

ORDER VARYING THE TERMS OF TRUST

Te Ture Whenua Māori Act 1993, Section 244

In the Māori Land Court
of New Zealand
Aotea District

IN THE MATTER of Aorangi Awarua Trust

AT a sitting of the Court held at Whanganui on 2 December 2024 before Aidan Henry Charles Warren, Judge

WHEREAS application has been filed by the trustees of the Aorangi Awarua Trust to vary the terms of trust

AND WHEREAS on 3 June 1976 at 139 Whanganui MB 56 the Court constituted the Aorangi Awarua Trust and vested the land in responsible trustees upon certain trusts

NOW THEREFORE the Court upon reading and hearing all evidence in support thereof and being satisfied on all matters upon which it is required to be so satisfied HEREBY ORDERS pursuant to Section 244 of Te Ture Whenua Māori Act 1993 that the terms of trust made on the 15 October 2019 at 407 Aotea MB 225-234 be varied by making a new trust order in substitution for the existing trust order such trusts being set out in the Schedule

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



DEPUTY REGISTRAR

2.

TERMS OF TRUST

1 Title

This Trust shall be known as Aorangi Awarua Trust and shall apply to the Māori Freehold Lands known as Aorangi (Awarua), Awarua 1D2B and Awarua O Hinemanu.

2 Objects

Except as hereinafter may be limited the objects of the Trust shall be to provide for the use management and alienation of the land to the best advantage of the beneficial owners or the better habitation or use by beneficial owners, to ensure the retention of the land for the present Māori beneficial owners and their successors, to make provision for any special needs of the owners as a family group or groups, and to represent the beneficial owners on all matters relating to the land and to the use and enjoyment of the facilities associated therewith.

3 Number of Trustees

The Trust must have a minimum of 4 and not exceeding 6 Trustees at all times.

4 Election of Trustees

Trustees may be elected at a Biennial General Meeting, a Special Meeting or at a Special General Meeting as follows:

- a Notice of the election of Trustees must be provided in the pānui in accordance with clause 9(a)(iv) of this Trust Order;
 - b Notice of Pānui will be by the Trust's Data Base, Trust's Website, Facebook and newspapers;
 - c Retirement of any applicable Trustee shall take effect on the day;
 - d Nominations to fill the vacant trustees' positions on the day;
- 5 The nominee who receives the greatest number of votes shall be elected.



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 and then effected by Court Order or in settlement of the 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 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 licence purchase exchange or otherwise PROVIDED HOWEVER that no purchase or exchange shall be effected except through the agency of the Māori Trustee or by other such means as shall ensure that the land so acquired can be vested in the appropriate beneficiaries as Māori freehold land and be made subject to the trusts hereof AND to acquire any interest in any other business, enterprise by way of lease, licence, purchase or exchange such interest to be secured in the name of the Trust Aorangi Awarua.

ii To subdivide

To subdivide the land in any manner permitted by law into such subdivisions or parts as may seem expedient to them, and to bring applications before the Court for partition orders to allocate such allotments amongst the owners in accordance with their entitlement.

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, 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

Subject to the prior consent of a General Meeting of Owners. 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 cash reserves

To accumulate income and to set aside such reserves as the Trustees in their discretion shall think fit for contingencies or for capital expenditure or to meet the cost of any investigation or in giving effect to any proposal as referred to in the immediately preceding sub-clause and so 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

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 upon first or second mortgage or contributory mortgage approved by a resolution of the beneficial owners at a properly constituted meeting.

viii To pay own costs

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 Trust and of any Advisory Trustees or in the furtherance of any of the objects of the Trust 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 and it is hereby agreed that the meeting fees shall be fixed a maximum of \$300.00 gross per Trustee per meeting plus travelling expenses as found from time to time for public service rates.

ix To promote title improvement projects

At their discretion and subject to the prior consent of a General Meeting of Owners to bring and prosecute in the Māori Land Court on behalf of the beneficial owners any applications for amalgamation of titles, aggregation of owners, the inclusion of any further lands in this Trust Order, the exclusion of any lands from this Trust Order, the variation of the Trust Order to increase reduce or otherwise vary the powers hereby given to the Trustees

or to bring any other application for orders within the jurisdiction of the Court that might facilitate the operation of the Trust AND where appropriate arrange all necessary surveys and effect registration of the Partition or other orders constituting title to the lands under the Trust in the Land Transfer Office.

x To distribute

Subject to the prior consent of a General Meeting of Owners and subject further to the Trustees being satisfied that proper provision has been made for reserves as referred to in clause 5(b)(vi) hereof to distribute to the beneficial owners in accordance with their shares the whole or such part of the net proceeds as the Trustees shall from time to time determine PROVIDED THAT no distribution of capital funds shall be effected without the prior approval of the Court.

xi To permit occupation and enjoyment by the owners

At their discretion to reserve in any lease or licence or otherwise provide for any one or more of the beneficial owners to personally occupy use or otherwise enjoy such defined part or parts of the land as the Trustees shall determine having regard to the comparative shareholdings and if any such right is reserved licensed or otherwise provided for but to one or some only of the beneficial owners there the Trustees will determine the extent to which participation in rentals and profits are to abate for the purposes of receiving the benefit of such reservations licences or provisions or otherwise be adjusted.

xii To make other special provisions for beneficiaries

At the discretion to alienate by way of lease or licence to any beneficial owner or to any blood relative of a beneficial owner at a reduced rent or otherwise upon terms more favorable to the lessee than those obtainable on the open market for so long as the person or his executor or administrator remains in possession of the land PROVIDED THAT such proposal has first been approved by the resolution of a meeting of beneficial owners called by the Trustees.

xiii To lease/licence

To lease the whole or any part of 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 person, corporate body and/or His Majesty the King and to accept surrenders of and vary the leases thereof PROVIDED THAT any lease beyond year to year shall require the prior consent of a General Meeting of Owners.

xiv To take over existing leases

To assume all the rights duties powers and obligations heretofore held by the lessors under any lease having force or effect of any of the lands or any part or parts thereof and to assume and to have all the rights duties powers and obligations that may have accrued to the former Trustees of any of the lands the Trusts in respect of which have been cancelled on the making of this Trust Order with power to enter into variations of any such lease and/or to negotiate and accept a surrender of any such lease whether in whole or in part and to obtain and enforce any judgement decision or ruling or to effect any settlement or compromise with regard thereto.

xv To farm

To farm and develop the land themselves with power to appoint farm managers and other persons for that purpose, subject to a majority consent of Trustees.

xvi To represent owners

To prosecute from time to time in the appropriate tribunal such objection to zoning or proposed zoning such application for re-zoning of the said land, such application for specified departure from such zoning and such application for conditional use in any current zoning or otherwise howsoever the Trustees in their absolute discretion may determine, AND to represent the beneficial owners on any negotiations or questions of compensation for lands taken under the Public Works Act or other statutory authority with the Government or any local authority.

xvii To grant covenant

Subject to the prior consent for a General Meeting of owners to grant a covenant (kawenata) to the Department of Conservation or any other Crown agency for a term not exceeding 25 years and to review and renegotiate any additional renewal periods of up to 25 years. Provided that any renewal periods shall also be subject to the prior consents of General Meetings of Owners.

6 Personal Interest of Trustees

Notwithstanding any general rule of law to the contrary no person shall be disqualified from being appointed or from holding office as a Trustee or as a representative of the Trust by reason of his employment as a servant or officer of the Trust or by his being interested or concerned in any contract made by the Trustees PROVIDED THAT he shall not vote or take part in the discussion on any matter that directly or indirectly affects his remuneration or the terms of his employment as a servant or officer of the Trust or that directly or indirectly affects any contract in which he may be interested or concerned PROVIDED FURTHER

THAT if a Trustee is paid any fees, costs, remunerations or other emolument whatsoever until same has been approved by the Court.

7 Protection of Trustees

In any case where any Trustee is of the opinion that any direction determination or resolution of a meeting of the Trustees or general meeting of beneficial owners conflicts or is likely to cause conflict with the terms of this Trust or with any rule of law or otherwise to expose it to any personal liability or is otherwise objectionable then, and in reliance upon section 238 of Te Ture Whenua Māori Act 1993 and section 162(a) of the Trusts Act 2019 (or any subsequent replacement legislation or act) he may apply to the Court for directions in the matter PROVIDED HOWEVER that nothing herein shall make it necessary for him to apply to the Court for any such directions.

8 Protection of Minorities

In any case where any Trustee or beneficial owner feels aggrieved by any direction determination or resolution of a meeting of the Trustees or of any act or omission of the Trustees they may:

- i give to the Trustees notice of his intention to have the matter complained of referred to the beneficial owners and then PROVIDED THAT within 14 days thereafter he are able to file a requisition supporting that notice executed by not fewer than **15** beneficial owners then the Trustees shall fix a time and place and convene a general meeting accordingly in manner hereinafter provided; PROVIDED FURTHER that if the Trustees fail to convene a general meeting within a reasonable time or they are dissatisfied with the resolution of this matter by the general meeting he may:
- ii give to the Trustees notice of intention to have the matter complained of referred to the Māori Land Court PROVIDED THAT they shall within 14 days thereafter file an application pursuant to section 238 of Te Ture Whenua Māori Act 1993 and section 68 of the Trustee Act 1956 requesting the Court review any such act or omission of the Trustees and/or give directions as to any contemplated act or omission of the Trustees arising from the resolution of the general meeting of beneficial owners or any other reason; OR pursuant to section 244 of Te Ture Whenua Māori Act 1993 for the variation of this Trust Order to make particular provision for the matter in dispute and in either case serve a copy thereof upon the Trustees aforesaid and for as long as the matter remains unresolved, but the PROVIDED the further particulars are filed within 14 days, and except as may be necessary for the avoidance of an action by any third party affected or as may be directed by a Court on application for injunction, directions or the like, the Trustees shall take no steps or no further steps as the case may be to implement or otherwise give effect to or enable the continuance of the matter complained of.

9

Obligations

a General meetings

- i The Trustees shall call a general meeting of the beneficial owners from time to time and at least once every **TWO (2) years** and a general meeting shall be called by the Trustees upon service of a notice of a requisition in writing signed by not less than **15** beneficial owners stating the purpose for which the meeting is required.
- ii At general meetings of the beneficial owners and where a vote has become necessary or desirable, the matter shall be determined by a ballot process. A proxy for an eligible voter is entitled to attend and be heard at a general meeting as if the proxy were the eligible voter.
- iii No general meeting shall be deemed to be constituted unless at least **15** of the beneficial owners are present in person throughout the meeting.
- iv Notice of general meetings shall be by direct pānui to beneficial owners for whom addresses are known PROVIDED that the Trustees at their discretion may also use advertising media.

b To Report to the Court

Any Trustee at any time, upon being required by the Court, shall file in the Court a written report and make himself available to the Court for questioning on the report or any matter relating to the administration of the Trust or to the performance of his duties as a Trustee.

c Reports and Accounts

- i If in any one year the income of the Trust is in excess of \$10,000 and the capital funds exceed \$30,000 the Trustees shall cause to be prepared Annual Reports and audited proper accounts of the assets and liabilities and of the income and expenditure for each year ending on the 31st day of March or such annual Balance date as the Trustees may from time to time fix upon and shall file a copy of such report and accounts with the Registrar of the Court within 6 months of the said balance date PROVIDED THAT if the accounts are prepared by a Chartered Accountant the audit requirement herein before mentioned need not be adhered to.
- ii At each general meeting the Trustees shall produce reports and accounts for each year in respect of which they have not earlier presented reports and accounts to a general meeting.

d Retirement of Trustees

- i Each Trustee may serve a maximum term of 6 years on the Trust.

- ii Every Trustee elected shall be subject to the following process during their term:
 - a At the first biennial meeting of owners after bringing into force this section, TWO Trustees shall retire.
 - b At the second biennial meeting of owners after the bringing into force this section, the remaining TWO Trustees not elected subject to clause a of this section shall retire.
 - c At every subsequent biennial meeting of owners, the Trustees to retire shall be up to TWO Trustees with the longest tenure since they were last elected.
 - d A retiring trustee shall be eligible for re-election until they have completed a total of SIX years' service on the Trust.
- iii In relation to clauses a, b, c, and d of this section the retirement or election of that Trustee shall take effect on the day of the relevant meeting of owners.

e Replacement of Trustee

Upon the death, resignation or removal by the Court of a Trustee the surviving Trustees shall:

- i where the number of Trustees is **less than 3** ensure that the next general meeting of beneficial owners considers a possible replacement, AND if necessary, make application to the Court for an order replacing such Trustee;

f Review of the Trust

- i The Trustees shall after every tenth year after the constitution or subsequent review of this Trust apply to the Court for a review of the Trust.
- ii On every such review the Court may by order give such directions to the Trustees as it thinks fit, confirm the Trust Order without variation, vary the terms of the Trust Order in such a matter as it thinks fit or make an order determining the Trust.

g Water Rights and Lake Beds

To investigate and report back to General Meeting of the owners on the issue involving water rights and ownership of the natural springs, bogs or tarns.

10 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 7(b) and 7(c)(i) hereinbefore;
- ii a Trustee has failed to carry out the duties of his office satisfactorily;
- iii a Trustee has absented himself/herself from 4 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 bankrupt;
- vi a Trustee is convicted of any offence whereby he is sentenced to prison and is still serving such sentence.

11 Māori Community Purposes

The Trustees may from time to time, if and when approved by a general meeting of the owners, apply money towards all or any of the following purposes subject to Clause 2, objects of the Trust.

A The promotion of health:

- i By installing or making grants or loans towards the cost of installing water supplies, sanitation works and drainage in Māori settlements; or
- ii By promoting, carrying out, or subsidising housing schemes, or by making grants or loans for any such schemes; or
- iii By providing, subsidising, or making grants for medical, nursing or dental services.

B The promotion of social, cultural and economic welfare:

- i By making grants or loans for the relief of poverty or distress; or
- ii By developing, subsidising, or making grants or loans for farming or other industries; or
- iii By making grants or loans towards the cost of the construction, establishment, management, maintenance, repair or improvement of Māori meeting houses, halls, churches and church halls, kohanga reo, villages, marae or cemeteries; or

- iv By establishing, maintaining and equipping hostels for the purpose of providing either permanent or temporary accommodation; or
- v By making grants or loans towards the establishment of recreational centers for the common use of any Māori community and for such other uses as the Trustees think fit; or
- vi By promoting, carrying out or subsidising roading schemes, power schemes or any such schemes as the Trustees think fit or by making grants or loans for any such schemes; or
- vii By purchasing, acquiring, holding, selling, disposing of or otherwise turning to account shares in any body corporate that has as one of its principal objects the economic or social advancement of Māori, or the development of land; or

C The promotion of education and vocational training:

- i By assisting in the establishment, equipping, managing, and conducting of schools and other educational or training institutions including kohanga reo by making grants to the Māori Education Foundation established or bodies formed for the promotion of the education of Māori or for assisting Māori to obtain training or practical experience necessary or desirable for any trade or occupation; or
- ii By providing scholarships, exhibitions, bursaries or other methods of enabling individuals to secure the benefits of education or training, or by making grants to Education Boards or other educational bodies for scholarships, exhibitions or bursaries; or
- iii By providing books, clothing or other equipment for the holders of scholarships or other individuals or by making grants generally for the purpose of assisting the parents or guardians or children to provide for their education or training for any employment or occupation; or
- iv By providing, maintaining or contributing towards the cost of residential accommodation for children in relation to their education or training:

D Such other or additional purposes as the Trustees with the approval of the Court from time to time determine

12 Nothing in this section shall prevent the Trustees from applying money for the general benefit of a group or class of persons, notwithstanding that the group or class or loan shall be made to any individual for that individual's exclusive benefit unless that individual is a beneficiary or a decedent of a beneficiary.