

WAIMANGO PAKAINGA TRUST CHARTER

BACKGROUND:

- A. Pursuant to Section 338(7) of the Te Ture Whenua Maori Act 1993, the Maori freehold land known as Wharekawa 4B2A1B1 Block was set aside as a Maori Reservation for the purpose of a Papakainga for the use of Te Whanau a Haunui. Gazetted in the New Zealand Gazette No 127 page 4266 dated 2 November 1995 the reservation is more commonly known as Waimango Papakainga.

As stipulated pursuant to Section 338 (17) of Te Ture Whenua Maori Act 1993, *“All Maori Reservations set apart under the corresponding provisions of any former Act and subsisting at the commencement of this Act shall be deemed to be Maori Reservations made under this section”*.

- B. Pursuant to Section 239 and 338(7) of Te Ture Whenua Maori Act 1993, the Maori Land Court, Hamilton vested the Maori Reservation in the trustees as evidenced by the copy of the Maori Land Court Order/s attached hereto, herein called **Responsible Trustees, Trustees or Trustee Body**, in trust to hold and administer the same for the benefit of Te Whanau a Haunui.
- C. The trustees and beneficiaries of the reservation have reached agreement as to the terms of a Charter under which the powers and responsibilities of the trustees are recorded for the effective and efficient administration of Waimango Papakainga.

NOW THEREFORE IT IS RECORDED AS FOLLOWS:

1. Charter Document:

Notwithstanding *Clause 6* hereunder, this document shall be the Charter of **Waimango Papakainga** and sets out the functions and responsibilities of the trustees, further providing guidelines for any sub-committees and beneficiaries of the reservation. The Charter document shall be presented to the Maori Land Court and adopted as a Terms of Trust for this reservation.

2. Alteration to the Charter:

The provisions of this Charter shall not be altered, amended or rescinded except by Order of the Maori Land Court. Application will not be made regarding alteration unless a resolution supported by the Trustee Body together with at least two thirds of the beneficiaries present and voting at an Annual General Meeting or Special General Meeting called for that purpose.

3. Name:

The name of the Reservation shall be more commonly known as **Waimango Papakainga**.

4. Beneficiaries:

The members of Te Whanau a Haunui together with all their descendants registered on the Te Whanau a Haunui Beneficiary Roll shall be recognised as the beneficiaries of Te Whanau a Haunui.

5. Address for Service:

The physical address for proceedings and service concerning Waimango Papakainga is;

The Chairman
86 Horotiu Rd
RD 8 Hamilton

All postal mail should be forwarded to The Secretary whose present address is;

The Secretary,
Waimango Papakainga Trust
8 Horotiu Rd
RD 8Hamilton

Notwithstanding that this address may be changed from time to time to accommodate the incumbent Secretary's office, which may change by due election or appointment process as the case may be.

6. Legislation:

The rights and responsibilities of the Papakainga trustees and the reservation beneficiaries shall at all times be subject to the provisions of Te Ture Whenua Maori Act 1993 and subsequent amendments, the Maori Reservations Regulations 1994, any order issued by the Maori Land Court in relation to the operation of the reservation and to the general law of New Zealand.

Nothing real or imagined shall restrict or limit or preclude the Papakainga beneficiaries from instituting KAITIAKI TAONGA A PAPATUANUKU MO TENEI PAPAKAINGA.

7. Objects of the Trust:

The objects of the trust shall be to administer and preserve Waimango Papakainga for the benefit of the beneficiaries and the wider New Zealand community and to apply any income received in relation to the papakainga, for the purposes of promoting:

- Improvements in health status
- Social and economic welfare
- spiritual, and cultural welfare,
- education and vocational training, and
- the general advancement in the life of the beneficiaries and wider community

8. Functions and Powers of Responsible Trustees:

The Papakainga shall be administered by trustees who have been duly elected by beneficiaries at an Annual General Meeting and further ratified by order of the Maori Land Court. They will hold office in accordance with the following provisions;

- (a) To hold and administer the land and all monies derived therefrom within the limitations of the provisions provided herein.
- (b) To manage and hire any facilities situated on the land. The following activities on the reservation shall require prior written authorisation of the trustees.
 - (i) The use of any building, facility, property or service of the Papakainga.
 - (ii) The promoting or holding of any hui, meeting or other large gathering of persons within the Papakainga (including sports, competition or concert events).
- (c) Nothing in subclause (b) requires the prior written authorisation of the trustees to be obtained in relation to the conduct of a tangihanga.
- (d) To be Kaitiaki of the papakainga and all its facilities.
- (e) To be conveyors of papakainga protocol, kawa and tikanga.
- (f) In case of any conflict or dispute within the reservation, to be the arbiters of any such conflict or dispute providing a resolution is affirmed by a majority within the trustee body.
- (g) To invest and use the funds of the Papakainga as follows;
 - (i) To maintain any real or personal property of the Papakainga for improved facilities and enhancement of service.
 - (ii) To acquire by purchase, hire, lease, or otherwise any further real or personal property or business of whatsoever kind provided that it is for the benefit of the Papakainga.
 - (iii) To assist any charity or charitable purpose for enhancement of the Papakainga.
 - (iv) To engage in, prosecute, defend, and otherwise take any legal action or proceedings on behalf of the Papakainga and for that purpose to expend such monies to employ solicitors, counsel and other advisors as the Papakainga may think necessary. Furthermore, the Trustees are expected to utilise this provision in cases of misappropriation on the Papakainga unless traditional procedures are applied.
 - (v) To apply join and affiliate with any person or other organisation for the benefit of the Papakainga providing this affiliation is endorsed at a General, Annual General or Special General Meeting of beneficiaries.
 - (vi) To apply for and acquire any licences, permits or orders necessary for the operation of the Papakainga.

- (vii) To open and operate any bank accounts as necessary for the functions of the Papakainga.
- (h) To manage, control, maintain, hire or lease any real or personal property of the Papakainga provided that there shall be no power to sell or dispose of the land or part thereof other than by way of mortgage or charge over the land and provided that such powers are subject to restrictions on alienation imposed under Section 338 of Te Ture Whenua Maori Act 1993 ie;

Section 338 (12) *“The trustees in whom any Maori reservation is vested may, with the consent of the Court, grant a lease or occupation licence of the reservation or any part of it for any term not exceeding 14 years, upon and subject to such terms and conditions as the Court thinks fit”.*

Section 338 (13) *“The revenue derived from any such lease or occupation licence shall be expended by the trustees as the Court directs”.*

Section 338 (14) *“Any lease granted pursuant to subsection (12) of this section for the purposes of education or health may, notwithstanding anything in that subsection, be for a term exceeding 7 years and may confer on the lessee or licensee a right of renewal for one or more terms”.*

- (i) To borrow or raise money by any means and upon such conditions as the Trustees may think fit providing no illegal activities are taking place with affiliation to the reservation. The trustees are to oversee and endorse all fund-raising for the papakainga prior to commencement, ensuring that ventures are operating upon consent (permit) of the proper authorities.
- (j) Subject to any Order of the Maori Land Court and notwithstanding *Clauses 6 & 14* herein, the trustees shall hold an Annual General Meeting in each year and shall provide at such times;
- (I) An Annual report of the preceding 12 months
- (ii) A proposed plan of the forthcoming 12 months
- (k) The Trustee Body shall convene on the date of the Annual General Meeting of each year, before commencement of the said meeting and upon conclusion of the same to ensure that administrative functions are seen to.
- (l) The Trustee Body may delegate any of the above powers to any other person or persons provided that these delegated powers are overseen by the Trustee Body and it is further understood that the Trustee Body is held accountable for any outcomes regarding delegated powers.

9. Requirements of Papakainga Trustees:

- (a) The Trustee body shall consist of up to a maximum of nine (9) trustees. Such persons should include;

* A person who has proven to act in good faith being honest and diligent
OR

- * A person of standing on the Papakainga knowledgeable in matters of kawa and tikanga
- OR**
- * A person with such financial, administrative, personal skills, technological, legal or other skills and attributes
- OR**
- * Any person who has demonstrated any or all of the above characteristics
- (b) A trustee shall hold office from the date of appointment by way of Order of the Maori Land Court and shall not be recognised as such until the Order is pronounced.
- (c) Notwithstanding *Clause 18* herein, a trustee shall cease to hold office at the conclusion of the third Annual General Meeting held during the trustee's term as trustee unless otherwise appointed by the Maori Land Court for a longer term, therefore a trustee's term of appointment shall be considered by the beneficiaries at the Annual General Meeting at which they are elected and agreed upon prior to application to the Maori Land Court for official confirmation.

10. Trustee Body Meetings:

The Papakainga trustees shall meet at least every three months and as otherwise scheduled. The quorum shall consist of least one half in number of the Trustees.

11. Papakainga Trust:

- (a) It is recorded that the existing Papakainga Trust be recognised by any interested parties as a sub-committee of the Trustee Body, functioning in relationship to the administration and day to day operating of the Papakainga and that they act upon delegation of particular powers and duties as provided by the Trustee Body.
- (b) The Papakainga Trust shall consist of the following positions;
- *Chair
 - *Secretary
 - *Treasurer
- and may include up to 7 Trust members.
- (c) Taking into consideration their official duties, it is acceptable that individuals of expertise and ability be appointed to these positions.
- (d) Officers and Committee Members of the Papakainga Trust shall be elected at an Annual General Meeting at which time their term of office shall also be determined.
- (e) Whilst not a pre-requisite, nothing in this undertaking shall preclude any Papakainga Trustee from seeking nomination and subsequently standing and being duly elected or appointed, as the case may be, to any papakainga position, to provide direct accountability to the Trustee Body regarding managerial, financial or subject matter of administration of the Papakainga.

- (f) An officer may be removed from the Papakainga Trust upon majority vote at a Special General Meeting called for that purpose. The relative forum shall then elect or appoint a replacement at which time their term as a Papakainga Trust officer shall also be determined.

12. Duties of the Papakainga Trustees:

12.1. General:

The Papakainga Committee may co-opt assistance from beneficiaries;-

- (a) To prepare the Papakainga for all hui, including but not limited to:
- (i) Use by beneficiaries or members of the public of any facilities on the Papakainga
 - (ii) Tangihanga
 - (iii) School visits
 - (iv) Inter Papakainga visits
 - (v) Cultural exchanges
 - (vi) Sports Festivals
 - (vii) Celebrations, functions and entertainment
- (b) To organise catering, provisioning, cleaning, transportation and entertainment for the Papakainga.
- (c) To maintain the Papakainga and facilities ensuring that the same is kept in clean and tidy condition.
- (d) To manage the Social and Fundraising activities of the Papakainga.
- (e) To perform such other functions as may authorised/delegated upon consent of the Trustee Body.

12.2. Specific:

(a) **Chair:-**

- (i) The Chairperson shall preside over all Meetings to wit, General, Annual General or Special General Meetings of the Papakainga Beneficiaries.
- (ii) At the Annual General Meeting, the Chair shall submit;
 - (a) A written Annual Report of the preceding 12 months regarding the papakainga affairs
 - (b) Having being provided with a proposed annual plan of the papakainga affairs as drafted by the Trustee Body regarding the forthcoming 12 month period for acceptance of the beneficiaries

- (iii) The Chairperson or his/her appointed designate, shall be the papakainga official spokesman on all matters concerning the papakainga in the papakainga's dealings with the press or other news media.
- (iv) Should the occasions arise, either due to absence or otherwise whereby any of the Papakainga Trustees or Trustee Members are temporarily unable to fulfil their obligations, notwithstanding *Clause 9 subsections (c) and (d)* herein, appointment by the Chair shall be recognised in a 'relieving' capacity until such time as the designated Officer or Committee Member, resumes his/her duties.
- (v) If any position is vacated by a Papakainga Trustee officer, notwithstanding *Clause 9 subsections (b) and (c)* herein, where reasonably required, any replacements shall be elected at a Special or Annual General Meeting, at which time their term as a Papakainga Trustee Officer, shall also be determined.

(b) Secretary:-

- (i) The Secretary shall, call all Annual General Meetings as scheduled, and give 21 clear days prior notice of the time and place of the meeting-
 - * By publishing, in a newspaper circulating in the district where the reservation is situated, a notice giving particulars of that time and place; and
 - * By providing written notice of the same to each Trustee of the Papakainga.
- (ii) The Secretary shall, call all Special General Meetings as may be scheduled by the Chairperson and give 14 clear days prior notice of the time and place of the meeting-
 - * By publishing, in a newspaper circulating in the district where the reservation is situated, a notice giving particulars of that time and place; and
 - * By providing written notice of the same to each trustee of the Papakainga.
- (iii) The Secretary shall call all General Meetings (for the time being scheduled on a twelve (12) weekly basis) or as required or appropriate as determined by Beneficiaries at the General Meetings. Notification of such meetings shall be-
 - By general Panui to Beneficiaries distributed as soon as practical after a General Meeting
 - As advised at General Meetings
 - By verbal advice among Beneficiaries
 - By electronic meeting notification
 - Or any other means agreed by beneficiaries

Notwithstanding notified or scheduled meetings, tangihanga shall take precedence.

- (iv) The Secretary shall call all Trustee Meetings as scheduled by the Trustee Body other than those convening on the date of the Annual General Meeting of which 14 clear days notice shall be given in writing to each Trustee of the Papakainga.

- (v) The Secretary shall upon consultation from the Trustee Body, provide an Agenda prior to the commencement of any meeting whereby there is reasonable opportunity for the respective forum to view the same.
 - (vi) The Secretary shall keep correct minutes of all General Meetings and may minute all Trustee Meetings and shall forthwith distribute copies of the Minutes to each trustee and the Chair of the Papakainga within two weeks from the date the meeting took place. At the commencement of any meeting, the Secretary shall read the minutes of the previous meeting for acceptance of the relative forum.
 - (vii) The Secretary shall ensure that a list of Beneficiaries and Trustees in attendance of any meeting is compiled and attached to the respective minutes of that meeting.
 - (viii) The Secretary shall receive, dispatch, file and supervise all documents, records and communications regarding the Reservation. All copies thereof for report and or inspection at the next meeting of the Trustees.
 - (ix) The Secretary shall provide for the safekeeping of the Papakainga Charter maintaining any amendments to the same. The Secretary is required to keep an up to date schedule listing the Papakainga Trust appointments, their contact details and their term of appointment. A copy of the aforementioned Charter, any amendments and the schedule listing the Papakainga Trust is to be made available for inspection on the papakainga at all reasonable times.
 - (x) The Secretary shall file any application to the Maori Land Court or any other relative agency, on behalf of the Trustee Body as required in relation to the reservation and shall act as applicant ensuring that all correspondence is strictly monitored in accordance with *Clause 12.2 (b) (viii)* above. Application to the Maori Land Court for ratification for Trustee Body appointments or removals must be lodged within ten (10) working days of the respective meeting or as soon as reasonably possibly to comply with this provision.
 - (xi) The Secretary shall do such other acts in relation to the affairs of the papakainga as the Responsible Trustees may from time to time decide.
- (c) **Treasurer:-**
- (I) Notwithstanding Clauses 7 and 8 herein as bestowed upon a Responsible Trustee, the Treasurer shall be responsible to receive all monies due to the papakainga and to pay all debts contracted by the papakainga.
 - (ii) All monies received by the Treasurer on behalf of the trust shall forthwith be paid to the credit of the trust's bank account/s. All payments from the trust bank account shall first be approved at a meeting of trustees. All authorised signatories on cheques and withdrawal slips drawn on the trust account/s shall be held by the Treasurer and one other trustee or officer as ratified by the trustee body.
 - (iii) The Treasurer shall generally keep a full and accurate account of the financial transactions of the papakainga and shall have the same present at all Trustee Meetings for report and or inspection.

- (iv) The Treasurer shall submit a set of financial accounts to the Annual General Meeting. The beneficiaries may wish from time to time for the set of accounts of the Papakainga to be audited. The beneficiaries will notify the Trustees of this requirement to allow for sufficient time for an audit to take place prior to the Annual general meeting. In which case the accounts shall be audited by an auditor as appointed in agreement with between Trustees and beneficiaries and who shall be a member of the New Zealand Society of Accountants.
- (v) All accounts payable by the papakainga shall be submitted to the trustee body at Trustee meetings and shall be approved and passed for payment by the same.
- (vi) The Treasurer shall do and perform all such other lawful duties as may usually pertain to the office of Treasurer.

12. Papakainga Trust Meetings:

The Papakainga Committee shall meet as often as is necessary. The quorum shall be all three.

13. Rights of the Beneficiaries at General Meetings:

- (a) All beneficiaries of the Papakainga shall be entitled to attend and speak at any General Meeting of the Reservation.
- (b) All beneficiaries who have attained the age of 18 years shall be entitled to vote either in person or by proxy at any General Meeting of the Papakainga.

14. General Meetings:

- (a) **Annual General Meeting:**-The trustees shall hold an Annual General Meeting in each year of which 21 clear days notice is issued and that must be held within two months of the end of the financial year - the financial year being from 1 July until 30 June of the following year. The physical presence of ___ beneficiaries entitled to vote at any General Meeting shall form a quorum. All Responsible Trustees must be in attendance unless an apology has been received.
- (b) **Special General Meeting:**-A Special General Meeting of the Papakainga of which 14 clear days notice shall be given shall be called when as required by the Trustee Body. The physical presence of ___ beneficiaries entitled to vote at any General Meeting shall form a quorum. All Responsible Trustees must be in attendance unless an apology has been received.
- (c) No failure by the Trustee Body to notify every single beneficiary who is entitled to receive notification of any General Meeting shall invalidate the procedures undertaken or decisions reached at such meetings provided there has been reasonable compliance with these provisions.

15. Chairman's Vote:

At all official meetings of the Papakainga, whether they be General meetings or Trustee meetings, the Chair whose ruling shall be final, shall have a deliberative vote and in the event of equality of voting, a casting vote.

16. Mode of Voting:

- (a) Subject to voting by proxy, the mode of voting at all meetings of the Papakainga shall be on voices or by show of hands and the declaration of the Chair that any resolution has been carried, shall be deemed conclusive evidence of that fact unless a poll is demanded immediately following such declaration. All elections of Trustees at General Meetings, where nominations exceed the total number of vacancies, shall be by secret ballot.
- (b) The instrument which appoints a proxy must be in writing and be signed by the appointer or by his attorney who is authorised in writing. The person appointed as proxy need not be a beneficiary or Trustee of the Papakainga. The instrument which appoints a proxy must be handed to the Secretary before the commencement of the respective meeting.

17. Removal of Responsible Trustee/s:

- (a) Notwithstanding Clause 8 subsection (c), a trustee may be removed from office should the beneficiaries of the Papakainga and the Maori Land Court be satisfied that;
 - (i) The Trustee has failed to carry out the duties of a trustee satisfactorily; or
 - (ii) Because of lack of competence or prolonged absence the trustee is or will be incapable of carrying out those duties satisfactorily
- (b) The Trustee Body of the Papakainga, subject to ratification of the Maori Land Court, may be removed as a body or individually, by the votes of at least two thirds of the beneficiaries present at a Special General Meeting called for that purpose and in the case of such removal, the Chair for the time being shall forthwith call for nominations to fill the vacancy or vacancies as the case may be and an election shall be held forthwith if nominations received exceed the numbers of positions available. The Trustee Body as then constituted shall, subject to ratification by the Maori Land Court, carry on the business of the Papakainga. Application to the Maori Land Court for ratification of these appointments must be lodged within 10 working days of the respective meeting or as soon as reasonably possible to comply with this provision.