



TRUST DEED REVIEW

Ngāti Tūwharetoa Fisheries Charitable Trust



KAUPAPA

- **Purpose** of this review?
- What has been **removed**?
- What has been **added**?

PURPOSE AND OBJECTIVES

- Streamlining processes for Hapū and Marae
- Ensuring compliance with the Trusts Act 2019 and other legislation
- Ensure good governance practices and procedures and updating as required

THEMES

- **Efficiency** – allowing Trustees to act efficiently for the Trust.
- **Modernise and update** – modernising and updating provisions to ensure best governance practice
- **Compliance** – updating to reflect the law.

What has been removed?

Perpetuities

(cl 14.2)

WHY?

The rule against perpetuities has been repealed by the Trusts Act 2019

Certain definitions and sub-headings

(Cls 1.1, 2.1)

WHY?

To reflect best practice and to ensure that the Trust Deed is easy to interpret and read

“Marae” and “Marae Representatives”

(cls 5, 6, 8, 9 and 10 and Sch 1)

WHY?

Similar to Hapū Representatives. These processes are not followed and create difficulty and costs for Marae and the Trustees.

“Hapū Representatives”

(Cls 5, 6 and Sch 5)

WHY?

These processes are not followed and are create administrative difficulties and costs for the Trustees and Hapū. Their removal is more aligned to the Trustees actual, more streamlined, practice.

WHAT HAS BEEN ADDED?

(LEGISLATIVE COMPLIANCE)

Trustee Duties

(Cl 6)

WHY?

Clarify Trustee duties under Trusts Act 2019 and modify duties where appropriate

Trustee Liability and Indemnities

(Cls 7 and 8)

WHY?

Standard clauses included in similar trusts and alignment with the Trusts Act 2019

Management of the Trust

(Cl 9.6)

WHY?

To insure the Trust retains charitable status under the Inland Revenue Acts

Governing Law and Jurisdiction

(Cl 19)

WHY?

Clarify the laws that apply to the Trust Deed

Business Income Restriction

(Cls 9.31 – 9.35)

WHY?

To align with requirements for charities under the Income Tax Act 2007

WHAT HAS BEEN CHANGED? (LEGAL COMPLIANCE)

Registration as charity

(Cl 2.3)

WHY?

To ensure compliance with Charities Act 2005 and Charitable Trusts Act 1957

Cessation as Trustee

(Cl 4.3(f))

WHY?

To align with the Crimes Act 1961

Delegation of powers

(Cl 9.18)

WHY?

To align with Trusts Act 2019 and clarify powers of appointment, not delegation.

References to Trustee Act 1956

(Cls 9.36 and 15.6)

WHY?

Repealed by Trusts Act 2019

WHAT HAS BEEN CHANGED? CONT.

Ensuring good governance and updated processes

Purposes, Definitions

(cls 1.1 – 4.3)

Trustee processes

(cls 9.8 – 9.30(e))

General meetings, variations and wind up

(cls 12.3 - 17.4(b))

WHY?

to allow flexibility to Trustees, but also to provide clarity on the Trustees' exercise of power and functions

WHY?

To clarify and provide certainty on issues such as the name of the Trust and composition of the board

WHY?

To ensure that the structure of the Trust Deed is clear and easy to read

WHY?

To reduce ambiguity in Trustee processes and procedures and to avoid confusion

WHY?

To ensure the processes for General Meetings, variations and wind up aligns with best practice for the Trust and the Māori Fisheries Act 2004

KĀHUI
LEGAL

HE PĀTAI?

