

**Reprint
as at 20 May 2003**



**Te Whanau-a-Taupara Trust
Empowering Act 2003**

Private Act 2003 No 2
Date of assent 19 May 2003
Commencement see section 2

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

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Preamble

- (1) The Taupara whanau gifted a block of land, “Waerenga-a-hika”, as described in Schedule 1, to the Crown by deed dated 9 April 1857 for the purpose of establishing an educational trust:
- (2) The Crown gifted the lands to George Augustus Selwyn, Lord Bishop of New Zealand, who, by deed of conveyance dated 28 April 1862, passed the Waerenga-a-hika lands upon trust to the Right Reverend William Williams, Bishop of Waiapu; the Reverend William Leonard Williams, of Turanga, Clerk; Ihaia te Noti, Poihipi te Rohe, Henare Kepa Ruru, Wiremu Pere, Matina Ruta Toti, Pita te Huhu, and Te Teira Kupa, all of Turanga, for a school for Maori in connection with the Anglican Church:
- (3) The school was destroyed by fire in 1937 and the trust funds were insufficient to rebuild the school:
- (4) The Waerenga-a-hika Trust Act 1947 was enacted to extend and vary the trusts and to establish a new board to administer the amended trusts:
- (5) The main object of the trust is to provide scholarships for the post-primary education, firstly of children of the Whanau-a-Taupara section of the Mahaki Tribe, and secondly for children of other sections of that tribe:

- (6) The objects of the trust provide that half of the trust's income must be put towards scholarships at schools conducted by the Church of England and that in all other cases preference must be given to schools conducted by the Church of England:
- (7) The Anglican Church and the Waerenga-a-hika Trust Board have successfully worked together for many years providing schooling, and educational support and opportunities, to children of the Mahaki Tribe:
- (8) It is difficult for the Waerenga-a-hika Trust Board to fulfil its objects, and children must travel further afield than the Gisborne area to boarding schools to take up their scholarships:
- (9) The powers of the trustees are restrictive and require all leases of land to be in accordance with the Public Bodies Leases Act 1969:
- (10) The trustees desire to—
 - (a) widen the charitable and educational objects of the trust and widen the powers of the trustees under a new trust; and
 - (b) ameliorate the restrictive conditions imposed on the Trust by virtue of the Public Bodies Leases Act 1969:
- (11) The trustees have executed a deed of trust known as the Te Whanau-a-Taupara Trust, as set out in Schedule 2:
- (12) The objects of this Act cannot be attained otherwise than by legislation.

1 Title

This Act is Te Whanau-a-Taupara Trust Empowering Act 2003.

2 Commencement

This Act comes into force on the 28th day after the date on which it receives the Royal assent.

3 Purpose

The purpose of this Act is—

- (a) to dissolve the Waerenga-a-hika Trust Board constituted by the Waerenga-a-hika Trust Act 1947 and to vest the assets of that trust in the trustees of Te Whanau-a-Taupara Trust as established by the trust deed dated 30 October 2001, a copy of which is set out in Schedule 2; and
- (b) to extinguish previous trusts; and
- (c) to modify, for the period specified in section 6, the application (in relation to the purposes of the trusts declared by the trust deed) of the public benefit requirement of the law relating to charitable trusts; and
- (d) to limit the application of the Public Bodies Leases Act 1969.

4 Interpretation

In this Act, unless the context otherwise requires,—

beneficiaries means the persons who, under clause 2 of the trust deed, are beneficiaries of the Te Whanau-a-Taupara Trust; and **beneficiary** has a corresponding meaning

Board means the Waerenga-a-hika Trust Board established by the Waerenga-a-hika Trust Act 1947

Te Whanau-a-Taupara Trust means Te Whanau-a-Taupara Trust established by the trust deed

trust deed means the trust deed dated 30 October 2001, a copy of which is set out in Schedule 2

trustees means the trustees for the time being of Te Whanau-a-Taupara Trust.

5 Act binds the Crown

This Act binds the Crown.

6 Blood ties

- (1) For the period specified in subsection (2), the fact that the beneficiaries under the trust deed are related by blood does not prevent the purposes of the trusts declared by the trust deed from complying with the public benefit requirement of the law relating to charitable trusts.

- (2) The period specified for the purposes of subsection (1) is the period beginning with the date of the commencement of this Act and ending with the close of 31 March 2004.

7 Dissolution of Board and vesting of property in Trustees

- (1) The Board is dissolved.
- (2) On the commencement of this Act,—
- (a) all real and personal property belonging to the Board (including the land described in Schedule 1) is vested in the trustees subject, except as provided in sections 12 and 21, to all encumbrances, contracts, liens, and equities affecting that property at the commencement of this Act:
 - (b) all money payable to the Board becomes payable to the trustees:
 - (c) subject to sections 12 and 21, all liabilities, contracts, and engagements, and all rights, authorities, and duties of any nature whatever, of the Board become liabilities, contracts, engagements, rights, authorities, and duties of the trustees:
 - (d) all proceedings pending by or against the Board may be carried on, completed, and enforced by or against the trustees:
 - (e) every reference to the Board in any Act, or in any agreement, deed, instrument, will, or other document (whether dated before or after the commencement of this Act) is, unless inconsistent with the context or with the provisions of this Act, to be treated as a reference to the trustees.

8 Registers

- (1) No Registrar (including the Registrar-General of Land) or any other person charged with the keeping of any books or registers is obliged, solely by reason of section 7, to change the name of the Board to those of the trustees in those books or registers or in any document.
- (2) The presentation to any Registrar or other person of any instrument, whether or not comprising any instrument of transfer by the trustees,—

- (a) executed or purporting to be executed by the trustees; and
 - (b) relating to any property held by the Board immediately before the commencement of this Act; and
 - (c) containing a recital that the property has been vested in the trustees by section 7—
- is, in the absence of proof to the contrary, sufficient evidence that the property is vested in the trustees.
- (3) Except as otherwise provided in this section, nothing in this section derogates from the provisions of the Land Transfer Act 1952.

9 Certain matters not effected by transfer of functions, duties, or powers

- (1) Nothing effected or authorised by this Act—
- (a) is to be regarded as placing the Board or the trustees or any other person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
 - (b) is to be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or
 - (c) is to be regarded as placing the Board or the trustees or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information; or
 - (d) releases any surety wholly or in part from any obligation; or
 - (e) invalidates or discharges any contract or security.
- (2) Subsection (1) does not limit the provisions of sections 12 and 21.

10 Final accounts of Board

- (1) As soon as reasonably practicable after the commencement of this Act, the trustees must cause to be prepared final accounts of the Board as at the close of the day before the date of the commencement of this Act.

- (2) The trustees must ensure that both a copy of the final accounts and a copy of the report of the auditor on those accounts—
- (a) are sent by the trustees to—
 - (i) the Synod of the Diocese of Waiapu; and
 - (ii) the General Synod of the Church of the Province of New Zealand, commonly called the Church of England; and
 - (iii) a representative of the Whanau-a-Taupara Section of the Mahaki Tribe not being a member of the Board; and
 - (b) are available for inspection by any beneficiary at the office of the Te Whanau-a-Taupara Trust at all reasonable times.

11 Taxation and duties provisions

The vesting in the trustees by section 7 of the real and personal property of the Board, and anything done by the Board or the trustees to give effect to such vesting,—

- (a) is not, for the purposes of the Goods and Services Tax Act 1985, to be treated as a supply of any goods and services:
- (b) is not, for the purposes of the Estate and Gift Duties Act 1968, to be treated as a dutiable gift.

12 Trusts extinguished

- (1) On the vesting in the trustees by section 7(2) of the real and personal property of the Board,—
- (a) the trusts upon which the property vested was held by the Board are extinguished; and
 - (b) the property is to be held by the trustees upon the trusts and with the powers declared in the trust deed; and
 - (c) the Board and its members are released and discharged from the obligations and duties imposed on them by the trusts upon which they held the property and from any liabilities or obligations owed to third persons.
- (2) The trustees have the power to pay, out of the property referred to in subsection (1), all costs and expenses incurred by the Board and the trustees in connection with the establishment of the trusts declared in the trust deed, the transfer of the property

consequent upon the vesting in the trustees, and the promotion of this Act.

13 Review of trustees' decisions as to beneficiaries

- (1) Any decision made by the trustees as to who is entitled to be a beneficiary of the trust is subject to the review of the High Court of New Zealand on the application of any person affected directly or indirectly by the decision.
- (2) Subsection (1) does not limit the right of a person to make an application to the High Court of New Zealand under section 67 or section 68 of the Trustee Act 1956 or under any other provision of that Act.

14 Trust property

As from the commencement of this Act,—

- (a) clause 1.1.1 of the trust deed must be read as if, for the words “section 6(2) of the Te Whanau-a-Taupara Trust Empowering Act”, there were substituted the words “section 7(2) of the Te Whanau-a-Taupara Trust Empowering Act 2003”; and
- (b) clause 1.1.2 of the trust deed must be read as if, after the word “Act”, there were inserted the expression “2003”.

15 Secondary purposes

- (1) As from the commencement of this Act, the trust deed must be read as if the words “the benevolent needs of the beneficiaries, and” were omitted from clause 4.3.
- (2) As from the commencement of this Act, the trust deed must be read as if subclauses 4.3.4 and 4.3.6 were omitted from clause 4.

16 Power to invest

As from the commencement of this Act, the trust deed must be read as if subclause 5.1.6.1 were omitted from clause 5.

17 Annual accounts and reports of auditors

- (1) The trustees must ensure that both the annual accounts of the Te Whanau-a-Taupara Trust and the reports of the auditors on

those accounts are available for inspection by any beneficiary at the office of the Te Whanau-a-Taupara Trust at all reasonable times.

- (2) As from the commencement of this Act,—
 - (a) clause 10.2 of the trust deed must be read as if, after the words “Annual General Meeting of the Trust”, there were added the words “and shall be available for inspection by any beneficiary at the office of the Trust at all reasonable times”; and
 - (b) clause 15.1 of the trust deed must be read as if, after the words “Annual General Meeting of the Trust”, there were added the words “and shall be available for inspection by any beneficiary at the office of the Trust at all reasonable times”.

18 Alterations and additions to trust deed

- (1) As from the commencement of this Act,—
 - (a) clause 16.1.2 of the trust deed must be read as if, after the word “to”, there were inserted the words “this clause or to”; and
 - (b) clause 16.1.3 of the trust deed must be read as if, after the word “That”, there were inserted the words “at least”.
- (2) As from the commencement of this Act, the trust deed must be read as if there were added to clause 16.1 the following subclause:

“16.1 That any such alteration or addition must, before it is made, be discussed at an Annual General Meeting of the Trust.”

19 Dissolution and disposal of assets

- (1) As from the commencement of this Act, the trust deed must be read as if clause 17 were omitted from it.
- (2) No alteration or addition made to the trust deed under clause 16.1 of the trust deed may provide for the termination or dissolution of the trust, or for the transfer of its assets to another charity.

- (3) Nothing in this section limits the jurisdiction of the High Court of New Zealand.

20 Restriction on liquidation under Charitable Trusts Act 1957

If the trustees are incorporated as a board under Part 2 of the Charitable Trusts Act 1957,—

- (a) the board may not pass a resolution, under section 24 of that Act, appointing a liquidator; and
- (b) neither the board nor any member of the board may apply to have the board put into liquidation under section 25 of that Act.

21 Application of Public Bodies Leases Act 1969

- (1) Subject to subsection (2), the trustees are not a leasing authority for the purposes of the Public Bodies Leases Act 1969.
- (2) Despite subsection (1) and section 22, nothing in this Act limits the application of the Public Bodies Leases Act 1969 with respect to—
 - (a) any lease or tenancy granted by the Board before the commencement of this Act and current at the commencement of this Act; or
 - (b) any lease or tenancy granted after the commencement of this Act in renewal of a lease or tenancy to which the Public Bodies Leases Act 1969 applies.

22 Repeal

The Waerenga-a-hika Trust Act 1947 is repealed.

Schedule 1

s 7

Waerenga-a-hika Trust Board Land

All those parcels of land situated in the Gisborne Land District, with a total land area of 244.5881 hectares, a little more or less, described as follows:

| Land description | Area in hectares |
|---|-------------------------|
| Part Lot 1, DP 1538 | 0.2157; |
| Part Lot 2, DP 1538 | 0.1662; |
| Part Lot 3, DP 1538 | 0.1841; |
| Part Lot 4, DP 1538 | 0.1854; |
| Part Lot 5, DP 1538 | 0.1917; |
| Lots 6 to 11 inclusive, DP 1538, Each having the equal area of: | 0.2023; |
| Lot 12, DP 1538 | 0.1993; |
| Lot 13, DP 1538 | 0.2054; |
| Lots 14 to 20 inclusive, DP 1538, Each having the equal area of: | 0.2023; |
| Lot 21, DP 1538 | 0.8094; |
| Lot 22, DP 1538 | 2.8328; |
| Lot 23, DP 1538 | 3.1565; |
| Lot 24, DP 1538 | 2.5166; |
| Lot 25, DP 1538 | 2.8328; |
| Lot 26, DP 1538 | 4.2416; |
| Lot 27, DP 1538 | 1.4594; |
| Lot 28, DP 1538 | 2.0082; |
| Lot 29, DP 1538 | 2.0361; |
| Lot 30, DP 1538 | 2.0437; |
| Lot 31, DP 1538 | 1.9981; |
| Lot 32, DP 1538 | 1.8464; |
| Lot 33, DP 1538 | 2.2359; |
| Lot 34, DP 1538 | 1.9804; |
| Lot 35, DP 1538 | 2.0639; |
| Lot 36, DP 1538 | 2.0891; |

| Land description | Area in hectares |
|---|-------------------------|
| Lot 37, DP 1538 | 2.3489; |
| Lot 38, DP 1538 | 12.5149; |
| Lot 39, DP 1538 | 12.0859; |
| Lot 40, DP 1538 | 14.8540; |
| Lot 41, DP 1538 | 14.2121; |
| Lot 41A, DP 1538 | 7.1566; |
| Lot 42, DP 1538 | 14.2854; |
| Lot 43, DP 1538 | 16.4201; |
| Lot 44, DP 1538 | 16.4201; |
| Lot 45, DP 1538 | 22.8215; |
| Lot 46, DP 1538 | 10.1829; |
| Lot 46A, DP 1538 | 9.0827; |
| Lot 47, DP 1538 | 14.3866; |
| Lot 48, DP 1538 | 14.8596; |
| Lot 49, DP 1538 | 11.0100; |
| Lot 50, DP 1538 | 8.6704; |
| Lot 51, DP 1538 | 0.8903; |
| Section 37 Block I, Waimata Survey District | 1.5418; and |
| Section 38, Block I, Waimata Survey District | 0.7157. |

Schedule 2
Deed of Trust

ss 3, 4

DEED OF TRUST dated this 30th day of October 2001

PARTIES:

- (1) **MAUI TE KOTUKU TANGOHAU**, Trust Manager, of Tolaga Bay
STANLEY JOSEPH PARDOE, Company Director, of Gisborne
ALAN TE KAURU MATETE HARONGA, Retired, of Gisborne
ERIC JOHN TUPAI RURU, Forestry Company Proprietor, of Gisborne
DR PARE ARETA KEIHA, Academic, of Auckland
WIREMU PARE KEIHA, Retired Farmer, of Whakatane
ALBERT TANIWHA HORSFALL, Farm Consultant, of Gisborne
PEHIMANA HAAPU BROWN, Farmer, of Gisborne
IAN THORNLEY WHITE, Retired Farmer, of Gisborne
as (“**the Settlers**”)
- (2) The first Trustees of the Trust who are specified under clause 7.2 of this Deed.

RECITALS

WHEREAS

The Taupara whanau gifted a block of land, “Waerenga-a-Hika”, to the Crown by deed dated 9 April 1857 for the purpose of establishing an educational trust:

AND WHEREAS

The Crown gifted the lands to George Augustus, Lord Bishop of New Zealand, who, by deed of conveyance dated 28 April 1862 passed the Waerenga-a-Hika lands to the Right Reverend William, Bishop of Waiapu; the Reverend William

Leonard Williams, of Turanga, Clerk, Ihaia te Noti, Poihipi te Rohe, Henare Kepa Ruru, Wiremu Pere, Matina Ruta Toti, Pita te Huhu, and Te Teira Kupa, all of Turanga, for a school for Maori in connection with the Anglican Church:

AND WHEREAS

The school was destroyed by fire in 1937 and the trust funds were insufficient to rebuild the school:

AND WHEREAS

The Waerenga-a-hika Trust Act 1947 was enacted to extend and vary the trusts and to establish a new board to administer the amended trusts:

AND WHEREAS

The main educational object of the trust is to provide for the post-primary education of children of the Tribe:

AND WHEREAS

The objects of the trust provide that half of the trust's income must be put towards scholarship at schools conducted by the Church of England and that in all other cases preference must be given to schools conducted by the Church of England:

AND WHEREAS

The Anglican Church and the Waerenga-a-hika Trust Board have successfully worked together for many years providing schooling, and educational support and opportunities to children of the Mahaki Tribe:

AND WHEREAS

It is difficult for the Waerenga-a-hika Trust Board to fulfil its objects and children must travel further afield than the Gisborne area to boarding schools to take up their scholarships:

AND WHEREAS The trustees desire to widen the charitable and educational objects of the trust and widen the powers of the trustees under a new trust:

AND WHEREAS The trustees have the full support of the Anglican Church for widening the charitable and educational object of the Trust and the reform of trust administration.

NOW THIS DEED RECORDS as follows:

1. TRUST PROPERTY

- 1.1 In this Deed the expression “the Trust property” means:
- 1.1.1 The property vested in the trustees by section 6(2) of the Te Whanau-a-Taupara Trust Empowering Act (which property includes the land described in Annex ‘A’ to this Deed); and
 - 1.1.2 Any money, investments, or other property of whatever sort which, after the commencement of the Te Whanau-a-Taupara Trust Empowering Act, is given to, transferred to, purchased by or otherwise acquired by the Trustees for the purposes of the trusts declared by this Deed; and
 - 1.1.3 All property from time to time derived from or representing:
 - 1.1.3.1 property described in paragraph 1.1.1 of this clause; or
 - 1.1.3.2 money, investments, or other property described in paragraph 1.1.2 of this clause.

2. BENEFICIARIES

- 2.1 The beneficiaries of this Trust shall be those persons in New Zealand who:
- 2.1.1 whakapapa to Taupara; and

2.1.2 hold manawhenua status over the land described in Annex 'A' to this Deed:

and in this Deed the expression "beneficiaries" includes all or any of such persons and the expression "beneficiary" has a corresponding meaning.

3. CREATION OF TRUST

3.1 The Trustees declare that they shall hold the Trust property UPON TRUST to promote the educational and vocational training of beneficiaries, residential care of beneficiaries in relation to their educational and vocational training, spiritual welfare (including Tauparatanga) and the relief of poverty and provision of social support and care for indigent or impoverished beneficiaries as set out in this Deed and with the purposes and powers set out in this Deed.

3.2 The trusts created by this Deed are to be known as "Te Whanau-a-Taupara Trust" or by such other name as approved by the Registrar of Incorporated Societies.

4. PURPOSES AND POWERS

4.1 The Trust is primarily established to promote the educational needs of the beneficiaries. In order to promote this primary purpose, the Trustees may in their sole discretion do all or any of the following:

4.1.1 Provide, or arrange, for the training and education of children, adolescents and all other members entitled to be considered beneficiaries of the Trust:

4.1.2 Provide scholarships and financial support for beneficiaries for educational or vocational purposes:

4.1.3 Make grants or loans generally for the purpose of assisting with the educational training of beneficiaries for any employment or vocation:

4.1.4 Make grants or loans to funds established, or bodies formed, for the promotion of the education of the beneficiaries or for the beneficiaries to obtain training or practical experience necessary or desirable for any trade or occupation:

- 4.1.5 Provide books, clothing and other equipment for beneficiaries and make grants for such purpose:
- 4.1.6 Provide, maintain or contribute towards the cost of residential accommodation for beneficiaries in relation to their educational training:
- 4.1.7 Do all acts, matters or things that promote the purposes set out at subclauses 4.1.1 to 4.1.6.
- 4.2 In the exercise of their discretion under clause 4.1 of this Deed, the Trustees shall consider and give weight in each case to the extent to which a beneficiary has the potential to make a significant contribution to the whanau-a-Taupara and/or society in general.
- 4.3 Without in any way restricting or limiting clause 4.1 of this Deed, the secondary purposes of the Trust are to promote the benevolent needs of the beneficiaries, and certain other charitable purposes as outlined in this clause. The Trustees, having concluded in their sole discretion from time to time that satisfactory provision has been made to meet the primary purpose of the Trust, may in order to promote the secondary purposes of the Trust do all or any of the following:
 - 4.3.1 Establish, maintain and develop marae as stipulated by the Trustees in the exercise of their sole discretion:
 - 4.3.2 Advance the cultural activities, needs or aspirations of any of the beneficiaries:
 - 4.3.3 Advance Tauparatanga amongst the beneficiaries:
 - 4.3.4 Provide grants, donations, koha and funeral expenses relating to any of the beneficiaries or in a representative capacity on behalf of the beneficiaries:
 - 4.3.5 Construct, establish, manage, maintain, repair or improve the Waerenga-a-hika cemetery, urupa, churches, and other religious facilities and institutions, and manage and preserve Wahi Tapu and subsidise or make grants or loans towards the provision of such things:
 - 4.3.6 Assist in meeting the costs of whanau development, research and establishment or support of whanau claims:
 - 4.3.7 Relieve poverty and make loans or grants towards the relief of indigence or distress among beneficiaries:

- 4.3.8 Do all acts, matters or things that promote the purposes set out at subclauses 4.3.1 to 4.3.7.
- 4.4 Without otherwise limiting or restricting any other powers of the Trustees at law or equity or any other express or implied powers of the Trustees set out in this Deed, the Trustees shall not have the power to sell any of the land described in Annex 'A' to this Deed.

5. ANCILLIARY POWERS

- 5.1 The Trustees shall also have full power in New Zealand:
- 5.1.1 To purchase, erect, build, take on lease or licence or otherwise obtain a use or occupation of any real or personal property of any description:
- 5.1.2 To manage, extend, improve, develop, alter, maintain or repair any real or personal property:
- 5.1.3 Without prejudice to the terms of subclause 5.1.10 of this Deed, to sell or donate any real or personal property on the terms and conditions the Trustees think fit provided that, in accordance with clause 4.4 of this Deed, the land described in Annex 'A' to this Deed shall not be subject to this power with the intent that any such dealing with such land must be dealt with by general meeting of the whanau-a-Taupara:
- 5.1.4 To let, lease, sublease, bail or otherwise grant a use or occupation of any real or personal property at such rent and on such terms and conditions (excluding an option to purchase) as the Trustees think fit, and to accept surrenders from, make allowances to and arrangements with a lessee, tenant, sublessee, or bailee, with or without consideration, and generally to manage them as the Trustees think fit:
- 5.1.5 To accept custody, control and management of any real or personal property which may be bequeathed or donated to the Trust and to carry out any trusts attached to gifts or bequests for the benefit of the Trust:
- 5.1.6 To invest all or any monies held by the Trust in any form of investment from time to time:

- 5.1.6.1 Notwithstanding the provisions of section 13C of the Trustee Act 1956 and the likelihood that a Trustee may be a person whose profession, employment, or business is or includes acting as a trustee or investing money on behalf of others, it is hereby declared that the care, diligence and skill to be exercised by the Trustees in exercising any power of investment shall not be that required of such persons by section 13C but shall at all times be the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others:
- 5.1.7 To retain any investments coming into the Trustees' hands under subclause 5.1.6 of this Deed for as long as the Trustees think proper:
- 5.1.8 To adopt such means as the Trust may from time to time determine for the purpose of raising money and for obtaining property for the furtherance of the purposes of the Trust and to accept contributions, collections, donations, legacies, devises, gifts, grants and subsidies for the furtherance of the purposes of the Trust:
- 5.1.9 To borrow or raise money for the furtherance of the purposes of the Trust and no person lending or otherwise providing money or other financial accommodation to the Trust shall be bound to enquire as to the purpose of such borrowing or raising or see to the application of the funds borrowed:
- 5.1.10 To secure in such manner as the Trust should think fit the repayment of any monies borrowed or raised by the Trust over the whole or any part of the Trust property, and from time to time vary or renew the same, and including by the issue of debentures or debenture stock, perpetual or otherwise charged upon all or any of the property of the Trust both present and future or by giving and executing in the prescribed manner, guarantees, indemnities, mortgages, debentures and other security for such repayment or by paying off, redeeming or purchasing any such securities, and the exercise of

this power shall not be taken to be the exercise of the powers under subclause 5.1.3 of this Deed:

- 5.1.11 To draw, make, accept, endorse, discount, execute and issue promissory notes, cheques, bills of exchange, warrants and other negotiable securities or transferable instruments:
- 5.1.12 To enter into, seal, execute and perform all agreements, deeds and documents and to do all such other things, acts, deeds or matters as shall be necessary incidental or conducive to the attainment of any of the purposes of the Trust:
- 5.1.13 To employ staff to assist in the work of the Trust at such wages and on such terms and conditions whether by contract or otherwise as may be deemed expedient by the Trust for the time being and to obtain and pay for professional and other advice and services as are deemed necessary for the Trust:
- 5.1.14 To institute, initiate, take or defend and compromise or abandon any legal proceedings or other claims involving the property, rights or affairs of the Trust or the beneficiaries of the Trust:
- 5.1.15 To pay all or any of the costs and expenses incurred in and in connection with the incorporation and establishment of the Trust:
- 5.1.16 To acquire and hold whatever leases, quota, licences or other forms of legal interest as may be required for the attainment of the purposes of the Trust:
- 5.1.17 To do all such other acts or things as are incidental to or will further the attainment of the purposes of the Trust or any of them:
- 5.1.18 To carry on any business for as long as the Trustees think fit. The Trustees may use any monies held by the Trust as capital for the business, and may also employ in the business such managers, agents, employees and other persons as they think fit, provided that any payments made in respect of services provided shall be reasonable:

- 5.1.19 To promote a company or companies for the purpose of acquiring any business or the assets of any business:
- 5.1.20 To amalgamate or enter into partnership or into any arrangement for sharing of profits, union of interests, co-operation, joint venture, reciprocal concession or otherwise, with any person hapu or iwi or company carrying on or engaged in, or about to carry on or engage in, any business or transaction which the Trustees are authorised to carry on or engage in, or business or transaction capable of being conducted so as directly or indirectly to benefit the Trust property or to benefit the purposes of this Trust:
- 5.1.21 To enter into arrangements with any Governmental authority, supreme, municipal, local or otherwise, that may seem to benefit the Trust property or to promote the purposes of the Trust and to obtain from any such Governmental authority any rights, privileges, and concessions which the Trustees may think it desirable to obtain, and to carry out, exercise, and comply with any such arrangements, rights, privileges, and concessions:
- 5.1.22 To insure any building or other insurable property up to its full insurable value, or at the Trustee's option, up to its full replacement value, against destruction or damage by fire, earthquake, fire following earthquake and such other risks including professional, statutory compliance and other non-property risks as the Trustees think fit:
- 5.1.23 To open any bank accounts in any name either on the Trustees own behalf or jointly with some other person or persons, and to overdraw any such account with or without security. The Trustees may also make arrangements with any bank for any Trustees and any delegate to operate any of the Trustees' accounts at the bank:
- 5.1.24 Without being liable for any loss, to waive debts due to the Trustees, either absolutely or on such terms as the Trustees think expedient:
- 5.1.25 To apply or appropriate, or decide to pay, apply or appropriate as much of the income of the Trust in any year,

or other accounting period, as they think fit for or towards one or more of the purposes of the Trust and if the Trustees provide for more than one purpose they need not treat each purpose equally:

- 5.1.26 To retain all or part of the income of the Trust to establish or augment any reserve fund, which may be used at a later time for any purpose for which income arising from the Trust may be used:
- 5.1.27 To apply to the Maori Land Court to exercise any part of its jurisdiction under section 12 of the Antiquities Act 1975 in respect of any artefact found or alleged to be found on any of the land described in Annex 'A' to this Deed or any other land which may be held by the Trustees for the purposes of the trusts declared in this Deed:
- 5.1.28 To make any loans or advances (with or without security) for any of the purposes of the Trust in such manner and on such terms and conditions as the Trustees think fit:
- 5.1.29 To apply for incorporation under the Charitable Trusts Act 1957 or any other statute.

6. INTERPRETATION

- 6.1 The powers set forth in the subclauses of clauses 4 and 5 (**apart from clause 4.4 and the proviso to subclause 5.1.3**) hereof are set forth by way of illustration only and are not in any way restrictive of the powers of the Trustees who shall have full power to do anything and everything that in their opinion may be directly or indirectly conducive to attainment of the purposes of the Trust set forth in clauses 3.1, 4.1, 4.2 and 4.3 of this Deed. None of the powers set forth in any of the subclauses of clauses 4 or 5 shall be in any way limited or restricted by reference to or inference from the terms of any other clause or subclause or by the order in which they appear and none of them shall be deemed subsidiary or ancillary to any other clause or subclause or power. In the event of any ambiguity, the subclauses of clauses 4 and 5, and clause 6.1, shall be construed in the most liberal way so as to widen and

not restrict the powers of the Trustees in the attainment and mode of attainment of the purposes set forth in clauses 3.1, 4.1, 4.2 and 4.3 of this Deed.

- 6.2 Unless the context otherwise requires, a reference to “the Trustees” is a reference to the trustees for the time being of the Trust, whether original, additional or substituted.
- 6.3 Unless the context otherwise requires, a reference to an enactment is a reference to that enactment as amended, or to any enactment that has been substituted for that enactment.

7. APPOINTMENT OF THE TRUSTEES

- 7.1 There shall be not more than nine Trustees of the Trust from time to time.
- 7.2 The first trustees of the Trust shall be those persons who are members of the Waerenga-a-hika Trust Board on the day before the Commencement Date.
- 7.3 Each first Trustee shall hold office for the residue of the term for which that person would have held office as a member of the Waerenga-a-hika Trust Board if the Waerenga-a-hika Trust Act 1947 had not been repealed, or until he or she ceases to hold office in accordance with clause 7.6 of this Deed, whichever is the earlier.
- 7.4 All subsequent Trustees shall hold office for a term of three years or until he or she ceases to hold office in accordance with clause 7.6 of this Deed, whichever is the earlier.
- 7.5 Any Trustee whose term of office has expired shall be eligible for reappointment as a trustee.
- 7.6 A Trustee shall cease to hold office if:
- (a) he or she resigns office; or
 - (b) his or her term of office expires or he or she is not re-elected pursuant to clause 7.7; or
 - (c) he or she becomes bankrupt or insolvent; or
 - (d) he or she becomes of unsound mind; or
 - (e) he or she is convicted of an indictable offence; or
 - (f) he or she is absent from New Zealand for a period of twelve months without obtaining leave of absence from the other Trustees; or

- (g) he or she is absent without leave from three consecutive meetings of the Trustees; or
- (h) he or she dies; or
- (i) in the opinion of all other Trustees so expressed by formal resolution, is for any reason unfit to carry out his or her duties as a Trustee.

7.7 In the event that a vacancy or vacancies arise in the office of Trustee under clause 7.6 of this Deed, the remaining Trustees shall nominate a candidate or candidates to fill such vacancy at least 2 weeks prior to the Annual General Meeting of the Trust and the vacancy or vacancies shall be filled by confirmation of such candidate or candidates at the Annual General Meeting of the Trust. Confirmation shall be based on approval by a majority of the beneficiaries present and voting.

8. GOVERNING BODY OF THE TRUST

8.1 The Trustees may constitute themselves as a Board for the purposes of acting as the governing body of the Trust.

9. RIGHTS OF TRUSTEES

Trustees' emolument and expenses—

9.1 The Trustees may be paid an emolument for their services as may be fair and reasonable having regard to his or her duties and responsibilities as Trustees. The amount of such emolument shall not exceed the amount to be approved by annual resolution of the Trustees and the amount of all emoluments paid shall be reported by way of the Trust's annual accounts.

9.2 The Trustees shall be entitled to be reimbursed in full for all their travelling expenses and accommodation expenses involved in attending Trustees' meetings or otherwise attending to Trust business. Such expenses shall be approved by resolution of the Trustees and shall be reported by way of the Trust's annual accounts.

9.3 The Trustees shall not be prevented by reason only of their trusteeship from being beneficiaries under this Deed but they shall not take part in any discussion by the Trustees or vote on any question in which the Trustees or their spouses or children have a direct, material or pecuniary interest as beneficiaries

and which is particular to them in a manner different from the interests of the beneficiaries generally nor shall the Trustees be counted in the quorum present at the meeting when any such question is decided.

10. ACCOUNTS

- 10.1 The Trustees shall keep proper, true and complete records of the affairs and transactions of the Trust. These records shall be kept at the Trust's office or at such other place or places as the Trustees think fit and shall be always be open to the inspection of the Trustees.
- 10.2 The Trustees shall prepare annual accounts for the operation of the Trust for the year. The annual accounts shall be made available to the beneficiaries at the Annual General Meeting of the Trust.

11. THE REGISTERED OFFICE

- 11.1 The initial registered office of the Trust shall be at 295 Gladstone Road, PO Box 1245, Gisborne or such other place as the Trustees may from time to time appoint.

12. PROCEEDINGS OF THE TRUSTEES

- 12.1 The Trustees shall meet for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. Questions at any meetings shall be decided by a majority of votes. In the event of a tied vote the Chairman shall have a second or casting vote.
- 12.2 A special meeting of the Trustees may be called by two or more Trustees. Written notice of every ordinary or special meeting of the Trustees, shall be either hand delivered, posted or sent by facsimile to each Trustee at least 7 days before the date of the meeting. The secretary or some other person acting under the direction of the Trustees or, in the case of a special meeting, acting under the direction of those Trustees calling the meeting, shall give the notice of the meeting. Every notice of a meeting shall state the place, day and time of the meeting, and in the case of a notice of a special meeting, shall also state

- the subject-matter of the meeting. No notice shall be required for any Trustee for the time being absent from New Zealand.
- 12.3 Four Trustees shall constitute a quorum at meetings of the Trustees.
- 12.4 The Trustees may act notwithstanding any vacancy in their body so long as their number is not reduced below the number fixed as the quorum for meetings of the Trustees.
- 12.5 The Chairman and Deputy Chairman of the Trustees shall be appointed from amongst the Trustees for a term of 3 years by majority vote but shall be subject to approval by the Trustees by majority vote each year. The Chairman and Deputy Chairman shall be eligible for reappointment for a further term of three years. For the avoidance of doubt, a Trustee may resign from an appointment of Chairman or Deputy Chairman without resigning as a Trustee.
- 12.6 If at any meeting the Chairman is not present within five minutes after the time appointed for holding the meeting, the Deputy Chairman shall chair the meeting and in the event of his or her absence the Trustees present may choose one of their number to be the Chairman.
- 12.7 The Trustees may delegate any of their powers to committees consisting of such Trustees of their body as they think fit and in so doing shall elect chairpersons for such committees. Any committee so formed shall in the exercise of the powers so delegated conform to the requirements that may be imposed on it by the delegation from the Trustees. Any such committee shall not have power to bind the Trustees unless that power is specifically delegated by the Trustees by resolution. Any committee shall, subject to the approval of the Trustees, have the power to co-opt suitable persons not being Trustees as members of such committee. Any co-opted members of such a committee shall be entitled to be paid an emolument for their services as may be fair and reasonable having regard to his or her duties and responsibilities and shall be entitled to reimbursement of travel and accommodation expenses. The quantum of any such emolument or expenses shall not exceed the amount to be approved by resolution of the Trustees and shall be reported by way of the Trust's annual accounts.

- 12.8 A resolution in writing signed by all Trustees for the time being entitled to receive a notice of a meeting of Trustees shall be as valid and effectual as if it had been passed at a meeting of the Trustees duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more Trustees.
- 12.9 All proceedings of Trustees shall be recorded in the form of minutes in a proper minute book.
- 12.10 A meeting of the Trustees may be held by telephone conference call, video conference or such other appropriate technology as may be available.

13. APPOINTMENT OF OFFICERS

- 13.1 The Trustees may from time to time employ a secretary and such other officers and servants as are considered necessary for the exercise and performance of the functions and powers of the Trustees on such terms and conditions as they think fit. The Trustees shall have power to dismiss any such persons so appointed.

14. THE SEAL

- 14.1 The Trustees shall provide for the safe custody of the Trust's common seal which will only be used by the authority of the Trustees, and every instrument to which the said seal is affixed shall be signed by two Trustees.

15. AUDIT

- 15.1 The accounts of the Trust shall be audited by a chartered accountant who shall not be a Trustee and who shall be appointed annually by a majority of the Trustees. The auditor's report shall be made available to the beneficiaries at the Annual General Meeting of the Trust.

16. ALTERATIONS AND ADDITIONS TO THE DEED

- 16.1 This Deed may be altered or added to at any meeting of the Trustees subject to the following conditions:

- 16.1.1 That any such alteration or addition cannot be inconsistent with, or detract from, the charitable character of the purposes of the Trust: and
- 16.1.2 That any such alteration or addition cannot be made to clauses 2, 3, 4, or 5 of this Deed: and
- 16.1.3 That three-quarters in number of the Trustees present and voting shall be required to pass any such alteration or addition.

17. DISSOLUTION AND DISPOSAL OF FUNDS

- 17.1 The Trust may be terminated at any time by the passing of a resolution of the Trustees to the effect that the purposes of the Trust cannot continue to be carried out or that the purposes of the Trust have been achieved. Such a resolution shall be passed by a majority of three-quarters of the Trustees present and entitled to vote.
- 17.2 In the event of the termination or dissolution of the Trust, the Trustees must give or transfer all surplus assets remaining after the due settlement of all the affairs of the Trust and all costs, debts and liabilities to one or more exclusively charitable organisations or bodies within New Zealand, as the Trustees may decide. The surplus assets of the Trust distributed under this clause must be used exclusively for charitable purposes. If the Trustees provide for more than one recipient, the Trustees need not treat each of them equally.
- 17.3 If the Trustees are unable to decide on the recipient or recipients of the surplus assets of the Trust, then all surplus assets after payment of costs, debts and liabilities shall be disposed of in accordance with the directions of the High Court.

18. ANNUAL GENERAL MEETING

- 18.1 An Annual General Meeting of the Trust shall be held and shall be open to such beneficiaries who are willing and able to attend. Such meeting will be held at a time and place to be fixed by the Trustees and shall be notified by public notice in daily newspapers circulating in the Gisborne region not less than 10 days prior to the said meeting.

COMMENCEMENT

19.1 This Deed shall commence upon the vesting of the Trust Property referred to in clause 1.1.1 of this Deed (“**the Commencement Date**”).

EXECUTED as a deed.

SIGNED by **MAUI KOTUKU TANGOHAU**
as settlor in the presence of:

M. K.
TANGOHAU

Witness: Trudi Roe
Occupation: Secretary
Address: 2 Dominey Street
Gisborne

SIGNED by **STANLEY JOSEPH PARDOE**
as settlor in the presence of:

S. J. PARDOE

Witness: Trudi Roe
Occupation: Secretary
Address: 2 Dominey Street
Gisborne

SIGNED by **ALAN TE KAURU MATETE
HARONGA**
as settlor in the presence of:

A. HARONGA

Witness: Trudi Roe
Occupation: Secretary
Address: 2 Dominey Street
Gisborne

SIGNED by **ERIC JOHN TUPAI RURU**
as settlor in the presence of:

E. J. T. RURU

Witness: Trudi Roe
Occupation: Secretary
Address: 2 Dominey Street
Gisborne

SIGNED by **DR PARE ARETA KEIHA**
as settlor in the presence of:

PARE A. KEIHA

Witness: Renée Walters
Occupation: Researcher
Address: 51 Kildare Ave
Glendowie
Auckland

SIGNED by **WIREMU PARE KEIHA**
as settlor in the presence of:

W. P. KEIHA

Witness: Trudi Roe
Occupation: Secretary
Address: 2 Dominey Street
Gisborne

SIGNED by **ALBERT TANIWHA HORSEFALL**
as settlor in the presence of:

A. T. HORSEFALL

Witness: Trudi Roe
Occupation: Secretary
Address: 2 Dominey Street
Gisborne

SIGNED by **PEHIMANA HAAPU BROWN**
as settlor in the presence of:

P. H. BROWN

Witness: Trudi Roe
Occupation: Secretary
Address: 2 Dominey Street
Gisborne

SIGNED by **IAN THORNLEY WHITE**
as settlor in the presence of:

I. T. WHITE

Witness: Trudi Roe
Occupation: Secretary
Address: 2 Dominey Street
Gisborne

Annex 'A'**Waerenga-a-hika Trust Board Land**

All those parcels of land situated in the Gisborne Land District, with a total land area of 244.5881 hectares, a little more or less, described as follows:

| Land description | Area in hectares |
|--|-------------------------|
| Part Lot 1, DP 1538 | 0.2157; |
| Part Lot 2, DP 1538 | 0.1662; |
| Part Lot 3, DP 1538 | 0.1841; |
| Part Lot 4, DP 1538 | 0.1854; |
| Part Lot 5, DP 1538 | 0.1917; |
| Lots 6 to 11 inclusive, DP 1538, Each having the equal area of: | 0.2023; |
| Lot 12, DP 1538 | 0.1993; |
| Lot 13, DP 1538 | 0.2054; |
| Lots 14 to 20 inclusive, DP 1538, Each having the equal area of: | 0.2023; |
| Lot 21, DP 1538 | 0.8094; |
| Lot 22, DP 1538 | 2.8328; |
| Lot 23, DP 1538 | 3.1565; |
| Lot 24, DP 1538 | 2.5166; |
| Lot 25, DP 1538 | 2.8328; |
| Lot 26, DP 1538 | 4.2416; |
| Lot 27, DP 1538 | 1.4594; |
| Lot 28, DP 1538 | 2.0082; |
| Lot 29, DP 1538 | 2.0361; |
| Lot 30, DP 1538 | 2.0437; |
| Lot 31, DP 1538 | 1.9981; |
| Lot 32, DP 1538 | 1.8464; |
| Lot 33, DP 1538 | 2.2359; |
| Lot 34, DP 1538 | 1.9804; |
| Lot 35, DP 1538 | 2.0639; |
| Lot 36, DP 1538 | 2.0891; |

Annex 'A'—*continued*

| Land description | Area in hectares |
|--|-------------------------|
| Lot 37, DP 1538 | 2.3489; |
| Lot 38, DP 1538 | 12.5149; |
| Lot 39, DP 1538 | 12.0859; |
| Lot 40, DP 1538 | 14.8540; |
| Lot 41, DP 1538 | 14.2121; |
| Lot 41A, DP 1538 | 7.1566; |
| Lot 42, DP 1538 | 14.2854; |
| Lot 43, DP 1538 | 16.4201; |
| Lot 44, DP 1538 | 16.4201; |
| Lot 45, DP 1538 | 22.8215; |
| Lot 46, DP 1538 | 10.1829; |
| Lot 46A, DP 1538 | 9.0827; |
| Lot 47, DP 1538 | 14.3866; |
| Lot 48, DP 1538 | 14.8596; |
| Lot 49, DP 1538 | 11.0100; |
| Lot 50, DP 1538 | 8.6704; |
| Lot 51, DP 1538 | 0.8903; |
| Section 37 Block I, Waimata Survey District | 1.5418; and |
| Section 38, Block I, Waimata Survey District | 0.7157. |

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
-

Notes

1 *General*

This is a reprint of Te Whanau-a-Taupara Trust Empowering Act 2003. The reprint incorporates all the amendments to the Act as at 20 May 2003, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted.

For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/legislation/reprints.shtml> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations, and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*
