

NGATARAWA LANDS TRUST

TRUSTEE CODE OF CONDUCT

1. Interpretation

1.1 In this document:

“Chairperson” is the chairperson of the Trust and Trustees as shall be appointed from time to time.

“Code” or “Code of Conduct” is this document or any alteration or variation thereto approved by the Trustees to govern their conduct when administering the Trust.

“Deputy Chairperson” is the deputy chairperson of the Trust and Trustees as shall be appointed from time to time.

“Secretary” is the secretary of the Trust and Trustees as shall be appointed from time to time.

“Trust” or “the Trust” consists of the governing body being an Ahu Whenua Trust constituted by the Maori Land Court.

“Trustees” is used when referring to all or some of the persons appointed as trustees by the Maori Land Court.

2. Legal Background

2.1 Requirements on a Trustee:

- (a) A Trustee must always comply with the Trustees’ duties. Failure of a Trustee to comply with and perform his or her Trustees’ duties satisfactorily may lead to the Trustee being removed from their position.
- (b) A breach of trust occurs where a Trustee acts contrary to, or inconsistently with, a Trustee’s duty. This can be deliberate or inadvertent. In the event of a breach a Trustee may be liable for damage, loss or costs.

2.2 General Trustees’ duties are:

- (a) Acquaintance – being fully familiar with the Terms of Trust, including the Trust Order, this Code, contracts and papers relating to the Trust or Trust property.
- (b) Adherence – complying with the duties at law and in the Trust Order regardless of what Beneficial Owners or other Trustees might ask them to do.
- (c) To act honestly and in good faith towards each other and towards all of the Beneficial Owners.
- (d) To always act in the best interests of all the Beneficial Owners.
- (e) To act fairly and impartially towards all the Beneficial Owners – without favouritism to their own family members, friends, self or other owners.

- (f) Not to profit from their role as Trustee.
- (g) To act gratuitously – to not be paid for acting as a Trustee except as otherwise provided in the Trust Order or approved by the Court.
- (h) To participate fully in Trust decision-making unless conflicted, to be active in attending to the performance of Trust duties, to think clearly about each action and decision and to not simply rely on other Trustees.
- (i) To act diligently and prudently.
- (j) To comply with Orders and directions of the Court.
- (k) To act jointly with other Trustees and to not act unilaterally (off one's own back).

2.3 Declaration by a Trustee

Each Trustee declares that he or she will faithfully and impartially, and according to the best of his or her skill and judgment, execute and perform, in the best interests of the Beneficial Owners and the Trust, the powers, authorities and duties vested in, or imposed upon, him or her by any Act, the Trust Order and this Code.

2.4 Code of Conduct

The Trustees adopt a Code of Conduct to set out:

- (a) Understandings and expectations adopted by the Trust about the manner in which Trustees shall conduct themselves while acting in their capacity as Trustees including:
 - (i) Behaviour towards one another, employees, Beneficial Owners and other stakeholders; and
 - (ii) Disclosure of information, including (but not limited to) the provision of any document, by Trustees that –
 - (1) Is received by or is in the possession of a Trustee in his or her capacity as a Trustee; and
 - (2) Relates to the ability of the Trustees to give effect to any provisions of any Act and the Trust Order.
 - (3) Accepts that information received by the Trustees often consists of confidential information and needs to be considered in context so shall be released through the Chairperson.
- (b) The expectation that in each situation each Trustee will base their decisions on available information, legal, financial and environmental advice, appropriate and valued data, and will vote with honest conviction in each case, free of bias and personal view and will be ready

to support the decision of the Trust as reached by a majority of Trustees.

- (c) The understanding that Trustees do not have any legal authority to make decisions outside of Trust meetings without the full authority of the Trust as determined by a majority of Trustees and reached at a properly constituted Trust meeting.
- (d) The understanding that information in the possession of Trustees should be released through the Chairperson of the Trust to ensure that confidential, commercially sensitive and privileged information is not released and to ensure that information released is released in the appropriate context.

2.5 Governance Principles

- (a) The Trustees should ensure that the role of democratic governance of the Trust assets and expected conduct of Trustees is clear and understood by Trustees, Beneficial Owners and stakeholders.
- (b) While Trust assets are to be held and used for the benefit of the Beneficial Owners, the Beneficial Owners are not the legal owners and except as provided for in the Trust Order or by law, have no legal or equitable right to instruct the Trustees as to how to manage and deal with Trust assets. The Beneficial Owners can express their views at Annual General Meetings and seek to influence the Trustees' decisions in that way but the Trustees shall not necessarily be bound by such opinions. The Trustees shall encourage Beneficial Owners to participate at general meetings or if a Beneficial Owner has concerns that a Beneficial Owner is reluctant to raise then that Beneficial Owner may be invited to attend at a meeting of Trustees to discuss the concerns.

3. Objective

3.1 The objective of the code is to implement the understandings set out in 2.4 of the Code and to enhance:

- (a) The effectiveness of the Trust in meeting its statutory and common law responsibilities for good trusteeship.
- (b) The credibility and accountability of the Trust within its community.
- (c) Mutual trust, respect and tolerance between all Trustees and between all Trustees, employees, stakeholders and Beneficial Owners.

4. Key Principles

4.1 Introduction

This Code of Conduct is based on a number of key principles. It defines standards of conduct that meet these principles and statutory provisions applicable to Trust activities. The principles underpin and guide these standards.

4.2 Honesty and Integrity

Trustees have a duty to act honestly and with integrity at all times. This requires Trustees to enter into the decision-making process in good faith. Where a Trustee dissents, the Trustee shall record their dissent as provided for by law or the Trust Order, but shall abide by the decision of the majority and accept that decision. A dissenting Trustee shall continue to have rights of recourse as set out by law, but in the absence of such recourse shall abide and implement the decision of the majority.

4.3 Beneficial owner Interest

Trustees have a duty to make decisions in the best interests of the Beneficial Owners. They must not act in order to gain financial or other benefits for themselves, their families, friends or business interests. This means making decisions because they benefit the Beneficial Owners as a whole, not because they benefit the decision-maker, or a section of the Beneficial Ownership.

4.4 Declare private interests

Trustees must declare any private interests or personal benefits relating to their duties and take steps to resolve any conflicts of interest in such a way that protects the interests of all of the Beneficial Owners. This means fully disclosing actual or potential conflicts of interest; avoiding any financial or other obligation to any individual or organisation that might reasonably be thought to influence them in the performance of their duties.

4.5 Impartiality

Trustees should make decisions on merit and in accordance with their statutory obligations when carrying out Trust business. This includes the leasing of land, the hiring of staff, the application of dividends or grants. Trustees cannot act with any bias or favour one section of Beneficial Ownership over any other section of beneficial ownership.

4.6 Accountability

Trustees are accountable to all the Beneficial Owners (and to their fellow Trustees) for their decisions and actions and should consider issues on their merits, taking into account the views of others. This means co-operating fully and honestly with the scrutiny appropriate to their particular office. Trustees acknowledge that their own individual actions reflect on all of the Trustees and a Trustees' actions may expose that Trustee (and their co-trustees) to liability. All Trustees will act in a way that best protects the interests of the Trust as a whole and best reflects the standard of conduct expected of each Trustee.

4.7 Openness

Trustees should be as open as possible about their actions and those of the Trust and should be prepared to justify their actions. This includes approaching decision-making with an open mind and a willingness to listen to differing points of view. This means giving reasons for decisions;

communicating clearly; not being close minded and taking personal ownership of comments made publicly. Typically, statements and explanations should be given through the Chairperson and communication querying Trustee decisions from Beneficial Owners should be directed to the Secretary to be discussed at a properly constituted Trustee meeting. Trustees should not disclose information except as set out herein. Disclosure of information should be properly made through proper channels to ensure that information is disclosed in context. Trustees should also recognise that Beneficial Owners are apprised of the Trust's financial situation at annual general meetings and are also provided with information on Trust activities. Trustees must recognise the Chairperson as the appropriate person to disseminate Trust information and that customarily and in the ordinary course of business, information should be and will be disclosed at an annual general meeting.

Trustees will not publicly discuss confidential information, commercially sensitive information or private information about stakeholders, employees, except where disclosure has been expressly permitted by a meeting of Trustees or required by law.

4.8 Respect

Trustees should treat others, including fellow Trustees and Trust employees, with respect at all times. This means not using derogatory terms towards others, or about others, including at Trustee meetings or to Beneficial Owners; not misrepresenting the statements or actions of others (whether they be other individual Trustees, Beneficial Owners or Trust employees); observing the rights of other people, treating people with courtesy, and recognising the different roles others play in Trust decision making. Trustees should also respect the integrity of the Trustee meeting environment and act accordingly.

4.9 Duty to Uphold the Law

Trustees should uphold the law and, on all occasions, act in accordance with the trust all the Beneficial Owners place on them. Trustees shall also comply with all orders and directions of the Court and shall do so in a prompt and timely manner.

4.10 Stewardship

Trustees should ensure that the Trust uses resources prudently and for lawful purposes, and that the Trust maintains sufficient resources to meet its statutory obligations. Trustees shall acknowledge that discord as between Trustees, or discord between Trustees and Beneficial Owners, comes at a cost to the Trust (both financially and to the parties personally) so should be minimised where possible. Beneficial Owners should be encouraged to bring questions, concerns and comments to annual general meetings and to attend annual general meetings rather than to request information from the Trustees directly. This ensures cost efficiency, expediency and that information is disclosed and explained in context.

4.11 Leadership

Trustees should promote and support these principles by example.

4.12 Prudency

When doing any act on behalf of the Trust, the Trustees must exercise the same diligence, care and prudence that would be expected of an ordinary and careful business person when looking after the affairs of others, and in doing so must:

- (a) actively ensure that they always understand and are aware of all Trust assets and any liabilities that are associated with the Trust assets;
- (b) actively seek out, identify and assess the risk associated with each decision (including a decision not to do anything), that the Trustees make;
- (c) take care to identify any situation where the Trustees do not have the necessary knowledge or expertise to properly assess the risk and consequences of any decision;
- (d) obtain the necessary advice (such as from a lawyer, accountant, or financial adviser), when the Trustees lack the necessary expertise; and
- (e) take steps to actively identify, consider and take into account all relevant things (including any cultural and commercial considerations) that the Trustees must and should consider, and ignore all irrelevant things when making any decisions or doing any act on behalf of the Trust.

5. Roles and Responsibilities

This part of the Code provides a general description of the roles that Trustees and Officers are expected to perform in the Trust.

- 5.1 The role of the Trust is to focus on the decisions that have impact on the Trust assets and is responsible for:
- (a) The administration, management and investment of Trust land and Trust assets.
 - (b) Give effect to any one or more purposes of the Trust as set out in the Trust Order.
 - (c) To take into account, but not be bound by, the opinion of the Beneficial Owners.
 - (d) To use best endeavours to attend at Trustees meetings.
 - (e) To accept that the Chairperson is responsible for the preparation of the Agenda and to submit items for inclusion on the Agenda at the earliest opportunity.
 - (f) To prepare for meetings adequately and participate in all discussions at all times, in a manner that is consistent with the behaviour expected by this code.

- (g) To defer to the Chairperson as the person responsible for disseminating information outside of the Trust.
- (h) To keep safe all Trust information and protect the confidentiality of the Trust.

5.2 The role of the Chairperson:

- (a) To chair all Trustees meetings.
- (b) To act as facilitator at Trustee meetings to ensure that no Trustee dominates discussion, that appropriate discussion takes place and that relevant opinion among Trustees is forthcoming.
- (c) Calling Trustee meetings.
- (d) Setting the agenda of Trustee meetings and in doing so must liaise with other Trustees.
- (e) Ensuring that the Trustees behave consistently with their rules, procedures, obligations and policies (including this Code).
- (f) Ensuring that at Trustee meetings, Trustees discuss only the content and issues which, according to the agenda and the Trust's rules and policies (including this Code), are matters for the Trustees to discuss and decide upon.
- (g) Ensuring that the Trustees behave consistently with their rules, procedures, obligations and policies (including this Code), and ensuring that Trustees as a whole comply with all of the obligations that are imposed on them (by law and this Code).
- (h) Act as the main liaison between the Trustees and the Beneficial Owners, and in doing so respond to queries and requests from the Beneficial Owners (including requests for information).
- (i) To make such applications as may be necessary to the Maori Land Court including to suspend or remove a Trustee/Trustees should the conduct of a Trustee/Trustees be deemed by a majority of Trustees to breach this Code, the Trustee's duties at law or in terms of the Trust Order.

5.3 The role of the Deputy Chairperson:

- (a) When the Chairperson is absent or as delegated by the Chairperson the Deputy Chairperson is to chair all meetings of the Trust and to represent the Trust as agreed by the Trustees.
- (b) In the unforeseen absence of both the Chairperson and the Deputy Chairperson the Trustees present must elect an Acting Chair for the purposes and duration of the properly convened meeting.

5.4 The role and responsibility of Trustees:

Trustees are seen as being the representatives of the Trust on behalf of all of the Beneficial Owners. Trustees actions must be for the benefit of all of the Beneficial Owners and the Trustees must:

- (a) Exercise due diligence and the responsibilities as Trustees as outlined in the Trust Order.
- (b) Comply with this Code and any other rules that the Trust may adopt; comply with the terms of the Trust Order and the Trustee's duties at law.
- (c) Ensure that they are fully prepared for all Trustee meetings and other committee meetings and formal events that affect the Trust.

6. Relationships and Behaviours

6.1 Elected trustees will conduct their dealings with each other (and with Beneficial Owners, employees and stakeholders) in ways that:

- (a) maintain the confidence of their community in the office to which they have been elected;
- (b) are open and honest;
- (c) focus on issues rather than personalities;
- (d) avoid aggressive, offensive or abusive conduct;
- (e) respect, maintain and keep Trust confidentiality;
- (f) do not disclose Trust confidential information without the consent of the Chairperson.

6.2 Conflict of interest

Each Trustee will fully disclose all relationships they have that may create a situation of conduct. If required to do so, each Trustee shall sign a conflict of interest register confirming those conflicts. No Trustee shall, under any circumstances, take part in any discussion or make any decision where that Trustee is in a position of conflict of interest.

Signing the attendances register declaring any conflict of interest that may otherwise have an immediate impact or influence a decision.

- (a) A conflict of interest register is signed at all Trust Board meetings.
- (b) Trustees must declare their conflict of interest when exercising powers of performing their duties as a responsible trustee.

7. Review of Code of Conduct

7.1 Once adopted, the Code continues in force until amended by the Trust. The Code can be amended at any time but cannot be revoked unless the Trust replaces it with another code. Once adopted, amendments to the Code of Conduct require a resolution supported by 75 per cent or more of the trustees present.

8. **Beneficiary Access to Information**

- 8.1 The Trustees acknowledge that beneficiaries are entitled to the following information:
- (a) A copy of the Trust Order and any amendment to it;
 - (b) The annual accounts for the Trust for any preceding financial years;
 - (c) The minutes of any general meeting or special meeting;
- 8.2 The Trustees acknowledge that this information may be difficult to understand when not fully explained and not produced in context. As such, Trustees shall encourage beneficiaries to attend at annual general meetings to receive the information and to receive it in context.
- 8.3 The Trustees acknowledge and agree that the Chairperson of the Trust is the Trustee responsible for answering beneficiary questions and releasing Trust information to beneficiaries. All requests for information should be addressed to and answered by the Chairperson.