

**NEW TRUST ORDER**

Te Ture Whenua Māori Act 1993, Section 244  
The Māori Land Court Rules 2011, Rule 7.5(2)(b)

In the Māori Land Court  
of New Zealand  
Waiariki District

**IN THE MATTER** of Pouakani C No. 1B Sec. 1  
& Pouakani C No. 1B Sec. 2  
Aggregated  
(SA29D/671, SA29D/672)

AT a sitting of the Court held at Taupō on the 20th day of September 2016 before Craig Tamihana Coxhead, Judge

WHEREAS application has been filed by the Trustees of Titiraupenga Trust for variation of trust

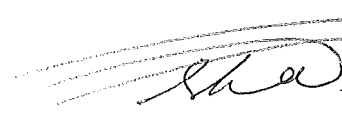

AND WHEREAS on the 19th day of December 2001 the Court declared the trusts upon which the Trustees shall hold the said land

NOW THEREFORE the Court upon reading and hearing all evidence adduced in support thereof and being satisfied on all matters upon which it is required to be so satisfied

DOETH HEREBY VARY the terms of the said Trust by making a new Trust Order pursuant to Section 244 of Te Ture Whenua Māori Act 1993, to the effect that the Trustees shall now and henceforth until further or other Order of the Court, hold the said land upon the terms attached hereto

AND IT IS HEREBY DECLARED, pursuant to Rule 7.5(2)(b) of the Māori Land Court Rules 2011, that this Order do ISSUE IMMEDIATELY from the office of the Court

AS WITNESS the hand of a Deputy Registrar and the Seal of the Court.

  
  
DEPUTY REGISTRAR  
NEW ZEALAND

## TERMS OF TRUST

### 1 TITLE

This Trust shall be known as the **TITIRAUPENGA TRUST** and shall apply to the Māori freehold lands known as the Huiarua Development Scheme, being Pouakani C No. 1B Sec. 1 Block and Pouakani C No. 1B Sec. 2 Block.

### 2 OBJECTS

- (a) The object of the Trust shall be to provide for the use management and alienation of the land and any other property or assets of the Trust to best advantage of the beneficial owners, or the better habitation or use of land by beneficial owners and to carry on any one or more businesses, undertakings, or enterprises either upon the land or part or parts thereof, or in connection with some user of the land, which will directly or indirectly assist in the better utilisation of the resources of the land or any other Trust property or the commercial realisation thereof for the beneficial owners.
- (b) To ensure the retention of the land for the present Māori beneficial owners their successors and assigns.
- (c) To represent the beneficial owners on all matters relating to the land and to the use and enjoyment of the facilities associated therewith.

### 3 POWERS

The Trustees are empowered:

#### (a) General

In furtherance of the objects of the Trust and except as hereinafter may be limited to do all or any of the things which they would be entitled to do if they were the absolute owners of the land PROVIDED HOWEVER that the Trustees shall not alienate the whole or any part of the fee simple by gift or sale other than by way of exchange on the basis of land for land value for value and then effected by Court Order or in settlement of a proposed acquisition pursuant to the Public Works Act or similar statutory authority.

#### (b) Specific

Without limiting the generality of the foregoing but by way of emphasis and clarification as well to extend or refine the powers of the Trustees it is declared that the Trustees are empowered:

##### (i) To buy

To acquire any land or interest in land whether by way of lease purchase exchange or otherwise and amalgamate the same PROVIDED HOWEVER that no land purchase, land exchange or amalgamation shall be effected except by a resolution of the majority of the beneficial owners passed at a general meeting followed by an order of the Māori Land Court AND to acquire and sell, hire, or otherwise deal in any vehicles, plant, chattels or equipment.



(ii) To subdivide

To subdivide the land in any manner permitted by law into such subdivisions or parts as may seem expedient to them.

(iii) To improve

To develop and improve the Trust lands and to erect thereon such buildings fences yards and other constructions or erections of whatsoever nature as may seem necessary or desirable.

(iv) To employ

To engage employ and dismiss managers secretaries servants agents workmen solicitors accountants forestry or other consultants surveyors engineers valuers and other professional advisers required to carry out the powers of the Trustees and to fix their remuneration.

(v) To borrow

To borrow money for the purpose of the furtherance of any of the trusts or powers herein contained whether or not with security over all or any real or personal property of the Trust.

(vi) To set aside reserves

To set aside such reserves as the Trustees in their discretion shall think fit for contingencies or for capital expenditure or for expansion in accordance with the objects of the Trust or in connection with any business carried on by the Trustees pursuant thereto, or to retain in an accumulated profit account any portion of the profits which the Trustees think it prudent not to distribute to the beneficial owners.

(vii) To lend or invest

To lend all or any of the money coming into their hands upon any securities in which Trust funds may be invested by Trustees in accordance with the Trustee Act 1956 or in accordance with any other statutory authority.

(viii) To join with others

To enter into arrangements or agreements or contracts whether in the names of the Trustees or jointly or in partnership with any other person or organisation.

(ix) To lease

To lease only upon a resolution so to do, duly passed at a meeting of the beneficial owners called under the provisions of this Trust, the whole or any part or parts of the said lands from year to year and for any term of years at such rent and upon such covenants and conditions as the Trustees shall think reasonable and to any persons, corporate body and/or Her Majesty the Queen and to accept surrenders of leases thereof and to rent the lands. No lease shall provide for payment of compensation for improvements effected by the lessee:



PROVIDED that the Trustees may at their discretion alienate by way of lease or licence to any beneficial owner or any blood relative of a beneficial owner free of rent or otherwise upon terms more favourable to a lessee than might be given if the land were dealt with on the open market without favour.

(x) To protect Wāhi Tapu

To safeguard to the best of their ability any graves of the Māori people and all historic or sacred places in or upon the land for the time being vested in them.

(xi) To acquire interests

To acquire the undivided share of any beneficial owner in any of the said blocks of land for the benefit of the remainder of the beneficial owners of that block of land:

AND for the purpose of this sub-paragraph the term "beneficial owner" includes any person holding an interest as aforesaid in a representative capacity whether as executor, administrator, or Trustee, and the Official Assignee and the Māori Trustee.

(xii) To pay own costs and reimburse Trustees

(a) A Trustee will be entitled to be paid for meetings of the Trust that they attend for a maximum of ten (10) meetings per year at the following rates:

Chairperson	\$700.00 per meeting
Other Trustee	\$500.00 per meeting

(b) Should professional Trustees be appointed they may be paid at the usual professional rate subject to approval by the Court.

(c) From the revenues derived from the operation of the Trust to pay all costs, expenses and disbursements incurred by them including the costs of any person employed by them in the administration of the Trust and the Advisory Trustees in or in the furtherance of any of the objects of the Trust and if approved by the Court, including also the reasonable fees, costs and travelling expenses of the Trustees in attending the meetings of the Trust or in respect of any Trust business.

(xiii) To distribute

The Trustees shall effect distribution of profits (including accumulated profits and realised capital profits) in any financial year to the beneficial owners in direct proportion to their relative interest in the land, such distributions at all times being subject to:

(a) The Trustees having satisfied themselves that prudent and adequate provision has been made for the payment or reservation of other amounts which are properly to be paid or reserved as hereinbefore provided, AND



- (b) The Trustees having determined themselves the amount as being available for distribution in that financial year, AND
- (c) The Trustees having been authorised to so distribute by express resolution at a general meeting of the beneficial owners called for that purpose an amount not exceeding that determined in accordance with this paragraph PROVIDED HOWEVER that any unclaimed monies payable to any beneficial owner by way of such distribution(s) so long as such monies remain unclaimed shall be available to the Trustees for investment, the income from which shall be deemed the sole property of the Trust, the capital amount only being available for payment upon a claim being lawfully established by the beneficial owner or person(s) claiming through them:

PROVIDED further that the Trustees shall pay to the Māori Trustee or other charge-holder or assignee the share of any person in respect of an assignment charge or mortgage in favour of the Māori Trustee, Te Puni Kokiri or other charge-holder or assignee.

(xiv) To record alienations

The Trustees shall cause all instruments of alienation to be endorsed by the Registrar of the Māori Land Court as required by section 150 of Te Ture Whenua Māori Act 1993.

(xv) Meetings of Trustees

- (a) Notwithstanding anything to the contrary hereinbefore contained or implied the Trustees shall exercise the powers vested in them only in manner to be determined by the Trustees at Trust meetings and the Trustees may adjourn and otherwise regulate such meetings as they think fit.
- (b) All policy and proposals other than day to day administration and implementation of policy shall be determined at Trust meetings called for such times and places as the Trustees shall determine.
- (c) The Trustees shall elect a chairman of the Trustees, appoint some place to be the notified office of the Trust Estate and from time to time thereafter shall in the like manner fill any vacancy in the office of chairman or secretary and may change the notified office. Particulars of such elections and appointments and all changes therein shall be supplied immediately to the Registrar.
- (d) Meetings of the Trustees shall be called by the chairman or may be held at such times and places as may be fixed by resolution of the Trustees. Any two members may at any time require the chairman to summon a meeting. Not less than three (3) clear days' notice of any meeting shall be given to every member of the Trustees.
- (e) If at any meeting the chairman is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman, and the person so chosen shall have and may exercise at that meeting all the powers of the chairman.



- (f) Questions arising at any meeting shall be decided by a majority of the members present, but three (3) members at least shall concur in every act of the Trustees. In the case of an equality of votes, the chairman shall, in addition to his deliberative vote, have a casting vote.
- (g) PROVIDED HOWEVER that the Trust shall not be bound in matters of "alienation" within the meaning of that word as now defined in section 4 of Te Ture Whenua Māori Act 1993 unless all Trustees in office unanimously concur therein.

(xvi) General meetings of beneficiaries

General meetings of beneficial owners shall from time to time be held as hereinafter provided:

(a) Annual General Meeting

An annual general meeting of the beneficial owners shall be held in each year, within six (6) months after the termination of the financial year of the Trust, at a time and place fixed by the Trustees having regard to the convenience of the beneficial owners.

(b) Special General Meeting

- (1) A special general meeting of the beneficial owners may be convened at any time by the Trustees and shall be so convened:

- (a) upon a direction by the Court; or

- (b) upon a requisition in writing signed by not less than 10 of the beneficial owners.

- (2) Any requisition for the calling of a special general meeting shall state the purpose for which the meeting is required and shall be served on the chairman or the secretary of the Trustees, who shall lay the same before the Trustees.

- (3) On receipt of any requisition made in accordance with sub-clauses (1) and (2) of this paragraph or any direction by the Court for the calling of a special general meeting, the Trustees shall fix a time and place therefore and convene a special general meeting accordingly. Such special general meeting shall be held within two (2) months after the receipt of such requisition or direction.

(xvii) Notice of meeting

A general meeting of the beneficial owners (whether an annual general meeting or a special general meeting) shall be convened by posting, at least 14 days before the date of the meeting, to every beneficial owner whose postal address is recorded in the share register, notice in writing of the time and place of the meeting and of the business proposed to be transacted thereat.



(xviii) Special resolution

Any beneficial owner may give notice in writing to the Trustees of any special resolution that he intends to move at a specified general meeting or at the next available general meeting of the beneficial owners, and in any case the written notice of the meeting shall include notice of the intended special resolution.

No resolution shall be moved at any general meeting unless notice thereof has been included in the written notice of the meeting.

(xix) Business of Annual General Meeting

The business of the annual general meeting shall be:

- (a) To receive and consider the balance sheet, the profit and loss account, and the reports and statements usually annexed or attached to the balance sheet and, if thought fit, to adopt the same after hearing the Auditor's report.
- (b) To consider Trusteeship and if appropriate to elect Trustees.
- (c) To appoint an auditor or auditors.
- (d) To appoint a share valuer.
- (e) To decide, in any case where the Trustees have determined that an amount of money is available for distribution by way of dividend to the beneficial owners, what part (if any) of that amount shall be paid for other purposes.
- (f) To consider any proposed special resolution of which notice has been duly given and is included in the written notice of the meeting.
- (g) To consider and if thought fit dispose of such other matters as may properly be brought before the meeting.

(xx) Chairman

At every general meeting of the beneficial owners the chairman of the Trustees shall preside if he is present, and if he is absent the meeting shall appoint some other person present to be chairman of the meeting.

(xxi) Postponement

At any time before the time fixed for the holding of any general meeting of the beneficial owners the chairman of the Trustees may postpone the meeting to some other time or may appoint some other place of meeting, as he may deem expedient, and notice of any such altered time or place shall be duly given.



(xxii) Quorum

No meeting of the beneficiaries of the Trust shall be constituted or be deemed to be constituted unless there is present throughout the quorum prescribed by this Trust Order:

A quorum shall consist of not less than 15 qualifying beneficial owners and holding or representing by proxy not less than 20 of the beneficial owners in the said land.

(xxiii) Lack of quorum

- (a) If at the time and place appointed for any such meeting or within one (1) hour after such time, there is not a quorum present, or if for any other reason the meeting cannot be held, the Trustees shall forthwith fix another time within 21 days thereafter and a place for the holding of the meeting and shall give not less than 14 days notice of the meeting by advertisement published twice in one or more daily newspapers circulating in the district in which the Trust land is situated. If at the new time and place, or within one (1) hour after such time there has not been a quorum present, the meeting shall lapse.
- (b) Where any annual general meeting lapses as aforesaid, the certified balance sheet, the profit and loss account and the other reports and statements hereinbefore referred to shall forthwith be transmitted by the chairman to the Registrar of the Court.

(xxiv) Adjournment

The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place.

(xxv) Voting

Unless a poll is demanded by not less than five (5) beneficial owners present in person:

- (a) Every beneficial owner present in person or by proxy shall have one (1) vote only and resolution shall be carried if a majority of the votes is in favour thereof.
- (b) A person acting as proxy for more than one (1) beneficial owner shall be entitled to vote separately for each person for whom he so acts.
- (c) Any person who is the duly appointed Trustee for any beneficial owner in respect of his shares, may attend, vote and act at any meeting of the beneficial owners, either personally or by proxy, in the same manner and on the same conditions as if he were the beneficial owner.





(xxvi) Poll

If on any question submitted to a vote of beneficial owners a poll is demanded the resolution shall be deemed to be carried if the beneficial owners who either personally or by proxy vote in favour of the resolution are the beneficial owners of a larger aggregate share of the land than the beneficial owners who vote either personally or by proxy against the resolution.

(xxvii) Disposal of voting papers

Where any poll is taken the voting papers shall be disposed of at the meeting or failing the meeting as the chairman directs except that in the case of a poll for election to the committee the voting papers shall in any event be retained intact by the Trust until the application to the Court for the appointment of the person or persons elected is finally disposed of.

(xxviii) Proxy

- (a) Any beneficial owner of full age and capacity may be appointed as proxy of any beneficial owner PROVIDED HOWEVER that no person shall be competent to act as the proxy for any beneficial owner at a meeting of beneficial owners if that person is either one of the persons in whom the land is vested as Trustee OR has consented, before or at the meeting to be nominated as a Trustee.
- (b) The persons following are qualified to act as witness:

Solicitor of the High Court  
 Justice of the Peace  
 Postmaster  
 Licensed Interpreter of the Māori Language  
 Registered Medical Practitioner  
 Officiating Minister  
 Registered Nurse  
 School Teacher  
 Chartered or Registered Accountant

Note: This proxy form when completed must be lodged at the notified office of the Trustees of the land not later than 48 hours before the time fixed for the meeting signed by the person making the appointment whose signature shall be witnessed by another person having one of the qualifications set out in the above form.

(xxix) Instrument of appointment

- (a) Except where some other provision for a period of less than 48 hours is made in the notice of the meeting, no person shall be entitled to vote as proxy at a meeting unless the instrument containing his appointment is lodged at the notified office of the Trust not later than 48 hours before the time fixed for the meeting and unless the chairman of the meeting is satisfied that the appointment is prima facie in order.

- (b) If any instrument of appointment is ruled by the chairman to be out of order, the reason for the ruling shall be certified on the instrument.
- (c) The chairman of the meeting shall, on request, give to any person entitled to vote at the meeting an opportunity to inspect any instrument of appointment which has been lodged and to raise any objection to the instrument.
- (d) The provisions of this Trust order relating to the disposal of voting papers shall apply with all necessary modifications to the disposal of instruments of appointment of proxies.

(xxx) Cancellation and lapse of appointment

- (a) An appointment as proxy may be cancelled by the person who has given the proxy by writing signed by him and either lodged at the notified office of the Trust before 10 o'clock in the morning of the last working day before the day of the meeting or lodged with the chairman of the meeting.
- (b) An appointment as proxy shall lapse on the death of the person giving the proxy or on the cancellation of the appointment as provided in sub-clause (b) of this paragraph.
- (c) If a person who has appointed a proxy attends the meeting personally and notifies the chairman that he is present and the chairman notifies the meeting accordingly the proxy shall not vote for him after the chairman's notification; but the validity of voting which has already been completed prior to that notification to the meeting shall not be affected thereby.

(xxxi) Minutes

The proceedings of every general meeting of the beneficial owners shall be recorded in a minute book. The minutes of every meeting shall be signed by the chairman of that meeting as soon as possible and shall be read and, after any necessary amendment, confirmed at the next succeeding meeting. Upon signature by the chairman such minutes shall be receivable as prima facie evidence of the matters stated in the minutes. Upon confirmation and signature by the chairman of that succeeding meeting, such minutes shall be receivable as conclusive evidence of the matters stated in the minutes.

(xxxii) Accounts and Reports

- (a) The Trustees shall cause to be kept proper books of account in which shall be kept full true and complete accounts of the affairs and transactions of the Trust.
- (b) The Trustees shall in every calendar year submit to a general meeting of beneficial owners the Profit and Loss Account made up to a date not earlier than the date of the meeting by more than six (6) months together with a Balance Sheet as at the date to which a Profit and Loss Account is made up.



- (c) A copy of the Balance Sheet, Profit and Loss Account and other documents shall be filed in the Court within 14 days after their submission as hereinbefore required to a general meeting of the beneficial owners and shall during office hours be open to public inspection at the office of the Trust without payment of any fee.
- (d) The Trustees shall cause each annual set of accounts to be audited by a person who is a member of the New Zealand Institute of Chartered Accountants or a member fellow or associate of an Association of Accountants constituted in some part of the Commonwealth outside New Zealand and for the time being approved for the purpose of the audit of company accounts by the Minister of Justice by notice published in the Gazette. The appointment of a partnership by the firm named to be the auditors of the Trust shall be deemed to be the appointment of all the persons who are partners in the firm at the time of the appointment.
- (e) The auditor shall make a report to the beneficial owners on the accounts examined by him and on every Balance Sheet and every Profit and Loss Account submitted to the beneficial owners in a general meeting during his tenure of office and the report shall state:
- (i) whether or not he has obtained all the information and explanations that he has required.
  - (ii) whether or not in his opinion proper books of account have been kept by the Trustees so far as appears from his examination of those books.
  - (iii) whether or not in his opinion according to the best of his information and the explanations given to him and as shown by the books of account of the Trust that the Balance Sheet is properly drawn up so as to give a true and fair view of the state of the Trust affairs as at the end of its financial year and the Profit and Loss Account is properly drawn up so as to give a true and fair view of the results of the business of the Trust for its financial year.
- (f) The auditor's report shall be read before the general meeting of beneficial owners and shall be open to inspection by any equitable owner.
- (g) Every auditor shall have a right of access at all times to the books and papers of the Trust and shall be entitled to require from the Trustees and the officers of the Trust such information and explanation as he thinks necessary for the performance of the duties of the auditor.
- (h) The auditor of the Trust shall be entitled to attend any general meeting of the beneficial owners and to receive all notices of and other communications relating to any general meeting which any beneficial owner is entitled to receive and to be heard at all or any general meeting which he attends on any part of the business of the meeting which concerns him as an auditor.



(xxxiii) Qualifications, disqualification and removal of Trustees

- (a) It shall not be necessary in the case of any person elected or appointed as a Trustee that he be a beneficial owner in any of the said lands.
- (b) No person shall be disqualified from being elected or from holding office as a Trustee by reason of his employment as a servant or officer of the Trust Estate or of his being interested or concerned in a contract made by the Trustees where the gross value of that contract (not being a contract for personal services) does not exceed one thousand dollars (\$1,000.00):

PROVIDED that a Trustee shall not vote or take part in the discussion on any matter before the Trustees that directly or indirectly affects his remuneration or the terms of his employment as a servant or officer of the Trust Estate or that directly or indirectly affects any contract in which he may be interested or concerned in any way whatsoever howsoever.

(xxxiv) Removal of Trustees

- (a) The Court, for sufficient cause, may at any time remove a Trustee from office.
- (b) In addition to the grounds upon which a Trustee might be removed by the Court, it shall be sufficient cause for removal that:
  - (i) a Trustee has not complied with the provisions of clause 3 (b) (xxxii) hereinbefore;
  - (ii) a Trustee has failed to carry out the duties of his office satisfactorily.
  - (iii) a Trustee has absented himself from three (3) consecutive properly convened meetings of the Trust without reasonable excuse;
  - (iv) because of physical or mental infirmity or prolonged absence, a Trustee is or will be incapable of carrying out his duties satisfactorily;
  - (v) a Trustee has become a bankrupt;
  - (vi) a Trustee is convicted of any offence whereby he is sentenced to prison and is still serving such sentence.

(xxxv) Variation of trusts

Nothing herein shall restrict the right of the Trustees or of any beneficial owner to apply to the Māori Land Court pursuant to the provisions of section 244 of Te Ture Whenua Māori Act 1993 for a variation of this Trust order to increase, reduce or otherwise vary the powers hereby given to the Trustees.

COURT ★ NZ