acquired.

Clause 22.1(f): inserting a new clause that reads: a report on the interactions of the Mandated Iwi Organisation in fisheries matters (i) with other entities within the iwi; and (ii) with other Mandated Iwi Organisations; and (iii) with Te Ohu Kai Moana Trustee Limited;

Clause 22.1(g): inserting a new clause that reads: any changes made under section 18 to the Deed or those of the Asset-Holding Company.

Clause 22.3: inserting a new clause that reads: “In the preparation of an annual report for the Asset-Holding Company (or any of its subsidiaries), the trustees are to ensure that report include details of: (a) the investment of money of that Asset-Holding Company or any of its subsidiaries; and (b) the key strategies for the use and development of iwi fisheries assets; (c) the expected financial return on the assets; and (d) any programme to – (i) manage the sale of annual catch entitlements derived from the settlement quota held by Asset-Holding Companies or their subsidiaries; or reorganise the settlement quota held by Asset-Holding Companies or their subsidiaries, as by buying and selling settlement quota in accordance with the Act.

Clause 25.3(c): inserting a new sub-clause that reads: “as the case may be, by post to any Beneficiary who has requested such notice from the Trust in accordance with clause 5.9”

Clause 25.5(e): amending the clause so that it reads: “if a vote is to be taken to ratify or amend this Deed, include advice that a vote is to be taken to ratify the Deed and a brief summary of any proposed amendments, with an indication that details of the proposed amendments can be obtained from the Trust Office by Beneficiaries.”

Clause 25.5(f): inserting a new sub-clause so that it reads: if the disposal of income shares or settlement quota is proposed, include a brief summary of the rationale for the proposal; and”

Clause 25.8: removing the word “Registered” after the word Adult and before the word “Beneficiaries” so that the term reads “Adult Beneficiaries”.

Clause 25.9: removing the word “Adult” before the word “Beneficiary” so that the term reads “Beneficiary”

Clause 31” adding in a new clause, with the heading “Compliance with the Māori Fisheries Act” that reads: “The Trustees acknowledge that, to the extent that the Trust is the Mandated Iwi Organisation and/or the Iwi Aquaculture Organisation for Ngai Tāmanuhiri: (a) the Trust must establish a Trust Entity, in accordance with clause 8.3 as an Asset-Holding Company that complies with the requirements in the Act (b) the Asset-Holding Company may establish subsidiaries in accordance with clause 8.3 (c): In relation to amending this Deed: (i) no amendment may be inconsistent with the Act; (ii) no amendment may be made earlier than two years after the date on which the Trust is recognised by Te Ohu Kai Moana Trustee Limited as the Mandated Iwi Organisation for Ngai Tāmanuhiri Whānui if the amendment relates to any matter provided for by the Act unless the amendment is required as a consequence of a rule made or amended under section 25 of the Act; and (iii) an amendment may only be promoted if a resolution that the amendment is for the collective benefit of all members of Ngai Tāmanuhiri Whānui.

Clause 35: adding the words “, including disputes relating to registration with the Trust,” after the opening words “Where any dispute”.

Schedule 2, clause 8: replacing the words “at the conclusion” with the words “if the parties to the dispute are unable to achieve resolution in accordance with...”.

Part B, Schedule 3: capitalising the term “Mandated Iwi Organisation” when this is used in this schedule.

Resolution Two – Amendments that were strongly supported throughout the consultation process

The beneficiaries of TTPT, resolve to approve the following amendments to the Tāmanuhiri Tūtū Poroporo Trust Deed:

Clause 1.1: an insertion of a new definition being: “Code of Conduct: means the code of conduct adopted by the Trustees from time to time.”

Clause 1.1: amending the definition of “Trustees” by adding the words “, or where a corporation is appointed as the sole corporate trustee means that corporation acting in that capacity”.

Clause 4.1: amending the clause so that it reads: (a) support education and training for Ngai Tāmanuhiri Whānui; (b) support the health and well-being of Ngai Tāmanuhiri Whānui; (c) provide for the relief of poverty and the subsequent provision of social support and care for Ngai Tāmanuhiri Whānui; (d) develop and implement environmental policies and initiatives to safeguard ngā taonga tuku iho whilst giving effect to the kaitiakitanga obligations of Ngai Tāmanuhiri Whānui. The remaining sub-clauses are unchanged.

Clause 7.2: insertion of a new sub-clause that reads: “The Trustees shall develop a Statement of Investment Policies and Objectives (“SIPO”) which provides for the investment of the Trust Fund in accordance with the Trustee Act 1956. The SIPO shall be reviewed annually by the Trustees and be made available at Hui-a-Tau.”

Clause 7.3: insertion of a new sub-clause that reads: The Trustees shall invest the Trust Fund or cause it to be invested in accordance with the SIPO.

Clause 8.1(f): deletion of the opening words “with the approval of the iwi, obtained by a majority vote at a Hui-a-Tau or Special Meeting of Beneficiaries, and subject to paragraph (k) below”.

Clause 8.1(g): deletion of the opening words “with the approval of the iwi, obtained by a majority vote at a Hui-a-Tau or Special Meeting of Beneficiaries, and subject to paragraph (k) below”.

Clause 9.1: insertion of new opening words to the clause reading “Except where a corporate trustee is appointed, the...”.

Clause 9.4: amending the clause so that it reads: “To be elected as a Trustee, a nominee must, as at the closing date for nominations be recorded in the Register as an Adult Registered Beneficiary, and not: (a) be bankrupt, or have within five years been adjudged bankrupt; (b) have ever been convicted of an offence involving dishonesty as defined in section 2(1) of the Crimes Act 1961, or an offence under section 373(4) of the Companies Act 1993 (unless that person is an eligible individual for the purposes of the Criminal Records (Clean Slate) Act 2004); (c) be or have been disqualified from being a director of a company registered under the Companies Act 1955 or the Companies Act 1993; (d) be or ever have been removed as a trustee of a trust by order of Court on the grounds of breach of trust, lack of competence or failure to carry out the duties of a trustee satisfactorily; (e) be physically or mentally incapacitated to the extent that he or she is unable to perform the duties of a Trustee; (f) be subject to a property order made under section 30 or 31 of the Protection of Personal Property Rights Act 1988; (g) have been convicted in the last 10 years of an offence punishable by more than three years’ imprisonment (unless that person is an eligible individual for the purposes of the Criminal Records (Clean Slate) Act 2004); and (h) has been removed as a Trustee under clause 12 of this Deed.

Clause 9.6: insertion of a new clause that reads: “Notwithstanding the provisions of clauses 9.1 through to 9.5 the Trustees may, subject to a resolution being passed at a Special Meeting of Beneficiaries, or Hui-a-Tau, appoint a corporation to be a sole corporate trustee of the Trust.”

Clause 9.7: insertion of a new clause that reads: Should a corporate trustee be appointed, any reference in the following sections of this Deed, to a ‘Trustee’ shall be deemed to be a reference to a director of the corporate trustee: (a) Clause 9 - Trustees (b) Clause 10 – Term of office of Trustees (c) Clause 11 – Appointment of Trustees (d) Clause 12 – Resignation or removal of Trustees (e) Clause 13 – Meetings and resolutions of Trustees (f) Clause 14 – Decisions of Trustees (g) Clause 15 – Interests of Trustees (h) Clause 16 – Remuneration and expenses of Trustees (i) Clause 18 – Responsibilities of Trustees.

Clause 11.3: insertion of a new clause that reads: “The Trustees shall give notice calling for nominations for Trustee positions at least 30 Working Days prior to the date of the vote for the election of Trustees.”

Clause 11.4: insertion of a new clause that reads: “Such notice shall specify the method of making nominations, and the latest date by which nominations must be made and lodged with the Trust or such other person the notice directs. Notice shall be given in accordance with clause 25”.

Clause 11.5: capitalising the term working days so it reads “Working Days”

Clause 11.6(c): amending the sub-clause so that it reads: “confirmation from the nominee that he or she meets the eligibility criteria as set out in clause 9.4.”

Clause 11.7: inserting a new clause that reads: “Each nominee shall provide, at the time of submitting their nomination, a brief summary of the skills and experience the candidate believes are relevant to support their election as a Trustee”.

Clause 11.8: amending the clause so that it reads: “A list of all nominations received and the statement of skills and experience as set out in clause 11.5 above, shall be made available to Beneficiaries prior to and at the Hui-ā-Tau.”

Clause 11.9: inserting a new clause that reads: For the avoidance of doubt, all Trustees seeking re-election must be nominated in accordance with this Deed.

Clause 12.1: amending the opening words so that they read “An individual Trustee shall cease to be a Trustee if he or she..”

Clause 12.1(b): inserting a new sub-clause that reads “completes his or her term of office and is not re-elected” and deleting the previous 12.1(b)

Clause 12.1(c): inserting a new sub-clause that reads “at any time ceases to fulfil the requirement set out in clause 9.6” and deleting the previous 12.1(c)

Clause 12.6: inserting a new clause so that it reads A corporate trustee ceases to be the Trustee if (a) the corporation becomes insolvent; (b) the corporation is wound up; (c) the corporation resigns in writing; (d) a resolution is passed by Beneficiaries at a Hui-a-Tau or Special Meeting of Beneficiaries removing the corporation as Trustee.

Clause 13.3: capitalising the term working days so it reads “Working Days”

Clause 13.7: inserting the words “, video or other means of electronic conferencing” after the words telephone conference and before the words “shall constitute a valid meeting”.

Clause 15.2: amending the clause so that the last sentence reads “shall not exercise a vote on the matter and shall not be counted for the purposes of forming a quorum”.

Clause 15.3: inserting a new clause that reads: “The Trustees shall establish and maintain an interest register for the purpose of recording a disclosure of interest by a Trustee (and the nature and extent or monetary value of that interest).”

Clause 15.4: inserting a new clause that reads: “Immediately following his or her appointment, a Trustee must enter any interests he or she may have into the interest register.”

Clause 21: inserting a new clause, with the heading “Trustees may rely on advice” that reads: The Trustees may, when exercising their powers or performing their duties as Trustees, 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 or any director, trustee, board member or employee of a Trust Entity whom the Trustees believe on reasonable grounds to be reliable and competent in relation to the matters concerned; (b) a professional advisor or expert in relation to matters which the Trustees believe on reasonable grounds to be within a person’s professional or expert competence; and (c) any other Trustee or member of a committee upon which a Trustee did not serve at the relevant time and in relation to matters that are within that other Trustee’s or committee member’s designated authority. However, this shall only apply to the extent that the Trustees act in good faith, after reasonable enquiry when the need for enquiry is indicated by the circumstances, and without knowledge that would cause such acceptance to be unwarranted.

Clause 22.1: capitalising the term working days so it reads “Working Days”

Clause 23.1: capitalising the term working days so it reads “Working Days”

Clause 23.2: deletion of the previous sub-clauses (b) through to (j) and insertion of new sub-clauses that read: the nature and scope of the activities proposed by the Trust for Ngāi Tāmanuhiri in the performance of the objects of the Trust; (b) the performance targets and measurements by which performance of the Trust may be judged (c) any proposals for the activities of the Trust; (d) the Trust’s policy in respect of acceptable debt/equity ratios; (e) the Trust’s policy in respect of levels of distribution or reinvestment of income; (f) the Trust’s policy in respect of sales and exchanges of fisheries settlement quota; (g) any changes in that policy from the policy for the previous year; (h) income projections for the relevant Financial Year; (i) the manner in which it is proposed that projected income will be dealt with; (j) any proposal to sell or otherwise dispose of any Fisheries Settlement Assets or other Core Assets; (k) any proposal to amend this Deed or the constitutional documents of any fishing company owned by the Trust; (l) any other matter required in order to comply with the Act; and”

Clause 24.1: capitalising the term working days so it reads “Working Days”

Clause 24.2: inserting a new sub-clause to read: The rolling 5-year plan should be prepared in consultation with Beneficiaries.

Clause 25.3: capitalising the term working days so it reads “Working Days”

Clause 25.5: capitalising the term working days so it reads “Working Days”

Clause 25.6: adding the words “physically present at the meeting” at the end of the clause.

Clause 25.7: adding in a new clause that reads: “The Trustees may enable Beneficiaries to participate by way of electronic conferencing, however, those that participate in this way will not constitute quorum, for the purposes of clause 25.6”.

Clause 25.15: adding in a new clause that reads: The Trustees shall keep a proper record in a minute book of all decisions taken and business transacted at every Special Meetings of Beneficiaries and Hui-ā-Tau.

Clause 26.2(a): adding in the words “and financial statements” after the word annual report.

Clause 27: adding in a new clause, with the heading “Adjournments” which reads: If within one hour of the time appointed for a Special Meeting of Beneficiaries, or a Hui-a-Tau, a quorum is not present, the meeting will stand adjourned to be reconvened at a time as directed by Trustees, but within 14 business days of the original meeting.

Clause 28: adding in a new clause, with the heading “Unruly Meetings” which reads: “Clause 28.1: If any Special Meeting of Beneficiaries or Hui-a-Tau becomes so unruly or disorderly that in the opinion of the Chairperson of the meeting, the business of the meeting cannot be conducted in a proper and orderly manner, or if any meeting becomes unduly protracted, the Chairperson may, adjourn the meeting or may direct that any uncompleted item of business of which notice was given and which in his or her opinion, requires to be voted upon, be put to the vote by a poll, without further discussion.

Clause 28.2: The Chairperson may rely on advice from Te Hunga Pakeke in relation to this clause.”

Resolution Three – Removal of Trustees

The beneficiaries of TTPT, resolve to approve the following amendments to the Tāmanuhiri Tūtū Poroporo Trust Deed:

Clause 12.1(g): Amending the sub-clause so that it reads: “is removed on the grounds of breaching the Code of Conduct resulting in a material detriment to the Trust in accordance with clause12.2”

Clause 12.2: deletion of previous 12.2 and insertion of new clause to read “An individual Trustee may be suspended from office, and no longer be eligible to continue to exercise any powers under this Deed as a Trustee, should 75% of the remaining Trustees pass a resolution that they are concerned, on reasonable grounds, that the actions of the Trustee have breached the Code of Conduct and in doing so have resulted in a material detriment to the Trust. Any such resolution, together with the reasons for the Trustees’ concerns, must be set out in writing and signed by the Trustees passing the resolution.”

Clause 12.3: insertion of a new clause to read: “Following the suspension of a Trustee in accordance with clause12.2, the remaining Trustees shall: (a) Communicate with and seek the feedback of Te Hunga Pakeke; and then (b) Promptly seek independent legal advice regarding the decision to suspend the Trustee. In doing so, both the suspended Trustee and the remaining Trustees shall have the right to make a written submission setting out their views.

Clause 12.4: insertion of a new clause to read: “Should the review carried out in accordance with clause12.2 of the decision to suspend a Trustee conclude that: (a) the actions of the suspended Trustee have breached the Code of Conduct, and in doing so has resulted in a material detriment to the Trust, then the suspended Trustee shall be removed from office; or (b) the actions of the suspended Trustee have not breached the Code of Conduct in a manner which has resulted in material detriment to the Trust, then the suspension shall cease and the Trustee shall be entitled to exercise their powers under this Deed as a Trustee from the date that decision is notified to the Trustees.”

Clause 12.5: insertion of a new clause to read: “At any point during the suspension of an individual Trustee, the remaining Trustees may resolve, by a 75% majority, to remove the suspension and re-instate the suspended Trustee. Should a suspended Trustee be re-instated under this clause, or as a result of clause (b), there shall be no right of recourse or challenge in relation to the decision to suspend the Trustee and any decision taken by the remaining during the period of the suspension shall not be invalidated as a result.”

Resolution Four – Remuneration of Trustees

The beneficiaries of TTPT, resolve to approve the following amendments to the Tāmanuhiri Tūtū Poroporo Trust Deed:

Clause 16.1: deletion of previous 16.1.

Clause 16.1: insertion of new clause 16.1 that reads: The Trustees may determine the level of remuneration payable to each Trustee provided that the Trustees shall: (a) Seek external professional advice in relation to an appropriate level of remuneration for each Trustee; (b) Fix a level of remuneration for each Trustee that is no greater than that recommended by external advice provided under clause (a) above; and (c) Each Hui-a-Tau provide the details of the external advice received and the level of remuneration set in accordance with clause (b) above.

Clause 26.2(d): amending the sub-clause so that it reads: “the presentation of details relating to Trustees remuneration.”

Resolution Five – Trustee Composition

The beneficiaries of TTPT, resolve to approve the following amendments to the Tāmanuhiri Tūtū Poroporo Trust Deed:

Clause 18.2: insertion of new clause to read “The Trustees shall communicate with and seek feedback from the Tāmanuhiri marae trustees on a regular basis, no less frequently than twice year.

Clause 22.2(c): insertion of new sub-clause to read “a report providing information on the contribution and support provided by the Trust to marae.”

Resolution Six – Adopting the new Trust Deed

The beneficiaries of TTPT, resolve to adopt the new Tāmanuhiri Tūtū Poroporo Trust Deed as tabled at the Hui-a-Tau on 24 November 2018.