

KAHUKURAARIKI TRUST BOARD

SUMMARY OF THE SPECIAL RESOLUTION PROCESS

AUGUST 2022

PREPARED FOR

THE TRUSTEES OF
KAHUKURAARIKI TRUST

PREPARED BY

TOKO KAPEA
TUIA GROUP



Kahukuraariki
Trust Board

EXECUTIVE SUMMARY

This is a report relating to special resolutions set out in the trust deed (**Trust Deed**) of the Kahukuraariki Trust (**Trust**). This report relates to the following two resolutions:

- pursuant to clause 32.1 of the Trust Deed, which pertains to a review of “the arrangements relating to the election of trustees and all other aspects of the representation of Ngātīkahu ki Whangaroa by the Trust” (*Schedule One*); and
- pursuant to clause 33 of the Trust Deed, a resolution on the ownership of Stony Creek Station (*Schedule Two*).

This summary report has been specifically requested by an Iwi member at the Special General Meeting of the Trust held in May 2022. The Iwi member requested a summary of the consultation process and hui etc relating to the special resolutions, in particularly the resolution relating to Stony Creek. The trustees have agreed that a summary note be made available to her.

The Trust initiated the special resolution process in 2019. Unfortunately, it was interrupted by COVID-19 in 2020. To date, the review process has comprised of a mixture of phone calls to marae representatives and series of roadshow hui from 20 March 2021 to 26 June 2021. There has also been one formal letter provided to the trustees at the last of the roadshow hui (*Schedule Three*). Other notices have also been provided at AGMs and via the Trust website and other Panui (via Facebook).

The purpose of the roadshows was to provide information about the review processes set out the Trust Deed and to engage Ngātīkahu ki Whangaroa (**NKKW**) to provide their views directly to the trustees and the reviewer. The roadshows and communications to NKKW encouraged members to provide submissions, orally or in writing, for the independent advisor and Trust to consider.

The roadshows were held in the following locations, some facilitated by Tuia Group and others led by the Trust (subject to Covid travel restrictions):

- Mangatowai Marae, Saturday 20 March 2021
- Otangaroa Marae, Sunday 11 April 2021
- Te Unga Marae (Tamaki Makurau), Saturday 15 May 2021
- Waitaruke Marae (for Taemaro, Waimahana and Waitaruke), Saturday 26 June 2021

In response for the call for additional submissions, various individuals and whānau groups:

- sent hard-copy submissions (jointly);
- e-mailed written submissions;
- made kanohi-ki-te-kanohi submissions at hui.

The themes /comments received are summarised throughout this document.

This report analyses the submissions and comments from whānau and is structured as follows:

- **Section 1: Background**
- **Section 2: Key Themes** – identifies and considers the principal themes that arose during the engagement process.
- **Section 3: Recommendations** – from analysing the submissions, we have grouped similar submissions in a summary fashion.

The principal themes resulting from the analysis of whānau submissions and comments are:

1. Membership – who is 'Ngatikahu ki Whangaroa'.
2. Ownership of the land at Stony Creek Station.
3. Whakapapa and membership validation.
4. Wahine/tane co-chair roles in the Trust.
5. Te Roopu Kaumātua. Composition and role clarification.
6. Whakapapa and membership validation

BACKGROUND

NKKW is a claimant group (at the time of settlement) of approximately 3,000 people. The Iwi is bordered by Ngāti Kahu to the north-west and Ngāpuhi to the south-east.

In October 2004, the Crown recognised the mandate of the NKKW trust board (**NKKW Trust Board**) to negotiate on behalf of NKKW. The Crown and the NKKW Trust Board signed a Terms of Negotiation document, also in October 2004. An Agreement in Principle (**AIP**) was signed in December 2007, and a refined AIP was signed in July 2014.

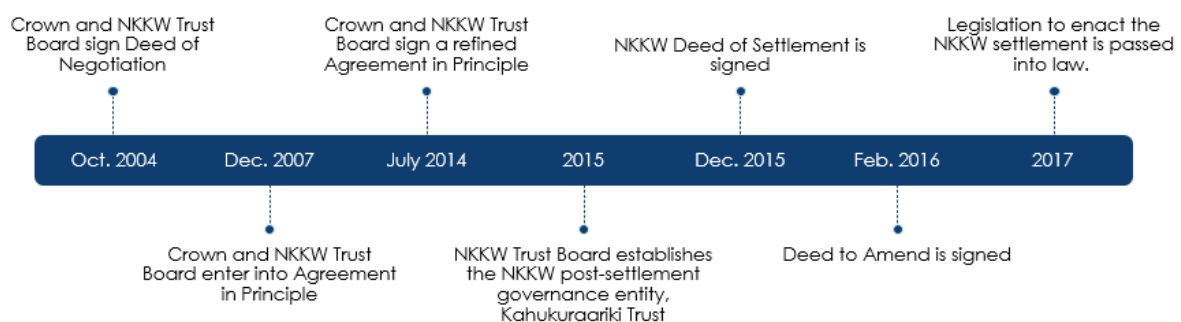
The trustees of NKKW Trust Board established a post settlement governance entity in 2015 and named it after the common ancestress, Kahukuraariki, which marked the beginning of the Trust. The Trust was established to receive all settlement assets from the Crown.

It is well known and publicly documented that the NKKW settlement process was fraught with public demonstration and protest by some members of NKKW.

The NKKW Deed of Settlement was signed on 18 December 2015 and a Deed to Amend (the **Settlement**) was signed on February 2016. The final legislation to enact the Settlement was passed in 2017. The Settlement addressed the Waitangi Tribunal claims Wai 116 and Wai 258 and all claims within the agreed Area of Interest (as defined in the Settlement).

The NKKW settlement process was unique because the Māori Select Committee requested further changes to the Settlement, including an increase of financial quantum added to what was earlier agreed between the NKKW Trust Board and the Crown.

Timeline of events



Background to the Trust Deed

The NKKW Trust Board's key legal advisor was Richard Hawk from Jackson Russell Lawyers in Auckland. Richard was engaged by the NKKW Trust Board to draft the post settlement governance entity trust deed (the **Trust Deed**). The Trust Deed was approved by Office of Treaty Settlements (**OTS**) and Te Puni Kōkiri (**TPK**) as part of the drafting process.

Both OTS and TPK reviewed and tested the provisions of the Trust Deed to ensure that the key principles of transparency, accountability and representation were present.

The Trust Deed was agreed and ratified by the NKKW Trust Board and again by Iwi members in 2015. As a result, the Trust was established with seven initial trustees (the **Trustees**).

Trust Deed Review

Under the terms of the Trust Deed, the Trustees must initiate a review of the Trust Deed within four years of the settlement date (the **Review**). The requirement is set out in clause 32 of the Trust Deed as follows:

32. REVIEW OF TRUST DEED

32.1 Review of trust deed

The Trustees shall, within four (4) years of the Settlement Date, initiate a review of the terms and operation of this Deed and, in particular, shall review the arrangements relating to the election of Trustees and all other aspects of the representation of Ngatikahu ki Whangaroa by the Trust.

32.3 Review to be independently facilitated

The process of engagement and consultation required by clause 32.2 shall be undertaken by an independent facilitator appointed by the Trustees. The role of independent facilitator shall be to:

- a) liaise with the Trustees in the preparation of any discussion materials to be distributed to Ngatikahu ki Whangaroa;
- b) facilitate any hui;
- c) receive, compile, and review any written submissions received from Ngatikahu ki Whangaroa; and
- d) make recommendations to the Trustees as to the amendments that should be made to the Deed as a consequence of the information received from the process of engagement and consultation.

The Trust initiated the Review in 2019. Shortly thereafter, Tuia Group was engaged by the Trust in late 2019 as independent advisors to facilitate the Review. A Trust Deed review summary document (**Summary**) was produced by Tuia Group and provided to the Trustees. The Summary was tabled at the Trust's 2019 annual general meeting (**AGM**).

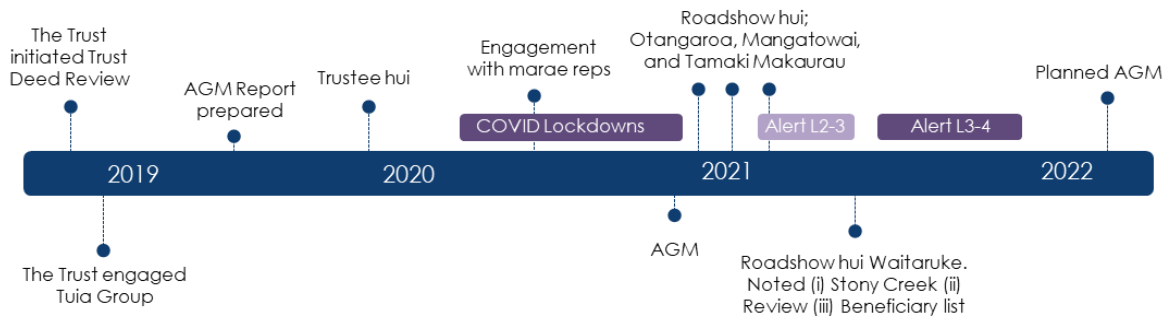
In 2020, Tuia Group was instructed to restart the Review. Unfortunately, Covid-19 arrived in New Zealand March 2020 and there was no or little ability to hold face-to-face hui from then on. Notwithstanding the physical limitations, Tuia Group initiated the process remotely by seeking comments on the Trust Deed from current Trustees and marae representatives.

During 2021, Tuia Group and the Trustees held multiple roadshow hui to inform members about the Review process and seek member's views and further submissions and views on the two special resolutions required under the Trust Deed. The roadshow took place in person on the following dates and at the following locations:

- Mangatowai Marae, Saturday 20 March 2021
- Otangaroa Marae, Sunday 11 April 2021
- Te Unga Marae (Tamaki Makarau), Saturday 15 May 2021
- Waitaruke Marae (for Taemaro, Waimahana and Waitaruke), Saturday 26 June 2021

There were also several virtual (video) hui. Many members attended both the roadshow and virtual hui events.

Timeline of events



Set out below are the key themes drawn from the discussions and submissions from whānau. From those themes, we draw out specific recommendations to the trustees on changes to the Trust Deed.

KEY THEMES

Many of the comments received from the Trustees during the information gathering exercise undertaken by Tuia Group relate to substantive elements of the Settlement (particularly land matters and mandate verification) which, unfortunately, sit outside of the scope of the Review. The comments were helpful though in providing more context to the ownership of the Stoney Creek land.

For ease of review, we have consolidated the comments received from members into the key themes (the **Key Themes**) as follows:

1. Membership - who are 'Ngatikahu ki Whangaroa'. This is a large component of the comments as it relates to earlier mandate processes (whakapapa) and who were the original claimants, the role of other claimants joining the settlement, which marae are part of the settlement (and which are not) etc.
2. Ownership of the land at Stony Creek Station.
3. Whakapapa and membership validation

We will address each of the Key Themes in turn.

It is important to note that we are not knowledgeable on Ngatikahu ki Whangaroa whakapapa matters. As a result, we aim to limit our comments to what we have been told throughout the Review information gathering exercise and what the Trust Deed provides with respect to Iwi and marae (**Marae**) membership.

1. MEMBERSHIP - WHO ARE 'NGATIKAHU KI WHANGAROA'

We have received comments and submissions from whānau relating to the membership of NKKW.

The Trust Deed contains a definition of "Ngatikahu ki Whangaroa". The definition of "Ngatikahu ki Whangaroa" in the Trust Deed reflects what the NKKW Trust Board (as the negotiating party for NKKW) and Iwi members agreed and understood at the time. As an aside, during the settlement process, OTS and TPK would have had to have some form of comfort on the definition so it would have been a significant clause to agree on at the time.

The relevant definition is set out in the Trust Deed as follows:

"Ngatikahu ki Whangaroa" means:

- a) the collective group composed of individuals who descend from one or more of Ngatikahu ki Whangaroa's Ancestors; and
- b) every whanau, hapu, marae or other group to the extent that it is composed of individuals referred to in paragraph (a) of this definition, including the following hapū:
 - i. Ngāti Aukiwa
 - ii. Te Hoia
 - iii. Ngāti Kaitangata
 - iv. Te Pohotiare
 - v. Ngāti Rangimatamomoe
 - vi. Ngāti Roha
 - vii. Ngāti Rua
- c) every individual referred to in paragraph (a)

There is also the definition of "Ngatikahu ki Whangaroa Ancestor" as follows:

"Ngatikahu ki Whangaroa Ancestor" means an individual who exercised Customary Rights by virtue of being descended from:

- a) Kahukuraariki; or
- b) A recognised ancestor of any of the groups referred to in paragraph (b) of the definition of Ngatikahu ki Whangaroa; and
- c) Who exercised customary rights predominantly in relation to Ngatikahu ki Whangaroa Area of Interest at any time after 6 February 1840;

Then there is the reference to "Marae", and these are set out in Fifth Schedule of the Trust Deed:

FIFTH SCHEDULE

MARAE

1. MARAE RECOGNISED FOR TRUST REPRESENTATION

1.1 Subject to rule 2.1 of this Schedule, the marae of Ngatikahu ki Whangaroa recognised for the purposes of Trustee representation are:

- | | |
|---------------|----------------|
| a) Taemaro; | e) Waihapa; |
| b) Waimahana; | f) Otangaroa; |
| c) Waitaruke; | g) Mangatowai; |
| d) Taupo; | h) Te Komanga. |

We have been told from some Iwi members that NKKW was historically made up of five original Marae. Those five Marae were Taemaro, Waimahana, Taupo, Waihapa, and Waitaruke. We understand that further Marae were added during the Treaty negotiations leading up to the Settlement. We understand that the inclusion of the additional Marae was approved and ratified during the settlement process.

We received comments suggesting that, despite the fact that Marae such as Te Komanga and Otangaroa were not part of the original group of five NKKW Marae, they still have whakapapa and customary right connections between those additional Marae and the NKKW Area of Interest. Notwithstanding the above, it has been suggested by some whānau members that Te Komanga and Otangaroa are not part of NKKW and should not be part of the Trust.

We appreciate that issues of whakapapa, Marae and Iwi composition are important to members, and we understand the desire of some whānau to have NKKW better reflect the Iwi's historical formation of whānau, hapū and Marae. However, the Trustees and members must be aware that there is an overriding prohibition on certain amendments to the Trust Deed.

The Trust Deed contains a prohibition on any changes to "the agreed definition of Member of Ngatikahu ki Whangaroa, Ngatikahu ki Whangaroa Ancestor and Ngatikahu ki Whangaroa Area of Interest". There is also a general prohibition of changes to the membership and beneficiaries of the Trust.

Clause 26 of the Trust Deed states the following:

26. AMENDMENTS TO DEED

26.2 Limitations on Amendment:

No amendment shall be made to the Deed which:

- a) changes the Trust's purpose so that the Trustee are no longer required to act for the collective benefit of the present and future Members of Ngatikahu ki Whangaroa;
- b) changes this clause 26.2;
- c) changes clause 28;
- d) changes the finally agreed definition of Member of Ngatikahu ki Whangaroa, Ngatikahu ki Whangaroa Ancestor, Ngatikahu ki Whangaroa Area of Interest, or Ngatikahu ki Whangaroa Claims after settlement legislation has been passed;
- e) changes the requirement for a Special Resolution (as defined from time to time)
- f) in clause 26.1;
- g) changes the membership and beneficiary of the Trust;
- h) changes rule 3.1 of the Fourth Schedule relating to the voting threshold of 75% of the Adult Members of Ngatikahu ki Whangaroa;
- i) changes the definition of Restricted Transaction Resolution; and
- j) changes rule 3.1 of the Sixth Schedule relating to the voting threshold of 75% of all Adult Registered Members of Ngatikahu ki Whangaroa.

26.3 Amendment to make definitions consistent with Deed of Settlement and Settlement Legislation

Notwithstanding any other provision in this Deed to the contrary, this Deed must be amended by the Trustees to make the definition of Member of Ngatikahu ki Whangaroa, Ngatikahu ki Whangaroa, Ngatikahu ki Whangaroa Ancestor or Ngatikahu ki Whangaroa Claims the same as that set out in the final Deed of Settlement and the Settlement Legislation. If the Deed is amended due to operation of this sub-clause a Special Resolution passed in accordance with the Fourth Schedule is not required.

In addition to the clause above, there is a specific reference in the Fifth Schedule to adding or removing Marae. See relevant rules below:

FIFTH SCHEDULE ...

ADDING OR REMOVING MARAE

- 2.1** A marae may be added to or removed from the list of marae set out in rule 1.1 of this Schedule by special resolution, provided that a special general meeting to consider any proposed addition or removal of marae shall only be called after the following requirements have been met:
- a) A proposal to add or remove a marae has been submitted in writing by an Adult Registered Member of Ngatikahu ki Whangaroa to the Trustees;
 - b) Where Te Roopu Kaumātua has been established, the Trustees have sought the advice of Te Roopu Kaumātua and Te Roopu Kaumātua has advised the Trustees that it supports the proposal;
 - c) Where Te Roopu Kaumātua has not been established, the Trustees have agreed to support the proposal.

3. CONSEQUENCES OF ADDING OR REMOVING MARAE

- 3.1** Where a marae has been added by special resolution, then a casual vacancy for the position of trustee on behalf of that marae shall be deemed to have arisen and the provisions of rule 4.5 of the Second Schedule shall apply accordingly.
- 3.2** Where a marae has been removed by special resolution, then the trustee appointed on behalf of that marae shall cease to hold office as a trustee and the Trustees shall take all practicable steps to ensure that the members of Ngatikahu ki Whangaroa recorded in the Ngatikahu ki Whangaroa register as primarily affiliated to that marae have their primary marae affiliation amended to another marae.

Conclusion

As set out above, there is an existing process for adding and removing marae. Therefore, there is no need to make any recommendations to amend the Trust Deed on this issue.

What appears to be the main issue from members is how to implement the adding or removing of a marae. The current processes are flexible and allows marae committees to nominate and whānau members that affiliate to nominate.

Trustees' Recommendations

On 18 October 2021, the Trustees reviewed the recommendations above and collectively agreed that there is no need to change any wording in the Trust Deed relating to 'Who is Ngatikahu ki Whangaroa'. No resolutions for changes will be put forward.

The Trustees noted that:

- Membership is clearly articulated in the Trust Deed
- If there was an active Kaimātua Roopu in place and the Roopu did not agree to changing membership requirements, then membership should remain as is.
- The change will require a high threshold - 75% agreeable to the change.
- There is an existing process to add or remove marae (75% approval also needed).

2. OWNERSHIP OF LAND AT STONY CREEK STATION

This issue has been raised by multiple members throughout the Review process. As it stands, the land at Stony Creek is legally owned by the Trust as per the Settlement. Some whānau have submitted that only hapū who whakapapa directly to Waikohatu – Stony Creek, Clarke & Thompson Blocks have mana whakahaere, while others believe that it should belong to the Trust for the benefit of all NKKW members.

For further context on the nature of land redress in the Treaty settlement sector, land redress provided by the Crown under a Treaty settlement can only be made up of State-Owned Enterprise land (previously named Landcorp, now Pamu) and/or Crown Forestry License land (**CFL**). It is well-known that private land cannot be given back to Iwi as land redress via the Treaty Settlement process. Land redress is normally negotiated with the Crown ensuring that there are “mana whenua” interests in place, either at the hapu or whānau level. The Crown generally provides land redress to the Iwi for the benefit of all Iwi members rather than any particular members. There are many instances in the Treaty Settlement process where, land settlement arrangements have been provided to other Iwi (with some nominal interest to the area) to manage wide regional interests. This is particularly relevant with respect to Crown Forest License land and in some cases Landcorp / Pamu land. Pouarua Farm (Hauraki).

It is a quirk of history that Crown land (which is included in a land redress package) happens to be located in an area within the rohe of a particular hapū or whānau. Crown land that has been transferred to an Iwi as land redress under a Treaty settlement is never evenly situated across the entire rohe of an Iwi. The fact that there is Crown land in the rohe of a particular hapū is generally a lucky coincidence. To this end, the Crown usually takes the approach that any income deriving from relevant Crown land becomes commercial redress and the land itself is transferred to the Iwi as land redress under the settlement for the benefit of all.

If mana whenua rules (at hapū and whānau level) were applied to land redress from the Crown under a Treaty settlement, only a small number of hapū or whānau will benefit while the rest of the Iwi will lose out once again (despite having lost significant landholdings to the Crown in the past). By this logic, those hapū / Iwi members who cannot claim mana whenua over land redress received in the Iwi Treaty settlement essentially suffer further loss as they would not be able to benefit from the land received by the Iwi (smaller group) from the Crown.

It is important to note that some mana whenua rules are applied when “cultural redress” land is transferred back to Iwi. The Crown will, in some cases, provide land ownership redress because of its significant cultural connection to a particular hapū or Iwi. The Crown is reluctant to provide land redress to one Iwi where it is clearly within the rohe of another Iwi or if it is in dispute.

Given the history of the Treaty settlement negotiations, there is a specific proviso that the Trustees are required to put the determination of the Stony Creek Station land ownership question back to the Iwi. We think that everyone is aware of the contentious history of these blocks. The Crown conveniently ‘passed the buck’ on this issue to the Trustees to try resolve at a later date (post-settlement).

Clause 33 states:

33. REVIEW OF OWNERSHIP OF STONY CREEK STATION

33.1 Review process for Stony Creek Station

Notwithstanding any other clause of this Deed the Trustees must, no later than four (4) years after the Settlement Date, initiate a fair and transparent process that is open to all Adult Members of Ngatikahu ki Whangaroa to review and determine the final ownership of Stony Creek Station.

33.2 Consultation on review process

The process referred to in clause 33.1 shall be initiated by the Trustees only after the Trustees have consulted with the Adult Members of Ngatikahu ki Whangaroa at a special general meeting called for this purpose in accordance with clause 14.4

33.3 Trustees to make recommendation

Following completion of the process referred to in clause 33.1 the Trustees shall make a recommendation on the final ownership of Stony Creek Station for approval by special resolution.

33.4 Compliance with Major Transaction requirements

Where a recommendation under clause 33.3 involves the transfer of the ownership of Stony Creek Station from a member of the Ngatikahu ki Whangaroa Group to another entity, the approval of that recommendation by special resolution shall constitute approval of the disposition of Stony Creek Station as a Major Transaction in accordance with clause 2.5 of this Deed.

From a legal interpretation perspective, clause 33 is clear and the Trustees must run the process outlined in this clause 33 by 2021 (on the basis the settlement legislation was enacted in 2017). Any determination under clause 33 must be discussed at a special general meeting and approved by a special resolution.

Numerous comments were received during the consultation process, including:

- Only those that have “mana whenua” should own and manage the land
- Varying degrees of who should “own” the land, ranging from the whanau that are currently there, the hapu, the marae, and then the whole Iwi
- Some suggested a new entity be set up to own the land
- The Trust should go back to the Crown and ask for another asset for the Trust and leave the Stony Creek land with those that are on it
- The Trust should go back and re-negotiate the whole settlement again
- Some Marae should not be included as part of the overall settlement
- The Crown have caused this issue and they should be held to account for this situation
- Some Iwi members do not acknowledge the authority of the Trust because of a flawed settlement process

Conclusion

There is an existing process in clause 33 of the Trust Deed to determine the ownership of Stony Creek Station. Therefore, there is no reason to make any further recommendations for changes to the Trust Deed on this issue.

The Trust undertook this process in accordance with the Trust Deed.

Trustees' Recommendations

On 18 October 2021, the Trustees reviewed the recommendations above and collectively agreed that there is no need to change anything in the Trust Deed relating to 'Ownership of Land at Stony Creek Station'.

The Trustees intend to work towards organising the Special General Meeting and resolutions that will be put to the beneficiaries to decide where ownership lies. As these matters are operational in accordance with the terms of the Trust Deed, there is no need to make changes to the Trust Deed.

3. WHAKAPAPA AND MEMBERSHIP VALIDATION

According to the First Schedule of the Trust Deed, membership to Ngatikahu ki Whangaroa is determined by the Whakapapa Committee.

The Trustees have recommended that the Trust Deed be changed so that the power of approval and validation of membership be held by one designated kaumatua for each marae who possesses the expertise and knowledge of Ngatikahu ki Whangaroa whakapapa necessary to make determinations regarding membership applications.

Trustees' Recommendations

A resolution was put to the beneficiaries to approve or reject the proposed amendments to rule 4 of the First Schedule and all related clauses in the Trust Deed to replace the Whakapapa Committee with a 'Designated Kaumatua' - being one or more kaumatua appointed by each marae to review membership applications.

The Trustees supported the appointment of Designated Kaumatua by marae who are undertaking the functions of reviewing membership applications. The Designated Kaumatua possess the requisite expertise and knowledge of Ngatikahu ki Whangaroa whakapapa necessary to make determinations regarding membership applications.

SPECIAL RESOLUTION PROCESS

The Trustees arranged for the special resolution process to be managed by an independent organisation that specialises in running these types of processes - *electionz.com*

The special resolutions that were provided to the Iwi members to vote on are **attached** at *Schedule One* and *Schedule Two*.

The results of the voting process were as follows:

Trust Deed Review

Option Voting ID	Option	Votes Received	Rank	
601	FOR	16	1	50.98%
602	AGAINST	143		46.73%
603	Informal	0		
604	Blank	7		
		<u>306</u>		

The special resolution failed.

Stoney Creek Ownership

Option Voting ID	Option	Votes Received	Rank	
501	FOR	255	1	83.33%
502	AGAINST	47		15.36%
503	Informal	0		
504	Blank	4		
		<u>306</u>		

The special resolution was successful.



Kahukuraariki
Trust Board



Schedule 1

KAHUKURAARIKI TRUST

(Trust)

Special Resolution in accordance with clauses 26, 32, and the Fourth Schedule of the Trust Deed (**Deed**)



BACKGROUND

- A. In 2015, the Trust was established to receive Treaty settlement assets on behalf of Ngāti Kahu ki Whangaroa. The terms of the Deed were largely prescribed by the Crown.
- B. In 2019, the Trust initiated a review (**Review**) of the terms of the Deed to determine whether the Deed was still 'fit for purpose' or if it could be changed to better reflect the needs and aspirations of Ngāti Kahu ki Whangaroa moving forward. The Trust engaged Toko Kapea from Tuia Group as the independent advisor to facilitate the Review.
- C. Throughout 2020 and 2021, the Trust board and the independent advisor consulted with Ngāti Kahu ki Whangaroa members and conducted several roadshows to obtain feedback on the Deed.
- D. The feedback and recommendations from Ngāti Kahu ki Whangaroa members were presented to the Trustees in November 2021. The Trustees carefully considered the member's comments and agreed on several changes to be put to Ngāti Kahu ki Whangaroa members for approval by Special Resolution.
- E. The proposed changes shown marked-up on the attached document (**Amendments**) reflect the feedback from Ngāti Kahu ki Whangaroa members and Trustees.
- F. The Trustees also provide an Information Sheet highlighting a summary of the key changes to the Deed.

RESOLVED THAT:

1. The Amendments to the Deed be approved.

16 December 2021 marked-up to show proposed amendments from the current Deed

KAHUKURAARIKI TRUST

(Trust)

Special Resolution in accordance with clauses 33 and the Fourth Schedule of the Trust Deed (**Deed**)



BACKGROUND

- A. In 2015, the Trust was established to receive Treaty settlement assets on behalf of Ngātīkahu ki Whangaroa. The terms of the Deed were largely prescribed by the Crown.
- B. In 2019, the Trustees initiated a consultation process with the Adult Members of Ngātīkahu ki Whangaroa for the purpose of reviewing and determining the final ownership of the land block known as Stony Creek Station.
- C. During the consultation process and at a special general meeting called to discuss Stony Creek Station, feedback was provided to the Trustees that the Ngātīkahu ki Whangaroa membership register needed to be reviewed and updated to ensure the voting process was fair and transparent.
- D. In 2021 and in response to the feedback from members, the Trustees undertook a membership register review exercise to update the Ngātīkahu ki Whangaroa membership register.
- E. Following the consultation process with Ngātīkahu ki Whangaroa members, the Trustees have recommended one resolution. The Trustees now ask members to approve, by way of special resolution, that the ownership of Stony Creek Station remain with the Trust.

NOTED THAT

1. Should the special resolution set out below (requiring approval by not less than 75% of eligible members voting on this issue in accordance with the Fourth Schedule of the Deed) not be passed, the Trustees will put forward another special resolution asking members to determine, by way of special resolution, to whom Stony Creek Station should be transferred from several listed options.
2. Taking the feedback from members into consideration, should the special resolution below not pass, the Trustees will undertake further consultation to consider what are the best options there are to determine the ownership of Stony Creek Station. The possible list of alternative owners includes (but not limited to):
 - i. The marae that maintains manawhenua over the relevant area (through a separate entity to represent their interests);
 - ii. The hapū who maintain manawhenua over the relevant area (through a separate entity to represent their interests);
 - iii. The whānau currently occupying the land (through a separate entity to represent their interests); or
 - iv. Any other entity or trust that the members consider appropriate.

RESOLVED THAT

The ownership of the land block known as Stony Creek Station remain with Kahukuraariki Trust.

**Matter to be tabled at Kahukuraariki Trust Board SGM & AGM
on
June 18, 2022 at 9:00am**

Notice to Kahukuraariki Trust Board

Dear Trust Board,

Te Umanga Ltd is the commercial arm of the hapu Ngati Aukiwa.

We refer to the Ngatikahu ki Whangaroa Trust Deed, and to the settlement whereby the Kahukuraariki Trust Board was given a mandate to negotiate a deed of settlement with the Crown.

Te Umanga/Ngati Aukiwa have serious concerns about the trust deed. In particular:

1. Ngati Aukiwa have always opposed the authority of the trust board to negotiate on it's behalf and have been in opposition to the inclusion of their claims in negotiation with the Crown.
2. Ngati Aukiwa have always believed that they have unextinguished native aboriginal title to the Stoney Creek Station (Waikohatu).
3. The dispute from Ngati Aukiwa remains in relation to the ownership of Stoney Creek Station (Waikohatu).
4. In the original trust deed, the Trust Board have given the commercial redress component of the settlement to nine (9) other marae, but Ngati Aukiwa maintain our ahikaa status over Stoney Creek Station (Waikohatu).
5. The whenua Stoney Creek Station (Waikohatu) belonged to Ngati Aukiwa tupuna, PAEARA, and historically, earlier to their tupuna Kahukuraariki.
6. Other marae were considered in the trust deed, however they cannot claim beneficial ownership or ahikaa to Stoney Creek Station (Waikohatu), because the boundaries or rohe of the station belong solely to Ngati Aukiwa and all those who whakapapa back to Ngati Aukiwa.
7. It is also of relevant importance, legally – that an authorised person from Ngati Aukiwa Hapu, never signed the trust deed.
8. The Trust Board has therefore knowingly engaged in a process, without consultation of the people contemplated in the original settlement negotiations, and against the interests of Ngati Aukiwa.
9. Te Umanga and Ngati Aukiwa never authorised the Trust Board to settle their interests in relation to Stoney Creek Station (Waikohatu), nor did they ever agree to share in the commercial redress component with others.
10. In relation to the special resolution voted on and passed recently, regarding ownership of Stoney Creek Station. The Trust Board has failed to consult with the adult members of

Ngatikahu ki Whangaroa, and has also failed to hold a Special General meeting prior to any recommendations from the Trust Board as per clause 33.2 of the Trust Deed.

33.2 Consultation on review process

The process referred to in clause 33.1 shall be initiated by the Trustees only after the Trustees have consulted with the Adult Members of Ngatikahu ki Whangaroa at a special general meeting called for this purpose in accordance with clause 14.4

11. Not only is the Trust Board using outdated member registers in relation to the adult members of Ngatikahu Ki Whangaroa, but we now maintain that in accordance with Clause 33, you have failed to initiate a timely, fair and transparent process that is open to all adult members of Ngatikahu ki Whangaroa in relation to the final ownership of Stony Creek Station.

In particular:

REVIEW OF OWNERSHIP OF STONY CREEK STATION

33.1 Review process for Stony Creek Station

Notwithstanding any other clause of this Deed the Trustees must, no later than four (4) years after the Settlement Date, initiate a fair and transparent process that is open to all Adult Members of Ngatikahu ki Whangaroa to review and determine the final ownership of Stony Creek Station.

The Ngatikahu Ki Whangaroa Deed of Settlement was signed on 18th December, 2015. The Trust Board has failed to meet this deadline of 18th December, 2019, which came into effect prior to the outbreak of COVID-19.

33.2 Consultation on review process

The process referred to in clause 33.1 shall be initiated by the Trustees only after the Trustees have consulted with the Adult Members of Ngatikahu ki Whangaroa at a special general meeting called for this purpose in accordance with clause 14.4

The Trustees have failed to consult with the adult members of Ngatikahu ki Whangaroa at a special general meeting prior to the process referred to in clause 33.1 being initiated by the Trustees.

33.3 Trustees to make recommendation

Following completion of the process referred to in clause 33.1 the Trustees shall make a recommendation on the final ownership of Stony Creek Station for approval by special resolution.

The Trustees have failed to complete the process referred to in clause 33.1 before making it's recommendation, and any subsequent special resolution being voted on.

12. Te Umanga and Ngati Aukiwa put the Trust Board on notice that we intend to consider further redress against the Crown for their failure to negotiate in good faith, when settling the Ngatikahu ki Whangaroa claim.

13. The Crown was on notice, that we were in opposition to the negotiations from the outset and have at all times disclosed that our boundaries are our boundaries.
14. We seek immediate recall of the special resolution made determining the ownership of the Stoney Creek Station and insist that the Trust Deed is reviewed and its registers detailing their members be audited forthwith.

Sincerely,

Date: 16th June, 2022

Signed:

A handwritten signature in blue ink, appearing to be 'Graham Williams', written over a faint, light-colored circular stamp or watermark.

Mr Graham Williams
Director
Te Umanga Ltd