23/7/2026

Formatted

NGĀTI APA KI TE RĀ TŌ TRUST DEED

With effect from 1 April 2027
Subject to IRD approval

CONTENTS

Formatted

Ngāti Apa ki te Rā Tō Trust Deed

Executed as a deed on the 28th day of October 2010, amended on 11 August 2013 and 2 June 2016, and amended and consolidated on 3 September 2017

HE WHAKAMARAMA

A. Ngāti Apa ki te Waipounamu Trust, the mandated iwi authority, has represented the iwi of Ngāti Apa ki te Rā Tō throughout the Treaty of Waitangi settlement negotiations with the Crown.

B. Ngāti Apa ki te Waipounamu Trust expect that it will initial a Deed of Settlement with the Crown to settle its historical Treaty of Waitangi claims in 2010. Ngāti Apa ki te Waipounamu Trust has also on 6 May 2009 initialled a deed of settlement relating to its aquaculture claims.

C. In order to meet the requirements prescribed by the Crown Ngāti Apa ki te Rā Tō has, following discussion amongst the iwi, agreed to establish this Trust as a single post settlement governance entity for Ngāti Apa ki te Rā Tō.

D. This Trust shall obtain and administer the settlement assets currently held by Ngāti Apa ki te Waipounamu Trust under the fisheries settlement and receive and administer the settlement assets received by Ngāti Apa ki te Rā Tō as part of the aquaculture settlement and the historical Treaty of Waitangi settlement to be agreed with the Crown.

1. **DEFINITIONS AND INTERPRETATIONS**

1.1 **Defined Terms**: In this Deed, unless the context otherwise requires:

"Adult Member of Ngāti Apa ki te Rā Tō" means a Member of Ngāti Apa ki te Rā Tō who is over 18 years of age;

"Adult Registered Members of Ngāti Apa ki te Rā Tō Trust" means those members of Ngāti Apa ki te Rā Tō identified on the Ngāti Apa ki te Rā Tō Register as being over 18 years of age;

"Annual Plan" means the annual plan of the Trust which is prepared in accordance with clause 9.1;

"Annual Report" means the annual report of the Ngāti Apa ki te Rā Tō Group which is prepared by the Trustees in accordance with clause 10.2;

"Aquaculture Agreement" has the meaning given to it in section 186ZD of the Fisheries Act 1996;

"Aquaculture Assets" means the assets received as a result of the deed of settlement initialled on 6 May 2009 relating to the aquaculture claims of Ngāti Apa ki te Rā Tō;

"Balance Date" means:

(a) 31 March 2027 for the accounting year beginning 1 April 2026;

*(b) For all subsequent years the **"Balance Date"** means 30 September or any other date that the Trustees by resolution adopt as the date up to which the Trust's financial statements are to be made each year.*

Formatted: Heading 3, Indent: Left: 0 cm

~~31 March~~ or any other date that the Trustees by resolution adopt as the date up to which the ~~Trust's financial statements are to be made in each year;~~

Commented [VR1]: A change of balance date to 30 September and income year to 1 October to 30 September would allow the Annual General Meeting (AGM) to be held in February or March. With the AGM held in the summer months it is anticipated that more members will travel to, and participate in, the AGM. Before the balance date and income year can be changed to end on 30 September, an interim balance date of 31 March 2027 and income year 1 April 2027 to 30 September 2027 are required to be adopted. The reason the income year is being shortened rather than lengthened is due to the term requirements for trustees. Currently, trustees are elected for 3 year terms at the AGM which must be held within 6 months after the end of each income year. It is not possible to extend Trustee terms beyond 3 years. An extension of the income year and associated delay in holding an AGM would lead to some Trustees' terms expiring before the AGM.

"Business Day" means any day on which registered banks are open for business in Blenheim;

"Chairperson" means the chairperson from time to time of the Trust appointed by the Trustees in accordance with rule 4 (and elected in accordance with rule 5.2 where applicable) of the Third Schedule;

"Deed" means this deed of trust and includes recitals and the schedules to this deed;

"Chief Executive Officer" means the Chief Executive Officer of the Trust appointed in accordance with clause 5.1;

"Chief Returning Officer" means as the context requires:

(a) The person appointed from time to time as chief returning officer for the purposes of Trustee elections in accordance with rule 10 of the Second Schedule; or

Formatted: Outline numbered + Level: 3 + Numbering Style: a, b, c, … + Start at: 1 + Alignment: Left + Aligned at: 1 cm + Tab after: 2 cm + Indent at: 2 cm

(b) The person appointed as chief returning officer for the purposes of a Special Resolution in accordance with rule 7 of the Fourth Schedule;

"Commercial Activities" means any activity carried out in pursuit of the Trust's Purposes which has as its principal objective the maximising of financial or economic returns to the Ngāti Apa ki te Rā Tō Group and shall include without limitation the management and administration of all cash, forestry lands, commercial redress properties and Aquaculture Assets acquired in the settlement of the Ngāti Apa ki te Rā Tō Claims;

"Community Development Activities" means any activity carried out in pursuit of the Trust's Purposes which has as its principal objective the cultural and social development of Ngāti Apa ki te Rā Tō, and shall include without limitation:

(a) The fostering of all aspects of Ngāti Apa ki te Rā Tō tikanga, reo, kawa and korero;

(b) The provision of support and assistance to Members of Ngāti Apa ki te Rā Tō in respect of education, housing, health care, age care and relief of those suffering from mental or physical sickness or disability;

(c) The development and enhancement of community facilities for the benefit of Ngāti Apa ki te Rā Tō; and

(d) The provision of funding to Ngāti Apa ki te Rā Tō members for the cultural and social development of the iwi;

"Consolidated Financial Statements" means the consolidated financial statements of the Ngāti Apa ki te Rā Tō Group prepared by the Trustees in accordance with clause 10.2;

"Customary Rights" means rights arising under Ngāti Apa ki te Rā Tō customary law, or the law of New Zealand including the following rights:

(a) Rights to occupy land; and

(b) Rights in relation to the use of:

(i) Land; and/or

(ii) Natural or physical resources;

"Deed of Settlement" means the deed that will be entered into between representatives of Ngāti Apa ki te Rā Tō and the Crown recording the settlement of the Ngāti Apa ki te Rā Tō Claims;

"Deputy Chairperson" means the deputy chairperson from time to time of the Trust if one is elected in accordance of rule 4 of the Third Schedule;

"Directors" means directors or trustees as the case may be, of the Fisheries Asset Holding Company or Subsidiary;

"Disputes Committee" means a committee formed in accordance with clauses 31.4 and 31.5;

"Electoral Review Officer" means the person appointed to act as electoral review officer in accordance with rule 13.2 of the Second Schedule;

"Fisheries Asset Holding Company" means a company established by the Trustees, in accordance with rule 2.1 of the Fifth Schedule and which for the time being would be a company which meets the requirements for a company defined in the Māori Fisheries Act as a fisheries asset-holding company and includes any subsidiary of the fisheries asset-holding company;

"Fisheries Asset Holding Company Subsidiary" means any Subsidiary (as defined by section 5 of the Companies Act 1993) of the Fisheries Asset Holding Company and includes any person or persons (other than a Subsidiary as so defined) that is controlled by the Fisheries Asset Holding Company and includes a separate enterprise that is responsible to the Mandated Iwi Organisation, as that term is used in section 32(3) of the MCACS Act;

"Fishing Enterprise" means a fishing operation established by Ngāti Apa ki te Rā Tō Trust under rule 2.2 of the Fifth Schedule to utilise annual catch entitlement from its Settlement Quota;

"Five Year Plan" means the five year plan of the Group prepared in accordance with clause 9.3;

~~**"Income Share"** means an income share within the meaning of the Māori Fisheries Act that is allocated and transferred to the Fisheries Asset Holding Company on behalf of Ngāti Apa ki te Rā Tō by Te Ohu Kai Moana Trustee Limited;~~

"Income Year" means:

(a) for the accounting period beginning 1 April 2027 and ending 30 September 2027;

(b) for all subsequent accounting periods, "Income Year" means the period beginning 1 October of one calendar year and ending 30 September in the subsequent year.

~~any year or accounting period beginning 1 April of one calendar year and ending on the Balance Date~~ ;

"Initial Trustees" means those persons who have signed this Deed as trustees, such trustees being members of the executive committee of Ngāti Apa ki te Waipounamu Trust at the time of the adoption of this deed;

"Iwi Aquaculture Organisation" has the meaning given to it in the Māori Commercial Aquaculture Claims Settlement Act 2004;

Commented [VR2]: "Ordinary Shares" are replacing "Income Shares" under the Maori Fisheries Amendment Act. Voting shares in Aotearoa Fisheries Limited held by Te Ohu Kai Moana

Commented [VR3]: Before the balance date and income year can be changed to end on 30 September, an interim balance date of 31 March 2027 and income year 1 April 2027 to 30 September 2027 are required to be adopted. The reason the income year is being shortened rather than lengthened is due to the term requirements for trustees. Currently, trustees are elected for 3 year terms at the AGM which must be held within 6 months after the end of each income year. It is not possible to extend Trustee terms beyond 3 years. An extension of the income year and associated delay in hold an AGM would lead to some trustees' terms expiring before the AGM.

Formatted: Outline numbered + Level: 3 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1 cm + Tab after: 2 cm + Indent at: 2 cm

"Major Transaction" in relation to any member of the Ngāti Apa ki te Rā Tō Group means:

(a) The acquisition of, or an agreement to acquire, whether contingent or not, Property by that member the value of which is more than half the value of the Trust's Assets before the acquisition; or

(b) The disposition of, or an agreement to dispose of, whether contingent or not, Property by that member the value of which is more than half the value of the Trust's Assets before disposition; or

(c) A transaction that has or is likely to have the effect of that member acquiring rights or interests or incurring obligations or liabilities the value of which is more than half the value of the Trust's Assets before the transaction;

But does not include:

(d) The receipt of any gift, settlement or historical Treaty of Waitangi Settlement with the Crown; or

(e) Any transaction entered into by a receiver appointed pursuant to an instrument creating a charge over all or substantially all of the Trust's Assets (whether held by the Trust or any other member of the Ngāti Apa ki te Rā Tō Group); or

(f) Any acquisition or disposition of Property by that member from or to any other wholly owned member of the Ngāti Apa ki te Rā Tō Group or any member of the Ngāti Apa ki te Rā Tō Group that is a trust with a purpose similar to the Trust or the Ngāti Apa ki te Rā Tō Charitable Trust; or

(g) Any acquisition of rights or interests or incurring of obligations or liabilities by that member from or to any other wholly owned member of the Ngāti Apa ki te Rā Tō Group or any member of the Ngāti Apa ki te Rā Tō Group that is a trust with a purpose similar to the Trust or the Ngāti Apa ki te Rā Tō Charitable Trust.

Nothing in paragraph (c) of this definition applies by reason only of that member giving, or entering into an agreement to give, a charge secured over assets of the member the value of which is more than one half of the value of the Trust's Assets for the purpose of securing the repayment of money or the performance of an obligation.

For the purposes of paragraphs (a) to (c) of this definition of the value of the Trust's Assets shall be calculated based on the value of the assets of each respective entity of the Ngāti Apa ki te Rā Tō Group.

"Mandated Iwi Organisation" has the meaning given to it in the Māori Fisheries Act;

"Māori Fisheries Act" means Māori Fisheries Act 2004;

"MCACS Act" means the Māori Commercial Aquaculture Claims Settlement Act 2004;

"Member of Ngāti Apa ki te Rā Tō" means every individual who is referred to in the definition of Ngāti Apa Ki te Rā Tō;

"**Member of Ngāti Apa ki te Rā Tō Trust**" means every individual who is referred to in the definition of Ngāti Apa Ki te Rā Tō and whose details have been entered on the register as a result of an application on a registration form in accordance with rules 3.1 and 3.2 of Schedule 1;

"**Membership Validation Committee**" means the committee appointed in accordance with rule 4 of the First Schedule;

"**Ngāti Apa ki te Rā Tō**" means:

(a) The iwi, or collective group, composed of individuals descended from a Ngāti Apa ki te Rā Tō Ancestor or Ancestors;

(b) Includes individuals referred to in (a); and

(c) Includes every whanau, hapu or group of individuals, to the extent composed of individuals referred to in (a) and (b) of this definition; and

(d) Includes the iwi called Ngāti Apa ki te Waipounamu as defined by the Māori Fisheries Act and the MCACS Act;

"**Ngāti Apa ki te Rā Tō Ancestor**" means an individual or individuals who:

(a) Exercised Customary Rights within the Ngāti Apa ki te Rā Tō Area of interest by virtue of his or her being descended from:

  (i) Ruatea (who was on board the Kurahaupo Waka that arrived in Aotearoa); and

  (ii) A recognised tipuna of any of the following hapu:

    (1) Puaha Te Rangi (West Coast); or

    (2) Tarakaipa (Te Tau Ihu); and

(b) Exercised the Customary Rights predominately in relation to the Ngāti Apa ki te Rā Tō Area of interest any time after 6 February 1840;

"**Ngāti Apa ki te Rā Tō Area of Interest**" means the area of interest of Ngāti Apa ki te Rā Tō as identified and defined in the Deed of Settlement;

"**Ngāti Apa ki te Rā Tō Charitable Trust**" means the trust created by the Ngāti Apa ki te Rā Tō Charitable Trust Deed dated 11 August 2013 (as amended and restated from time to time);

"**Ngāti Apa ki te Rā Tō Claims**" means Ngāti Apa ki te Rā Tō aquaculture and historical Treaty claims against the Crown in respect of the Crown's breaches of its obligations to Ngāti Apa ki te Rā Tō under the Treaty of Waitangi;

"**Ngāti Apa kl te Rā Tō Group**" means the Trust, the Ngāti Apa ki te Rā Tō Charitable Trust, The Company, the Ngāti Apa Whakaea Limited Partnership, their subsidiaries (if any), the custodian trustee (if any) and any persons (whether incorporated or not) under the control of any one or more of them;

"**Ngāti Apa ki te Rā Tō Register**" means the register of Members of Ngāti Apa ki te Rā Tō Trust that is to be maintained by the Trust in accordance with the First Schedule to this Deed;

"**Ngāti Apa ki te Rā Tō Trust**" means the Trustees of Ngāti Apa ki te Rā Tō Trust;

"**Ngāti Apa ki Te Waipounamu Trust**" means the previous Mandated Iwi Organisation and Iwi Aquaculture Organisation for Ngāti Apa ki te Rā Tō;

"**Ngāti Apa Whakaea Limited Partnership**" means the limited partnership governed by the Limited Partnership Agreement for Ngāti Apa Whakaea Limited Partnership (as amended and restated from time to time);

"**Ordinary Shares**" has the meaning given under the Maori Fisheries Act 2004.

Commented [VR4]: A.The amendments relating to the Māori Fisheries Amendment Act 2024 (**MFAA**) update the trust deed to reflect the changes to the Māori Fisheries Act 2004 (**MFA**) which will come into force on 26 July 2026. Specifically: "Ordinary Shares" are replacing "Income Shares" under the Maori Fisheries Amendment Act. Voting shares in Aotearoa Fisheries Limited held by Te Ohu Kai Moana Trustee Limited will be cancelled and all income shares converted to ordinary shares

"**Property**" means all property (whether real or personal) and includes choses in action, rights, interests and money;

"**Quota**" means quota shares within the meaning of the Fisheries Act 1996;

"**Registrar-General of Land**" or "**Registrar-General**" means the Registrar- General of Land appointed in accordance with section 4 of the Land Transfer Act 1952;

"**Related Person**" has the same meaning as provided in the Income Tax Act 2007;

"**Secretary**" means any person appointed by the Trust to perform general secretarial and administrative functions for the Trust;

"**Settlement Act**" means such Act or Acts of Parliament that may be passed so as to give effect to the Deed of Settlement and the premises contained within that deed;

"**Settlement Assets**" has the same meaning as that term in the Māori Commercial Aquaculture Claims Settlement Act 2004;

"**Settlement Date**" means the date defined as the Settlement Date in the Deed of Settlement or Settlement Act;

"**Settlement Quota**" means the quota shares within the meaning of the Māori Fisheries Act;

"**Special Resolution**" means a resolution that has been passed with the approval of not less than 75% of the Adult Members of Ngāti Apa ki te Rā Tō and Adult Registered Members of Ngāti Apa ki te Rā Tō Trust who validly cast a vote in accordance with the process set out in the Fourth Schedule;

"**Special Resolution of Trustees**" means a resolution that has been passed with the approval of not less than 75% of the Trustees present at a duly convened meeting of the Trust held in accordance with the rules in the Third Schedule;

"**Statements of Intent**" means the statements of intent prepared by The Company in accordance with clause 11.1;

"**Subsidiary**" means any Subsidiary as defined by section 5 of the Companies Act 1993;

~~"Te Kawai Taumata" means the group of that name established under the Māori Fisheries Act;~~

Commented [VR5]: a)Te Kawai Tuamata is disestablished by the MFAA.

"**Te Ohu Kai Moana Trustee Limited**" means the company of that name formed under the Māori Fisheries Act;

"**The Company**" means The Company that the Trustees are required to establish pursuant to clause 6 to undertake Commercial Activities;

"**Trust**" means the Trust created by this Deed which is to be called Ngāti Apa ki te Rā Tō Trust;

"**Trust's Assets**" means the trust fund of the Trust and shall include all assets received or otherwise owned or acquired from time to time by the Trust, including without limitation all Ngāti Apa ki te Rā Tō land and all assets received pursuant to the Deed of Settlement and Settlement Act, any Aquaculture Assets, any Settlement Assets, any Settlement Quota, any ~~Income~~ Ordinary Share, money, investments or other property paid or given to or acquired or agreed to be acquired by the Trust;

"**Trustees**" means the trustees appointed from time to time in accordance with the Second Schedule of this Deed to represent Ngāti Apa ki te Rā Tō and to act as the trustees for the time being of the Trust and "Trustee" shall mean any one of those persons;

"**Trust's Purposes**" means the objects and purposes set out in clause 2.5; and

"**Whāngai**" means those individuals as defined in rule 3.2(d) of the First Schedule.

1.2 **Interpretation**: In this Deed, unless the context otherwise requires:

(a) Words importing the singular include the plural and vice versa;

(b) References to persons include corporations and unincorporated bodies of persons, governments or other public bodies or agencies whether or not having a separate legal personality;

(c) References to a statute shall be deemed to be references to that statute as amended, re-enacted or substituted from time to time;

(d) References to a clause, recital or a schedule shall be to a clause, recital or a schedule to this Deed;

(e) The schedules to this Deed shall form part of this Deed;

(f) Headings appear as a matter of convenience only and shall not affect the interpretation of this Deed;

(g) References to a company are references to a company incorporated pursuant to the Companies Act 1993;

(h) References to a subsidiary or subsidiaries shall be references to a subsidiary or subsidiaries as defined by the Companies Act 1993;

(i) Words importing one gender include the other gender; and

(j) In this Deed, person is **descended** from the other person by any one or more of the following:

(i) Birth;

(ii) Legal adoption; or

(iii) Māori customary adoption in accordance with Ngāti Apa ki te Rā Tō tikanga.

2. CONSTITUTION, STATUS AND OBJECTS OF THE TRUST

2.1 **Trust Established**: The Trustees acknowledge that they hold the Trust's Assets upon the trusts and with the powers set out in this Deed. The Trustees further acknowledge that the trust hereby created shall be known as the Ngāti Apa ki te Rā Tō Trust.

2.2 **Permitted Successor**: The Trustees acknowledge that the Trustees of Ngāti Apa ki te Rā Tō Trust are permitted successors for Ngāti Apa ki te Waipounamu Trust to receive entitlements in respect of pre-commencement space under the Binding Allocation Agreement dated 6 May 2009 relating to agreed percentages for the allocation and transfer of certain Settlement Assets under the MCACS Act.

2.3 **Trustees Representatives**: The Trust shall be governed and administered by and in accordance with this Deed. The Trust shall be the representative entity for Ngāti Apa ki te Rā Tō on all matters and shall be the post settlement governance entity, Mandated Iwi Organisation and Iwi Aquaculture Organisation for Ngāti Apa ki te Rā Tō.

2.4 **Powers of Trustees**: The Trustees, on behalf of the Trust, shall be capable of holding real and personal property, of suing and being sued, and shall have all of the rights, powers and privileges of a natural person with the intention that they shall, in their capacity as Trustees, have the fullest powers necessary to do all such things that they consider necessary in their sole discretion to perform or otherwise carry out the Trust's Purposes.

2.5 **Objects and purposes of the Trust**: The purposes for which the Trust is established are to receive, hold, manage and administer the Trust's Assets on behalf of and for the benefit of the present and future Members of Ngāti Apa ki te Rā Tō irrespective of where those members reside in accordance with this Deed including, without limitation:

(a) The promotion amongst Ngāti Apa ki te Rā Tō of the educational, spiritual, economic, social and cultural advancement or well-being of Ngāti Apa ki te Rā Tō and its whanau;

(b) The maintenance and establishment of places of cultural or spiritual significance to Ngāti Apa ki te Rā Tō; and

(c) Any other purpose that is considered by the Trustees from time to time to be beneficial to Ngāti Apa ki te Rā Tō.

2.6 **Restriction on Major Transactions**: Notwithstanding clause 2.4, the Trust and any entity which is a member of the Ngāti Apa ki te Rā Tō Group must not enter into a Major Transaction unless that Major Transaction:

(a) Is approved by way of Special Resolution in accordance with the Fourth Schedule; or

(b) Is contingent upon approval by way of Special Resolution.

3. APPOINTMENT, POWERS AND MEETINGS OF TRUSTEES

3.1 **Initial Trustees**: Pending election and appointment of Trustees in accordance with the Second Schedule, the Initial Trustees shall be the trustees from Ngāti Apa ki te Waipounamu Trust.

3.2 **Appointment in accordance with Second Schedule**: The Trustees from time to time of the Trust shall be appointed to office in accordance with the rules set out in the Second Schedule.

3.3 **Trustees to control Trust affairs**: Subject to any requirements imposed by this Deed, the Deed of Settlement, the Māori Fisheries Act, the MCACS Act, and the Settlement Act, the Trustees shall control and supervise the business and affairs of the Trust in such a manner as they, in their sole discretion, see fit.

3.4 **Proceedings of Trustees**: Except as otherwise provided in this Deed the proceedings and other affairs of the Trustees shall be conducted in accordance with the rules set out in the Third Schedule.

3.5 **Trustees may appoint a Secretary**: The Trustees may appoint a non-voting Secretary who may be honorary, or may be a full-time or part-time employee of the Trust.

4. POWER TO APPOINT COUNCILS

4.1 **Appointment of Ngāti Apa ki te Rā Tō kaumatua council, rangatahi council or councils for other purposes including but not limited to Community Development Activities**: The Trustees may appoint from time to time Ngāti Apa ki te Rā Tō councils on such terms of appointment, and subject to such rules, regulations, meeting procedures and processes, as may be prescribed by the Trustees from time to time. The Trustees shall when making appointments take into consideration the desirability of Ngāti Apa ki te Rā Tō councils being broadly representative of Ngāti Apa ki te Rā Tō.

4.2 **Role of councils**: Councils of Ngāti Apa ki te Rā Tō will on request from the Trustees be responsible for advising the Trustees on matters including, but not exclusively, relating to the tikanga, reo, kawa, korero and whakapapa of Ngāti Apa ki te Rā Tō. Provided that nothing in this Deed shall be deemed or construed so as to make the seeking or following of advice obtained from Ngāti Apa ki te Rā Tō councils binding upon the Trust.

4.3 **Trustees not to be members of councils**: For the avoidance of doubt, a Trustee may not contemporaneously with his or her holding office as Trustee, be appointed to, or remain part of any council.

5. CHIEF EXECUTIVE OFFICER AND OTHER EMPLOYEES

5.1 **Trustees to appoint Chief Executive Officer**: The Trustees shall appoint a Chief Executive Officer to manage the day to day administration of the Trust including without limitation the implementation of the Trust's planning, reporting and monitoring obligations under this Deed.

5.2 **Delegations to Chief Executive Officer**: The Chief Executive Officer shall be responsible for the employment of all other employees of the Trust and shall exercise such other powers and discretions as are delegated to him or her by the Trustees from time to time.

5.3 **Trustee roles**: A Trustee may not hold the position of Chief Executive Officer and may not be an employee of the Trust.

6. TRUST TO ESTABLISH COMPANY

6.1 **Establishment of The Company**: In receiving, controlling, and supervising the use of the Trust's Assets on behalf of Ngāti Apa ki te Rā Tō, whether pursuant to the Deed of Settlement, the Māori Fisheries Act, the MCACS Act, and the Settlement Act or otherwise, the Trust shall establish and (subject to clause 6.6) oversee the operations of The Company.

6.2 **Ownership and control of The Company**: Subject to clause 6.6, The Company shall be 100% owned and controlled, whether directly or indirectly, by the Trust. To avoid doubt, the Trust may own and control The Company through a holding company or holding companies.

6.3 **The Company**: The Company, once established, may hold and shall as its objective and sole purpose manage those of the Trust's Assets that are of a commercial nature, which The Company may hold and shall manage on a prudent, commercial and profitable basis and in doing so shall conduct or otherwise undertake all Commercial Activities of the Ngāti Apa ki te Rā Tō Group, either itself or through any subsidiary or other entity established for that purpose, in the furtherance of the Trust's Purposes. The Company may establish subsidiaries or other entities to hold and manage the Trust's Assets on the same basis.

6.4 **Trust to monitor**: Subject to clause 6.6, in giving effect to the Trust's Purposes the Trustees shall be responsible for monitoring and otherwise overseeing the activities of The Company. The Trust through the Trustees shall also exercise its ownership or other rights and interests in The Company, or any holding company of the Company, in such a way as to promote the performance by The Company of its objectives and sole purposes as set out in this Deed.

6.5 **Assets held for Ngāti Apa ki te Rā Tō:** Subject to clause 6.6, all assets held and income derived by any member of the Ngāti Apa ki te Rā Tō Group, including The Company, shall be held and derived for the Trust's Purposes.

6.6 **Directors responsible for governance**: For the avoidance of doubt, all companies (including The Company and any of its holding companies or subsidiaries) and other entities within the Ngāti Apa ki te Rā Tō Group shall be governed by their respective boards and the role of the Trustees in respect of those companies and other entities shall be limited to the exercise of the rights conferred on the Trustees as shareholders, or (as applicable) appointor, and beneficiary of the relevant entity.

6.7 **Remuneration of directors and trustees**: The Trustees shall determine the remuneration payable to any:

(a) Director of The Company; and

(b) Trustee or director of any other member of the Ngāti Apa ki te Rā Tō Group provided that the Trustees are not entitled to any additional remuneration in their capacities as trustees of the Ngāti Apa ki te Rā Tō Group Charitable Trust.

6.8 **No influence in determining remuneration**: No Trustee receiving any remuneration as a trustee referred to in clause 6.7 shall take part in any deliberations or proceedings relating to the payment or otherwise of that remuneration nor shall the Trustee in any way determine or materially influence directly or indirectly the nature or amount of that payment or the circumstances in which it is to be paid.

7. APPOINTMENT OF DIRECTORS

7.1 **Appointment and removal of directors**: The directors of The Company and any holding company shall be appointed and removed by the Trustees.

7.2 **Directors of The Company**: There shall be not more than 5 and not less than 3 directors of The Company. If 3 directors are appointed, at least one director must be a Member of Ngāti Apa ki te Rā Tō; if 4 directors are appointed, at least two directors must be Members of Ngāti Apa ki te Rā Tō; and if 5 directors are appointed, at least 3 directors must be Members of Ngāti Apa ki te Rā Tō. The Chief Executive Officer or an employee of the Trust is eligible to be appointed a Director of The Company.

7.3 **Appointments with regard to skills and expertise**: A director of The Company shall only be appointed if that person has the particular skills and expertise that are required of a member of the board, and bearing in mind the activities that The Company undertakes or is likely to undertake in the future, and the mix of skills and expertise that is required on the board.

7.4 **Rotation of directors of The Company**:

Two of the directors of The Company shall retire from office as at the date chosen for the annual general meeting of The Company in every third year. The directors to retire shall be those who have been longest in office since their last appointment. However, in the case of directors who were last appointed on the same day, those to retire will be determined by agreement between those directors or, if agreement cannot be reached, by lot. Retiring directors will be eligible for reappointment.

8. APPLICATION OF INCOME

8.1 **The Company may apply income**: The Company shall in each Income Year remit to the Trust, any holding company of the Company and/or the Ngāti Apa ki te Rā Tō Charitable Trust (in the case of the Ngāti Apa ki te Rā Tō Charitable Trust, by way of donation) so much of the surplus income derived by The Company as is agreed between The Company and the Trust having regard to:

(a) The Company's objective and sole purpose in clause 6.3 of this Deed and the desirability of retaining and reinvesting income to meet that objective and purpose;

(b) The projected operating requirements of The Company and its subsidiaries as set out in their plans; and

(c) The responsibilities and duties of the directors of The Company to comply with the requirements of the Companies Act 1993.

8.2 **Trustees may apply income as they see fit**: Subject to any other requirements in this Deed, the Trustees may provide for the payment, application or appropriation, or decide to pay, apply or appropriate as much of the available income (including any funds remitted from The Company) in any Income Year for or towards the Trust's Purposes as the Trustees in their sole discretion think fit.

8.3 **Payments out of income**: The Trustees may in making any decisions about the application of income in any Income Year, decide to have set aside, deducted from, or paid out of income such amounts as the Trustees in their discretion think fit, including:

(a) As a reserve against losses and contingencies, and the Trustees may write off losses from time to time or resort to any reserve fund in mitigation of losses or for any other purpose; or

(b) As a reserve to meet fluctuations of income in future years and other contingencies.

8.4 **Matters to consider in applying income**: In making any decision as to the application of the income in any Income Year, the Trustees shall, in exercising their discretion:

(a) Determine how much of the income should cease to be income and be added to and form part of the capital of the Trust's Assets, provided that the Trustees may not in the Income Year convert the entire income of the Trust into capital; and

(b) Endeavour to act fairly in considering the present and future needs and interests of all Members of Ngāti Apa ki te Rā Tō.

8.5 **Accumulation in six months where income not applied**: Any income of the Trust from any Income Year that is not paid or applied in accordance with this clause 8 during or within the six months from the end of that Income Year shall be accumulated and any income so accumulated shall be added to and form part of the capital of the Trust's Assets and shall be subject to the trusts and powers declared in respect of the capital of the Trust's Assets.

9. PLANS

9.1 **Trustees to prepare Annual Plan**: The Trustees shall prepare no later than one month before the commencement of each Income Year an Annual Plan which specifies in respect of that Income Year the following information:

(a) The strategic vision of the Trust for the Ngāti Apa ki te Rā Tō Group;

(b) The nature and scope of the activities proposed by the Trust for the Ngāti Apa ki te Rā Tō Group in the performance of the Trust's Purposes;

(c) The ratio of capital to total assets;

(d) The performance targets and measurements by which performance of the Ngāti Apa ki te Rā Tō Group may be judged;

(e) The manner in which it is proposed that projected income will be dealt with; and

(f) Any proposals for the ongoing management of the Trust's Assets having regard to the interests of all Members of Ngāti Apa ki te Rā Tō.

9.2 In accordance with clause K7(2)(b) of the Māori Fisheries Act, the Annual Plan must also include:

(a) The objectives of the annual plan;

(b) The policy of the mandated iwi organisation in respect of sales and exchanges of settlement quota;

(c) Any changes in that policy from the policy for the previous year; and

(d) Any proposal to change the constitutional documents of any fishing company owned by the mandated iwi organisation.

9.3 **Trustees to prepare Five Year Plan**: The Trustees shall also produce within 18 months following the execution of this Deed, and update not less than every two years, a Five Year Plan. This plan shall set out the longer term vision of the Trust in respect of the matters referred to in clause 9.1(a) to (f) and shall include a statement by the Trustees of the commercial, management and distribution policies that the Trust intends to follow in respect of the Trust's Assets.

10. ANNUAL REPORTS, ACCOUNTS AND AUDITOR

10.1 **Trustees are accountable for the performance of the Trust**: The Trustees are accountable for the performance of the Ngāti Apa ki te Rā Tō Group to all Members of Ngāti Apa ki te Rā Tō and therefore have reporting responsibilities. These reporting responsibilities relate to the Ngāti Apa ki te Rā Tō Group, any asset-holding companies and any joint venture or other entity that conducts business using the Settlement Assets of the Trust.

10.2 **Preparation of Annual Report**: The Trustees must, within five months after the end of each Income Year, cause to be prepared an Annual Report on the affairs of the Ngāti Apa ki te Rā Tō Group covering the accounting period ending at the end of that Income Year which includes:

(a) A comparison of performance against the Annual Plan including:

(i) Information on the steps taken by the mandated iwi organization to increase the number of registered members;

(ii) Objectives set out in the Annual Plan including changes in shareholder or member value and dividend performance or profit distribution;

(b) Annual audited financial report, accounting separately for any settlement cash assets received under the Māori Fisheries Act or the MCACS Act;

(c) A report giving information of the sales and exchanges of Settlement Quota in the previous year in accordance with Kaupapa 7(2)(a)(iv) (A)-(F);

(d) A report on the Trust's interactions in fisheries matters:

(i) With other entities within Ngāti Apa ki te Rā Tō;

(ii) With other mandated iwi organisations; and

(iii) With Te Ohu Kai Moana Trustee Limited;

(e) Any changes to the constitutional documents of the Trust, its asset-holding companies or any subsidiaries of the asset-holding companies; and

(f) Consolidated Financial Statements including:

(i) A balance sheet and income and expenditure statement and notes to those documents so as to give a true and fair view of the financial affairs of the Ngāti Apa ki te Rā Tō Group for that Income Year;

(ii) As a separate item details of any remuneration or fees paid to any Trustee or any Trustee's firm (including without limitation any such payment to any Trustee as a director of The Company, or as a director or trustee of any other member of the Ngāti Apa ki te Rā Tō Group); and

(iii) Details of any premiums paid in respect of Trustees' indemnity insurance.

10.3 **Annual Report to be presented at annual general meeting**: The Annual Report must be made available not less than twenty working days before the annual general meeting.

10.4 **Audit of financial statements**: The Trustees must also ensure that the Consolidated Financial Statements for each Income Year are audited by a chartered accountant in public practice, prior to the date for giving notice of the annual general meeting of the Trust for the Income Year immediately following the Income Year to which the financial statements relate.

10.5 **Appointment of auditor**: The auditor shall be appointed by the Trustees prior to the end of the Income Year to which the audit relates and, where possible, the fee of the auditor shall also be fixed at that time. No Trustee or employee of the Trust (including any firm of which such a person is a member or employee) may be appointed as the auditor. For the avoidance of doubt, the Trust's accountant shall not be appointed as the auditor.

11. COMPANY PLANS AND REPORTS

11.1 **Group entities to prepare plans and Statements of Intent**: The Trustees shall procure that The Company will:

(a) Within six months of the Settlement Date prepare a Statement of Intent setting out its long term objectives and the general principles by which it proposes to operate;

(b) As required by the Trustees update the Statement of Intent to take into account changes in circumstances that may arise from time to time, including without limitation changes to the nature of its business and the business of any of its subsidiaries;

(c) No later than 18 months following the Settlement Date prepare a 5 year plan, which shall be updated not less than every 2 years, and which sets out its medium term vision and the specific steps that it proposes to take during that period to fulfil the objectives and principles set out in the Statement of Intent referred to in paragraph (a) of this clause;

(d) No later than 2 months following the completion of the 5 year plan referred to in paragraph (c) of this clause, and thereafter no later than 2 months before the commencement of each Income Year, prepare an annual plan setting out the steps to be taken in the relevant Income Year to meet its 5 year planning objectives and fulfil the objectives and principles of the Statement of Intent; and

(e) In addition to any normal reporting requirements, within 2 calendar months after the completion of the first, second and third quarter of each Income Year send to the Trust reports on its operations and financial position together with an unaudited summary of financial results as at the end of that period (such reports to be in such form as the Trust may require from time to time).

11.2 **Trustees' approval required**: Prior to being implemented all Statements of Intent, five year plans and annual plans must be approved by the Trustees. Such approval shall be given in light of the Trust's overall plans and policies in respect of the Trust's Assets and the Ngāti Apa ki te Rā Tō Group, and having regard to the specific roles of The Company as set out in clause 6. However, nothing in this clause shall allow the Trustees to give directions beyond approving or not approving any plan or Statement of Intent or otherwise exercising their powers as shareholders, appointor or beneficiary, with the intention that the directors of The Company shall otherwise retain full discretion in respect of the implementation of the plans and Statements of Intent.

11.3 **Reports by The Company to comply with Companies Act 1993**: The Trustees shall procure that all annual reports by The Company comply in all respects with the requirements of the Companies Act 1993, including without limitation:

(a) The description required by section 211(1)(a) of the Companies Act 1993 of the nature of the business of The Company or any of its subsidiaries, or the classes of business in which The Company has an interest, whether as a shareholder of another company or otherwise;

(b) The financial statements (or as appropriate group financial statements) for that Income Year completed and signed in accordance with the Financial Reporting Act 2013; and

(c) The auditor's report of the financial statements (or group financial statements) of The Company for that Income Year.

11.4 **Report to include comparison against plans**: In addition to the matters set out in clause 11.3, the Trustees shall procure that all reports by The Company include a comparison of their performance against both its respective annual plans for that Income Year and its medium and longer term planning objectives (as set out in the five (5) year plans and Statement of Intent).

11.5 **Protection of sensitive Information**: For the avoidance of doubt, nothing in this clause 11 limits or affects the rights of the Trustees, as shareholders in The Company, to agree pursuant to section 211(3) of the Companies Act 1993 not to include information in the annual report of The Company where the Trust considers on reasonable grounds that the information is commercially or otherwise sensitive.

12. DISCLOSURE OF PLANS, REPORTS AND MINUTES

12.1 **Documents to be available for inspection**: The Trustees shall hold at the offices of the Trust and make available for inspection by any Member of Ngāti Apa ki te Rā Tō during normal business hours on any Business Day:

(a) The Annual Report for each of the preceding three Income Years;

(b) The Consolidated Financial Statements for the preceding three income Years;

(c) The Annual Plan;

(d) The Five Year Plan;

(e) The Statements of Intent;

(f) The minute book kept in accordance with clause 14.14 of all decisions taken and business transacted at every annual general meeting and special general meeting; and

(g) Their own personal details on the Register.

12.2 **Costs of copying**: Any Member of Ngāti Apa ki te Rā Tō shall be entitled to obtain copies of this information. However the Trustees shall also be entitled to recover at their discretion all reasonable copying or postage costs (if any).

13. NO DISCLOSURE OF SENSITIVE INFORMATION

13.1 For the avoidance of doubt but subject to the reporting obligations under this Trust in clauses 10.2, 12.1(a), 12.1(b), 12.1(f), 14.1(a) and 14.1(b), the Trustees may at their sole discretion limit disclosure of any information about the activities or proposed activities of the Trust and the Ngāti Apa ki te Rā Tō Group which the Trustees consider on reasonable grounds to be commercially or otherwise sensitive.

14. GENERAL MEETINGS

14.1 **Trustees to hold annual general meeting**: The Trustees shall no later than six calendar months after the end of each Income Year, and in any event no more than 15 months after the date of the last annual general meeting of the Trust, hold a general meeting for the Members of Ngāti Apa ki te Rā Tō, to be called its annual general meeting, and shall at that meeting:

(a) Report on the operations of the Ngāti Apa ki te Rā Tō Group during the preceding Income Year;

(b) Present the Annual Report and duly audited Consolidated Financial Statements;

(c) Present the proposed Annual Plan;

(d) Announce the names of all newly appointed Trustees;

(e) Approve the appointment of the auditor for the next Income Year;

(f) Approve the Trustees' remuneration;

(g) Undertake all other notified business; and

(h) At the discretion of the Chairperson, undertake any other general business raised at that meeting.

14.2 **Approval of Trustees' remuneration**: No remuneration will be paid to a Trustee in his or her capacity as a Trustee unless that remuneration has been authorised by a resolution of the Adult Registered Members of Ngāti Apa ki te Rā Tō Trust present at the annual general meeting. This clause does not apply to any remuneration paid to any Trustee in his or her capacity as a director of The Company, or a director or trustee of any other member of the Ngāti Apa ki te Rā Tō Group and that remuneration shall be determined by the Trust pursuant to clauses 6.7 and 6.8.

14.3 **Notice of general meeting**: The Trustees shall give not less than twenty-one (21) days' notice of the holding of the annual general meeting, such notice to be posted (including, by electronic form where available) to all Adult Registered Members of Ngāti Apa ki te Rā Tō Trust at the last address shown for each such Adult Registered Member of Ngāti Apa ki te Rā Tō Trust on the Ngāti Apa ki te Rā Tō Register. Notice of the meeting shall also be inserted prominently in appropriate major metropolitan newspapers circulating in New Zealand and in any provincial newspapers circulating in regions where the Trustees consider that a significant number of Members of Ngāti Apa ki te Rā Tō reside. All such notices shall contain:

(a) The date, time and place of the meeting;

(b) An agenda of matters to be discussed at the meeting; and

(c) Details of where copies of any information to be laid before the meeting may be inspected.

14.4 **Request for a special meetings to be convened**: In addition to the annual general meeting of the Trust, the Trustees shall convene a special general meeting of the Trust on the requisition of:

(a) The Chairperson and Deputy Chairperson for the time being of the Trust; or

(b) Any 3 Trustees; or

(c) 10 percent of Adult Registered Members of Ngāti Apa ki te Rā Tō Trust.

14.5 **Notice of special meetings**: Notice of such a meeting shall be given in the same manner as for a notice of the annual general meeting and those requisitioning the meeting shall be required to provide a statement to the Trustees setting out the purposes for which the meeting has been requisitioned and the specific agenda items proposed for such a meeting. The Trustees shall not be required to give notice calling the meeting until such a statement with agenda items has been received.

14.6 **Special meeting limited to notified business**: No business shall be transacted at any special general meeting other than the business expressly referred to in the notice calling that meeting.

14.7 **Invalidation**: The accidental omission to give notice to, or a failure to receive notice of an annual or special general meeting by an Adult Registered Member of Ngāti Apa ki te Rā Tō Trust does not invalidate the proceedings at that meeting.

14.8 **Deficiency of notice**: Subject to clause 14.7, a deficiency or irregularity in a notice of any special or general meeting will not invalidate anything done at the meeting if:

(a) The deficiency or irregularity is not material; and

(b) The Adult Registered Members of Ngāti Apa ki te Rā Tō Trust who attend the meeting agree to waive the deficiency or irregularity.

14.9 **Quorum**: The quorum required for any annual or special general meeting of the Trust shall be twenty five (25) Adult Registered Members and at least four (4) Trustees present in person.

14.10 **Chairing of meetings**: The Chairperson for the time being of the Trust will be the chairperson of any annual or special general meeting and will preside over and have control over the meeting. If the Chairperson is not present at the time appointed for holding a meeting, then the Deputy Chairperson shall be the chair. If the Deputy Chairperson is also not present, then the Trustees present shall elect one of their number to substitute as the chairperson for that meeting.

14.11 **Voting**: To the extent that a vote is sought or required at any annual or special general meeting, every Adult Registered Member of Ngāti Apa ki te Rā Tō Trust present shall have one vote. All resolutions, except Special Resolutions, require the approval of more than 50 per cent of the Adult Registered Members of Ngāti Apa ki te Rā Tō Trust who validly cast a vote. Voting may be by voice or on a show of hands. The chairperson of the meeting may also demand a poll on a resolution either before or after any vote, which among other things, requires the Adult Registered Members to verify their eligibility by a process directed by the chairperson of the meeting. However, except as provided in clauses 2.6, 14.1(f), 14.2, 27.1 to 27.3 and 28 and in the Fourth Schedule the Trustees shall not be bound by a resolution passed at any annual or special general meeting, but will only be required to give consideration to any such resolution in administering the Trust's Assets and carrying out the Trust's Purposes.

14.12 **Adjourned meetings**: If within one hour of the time appointed for an annual or special general meeting, a quorum is not present, the meeting will stand adjourned to be reconvened 20 Business Days after the date of the meeting. Notice of the reconvened meeting shall be given by the Trustees to the Adult Members of Ngāti Apa ki te Rā Tō not less than fourteen (14) days before the meeting is held. The new meeting will be held again at the same time and in the same place as the adjourned meeting. If a quorum is not present within one hour from the time appointed for that adjourned meeting, the Adult Registered Members of Ngāti Apa ki te Rā Tō Trust present together with at least 4 trustees will constitute a quorum.

14.13 **Unruly meetings**: If any general meeting becomes so unruly or disorderly that in the opinion of the chairperson of the meeting the business of the meeting cannot be conducted in a proper and orderly manner, or if any meeting in the opinion of the chairperson becomes unduly protracted, the chairperson may, and without giving any reason, adjourn the meeting and may direct that any uncompleted item of business of which notice was given and which, in his or her opinion, requires to be voted upon, be put to the vote by a poll, without further discussion.

14.14 **Minutes**: The Trust shall keep a proper record in a minute book of all decisions taken and business transacted at every annual general meeting and special general meeting.

14.15 **Minutes to be evidence of proceedings**: Any minute of the proceedings at an annual general meeting or a special general meeting which is purported to be signed by the Chairperson at that meeting shall be evidence of those proceedings.

14.16 **Minutes to be evidence of proper conduct**: Where minutes of an annual general meeting or a special general meeting have been made in accordance with this clause then, until the contrary is proven, the meeting shall be deemed to have been properly convened and its proceedings to have been conducted properly.

15. DISCLOSURE OF INTERESTS

15.1 **Definition of interested Trustee**: A Trustee will be interested in a matter if the Trustee:

(a) Is a party to, or will derive a material financial benefit from that matter:

(b) Has a material financial interest in another party to the matter;

(c) Is a director, officer or trustee of another party to, or person who will or may derive a material financial benefit from, the matter, not being a party or person that is another member of the Ngāti Apa ki te Rā Tō Group;

(d) Is the parent, child or spouse of another party to, or person who will or may derive a material financial benefit from, the matter; or

(e) Is otherwise directly or indirectly interested in the matter.

15.2 **Disclosure of interest to other Trustees**: A Trustee must forthwith after becoming aware of the fact that he or she is interested in a transaction or proposed transaction with the Trust, disclose to his or her co-Trustees at a meeting of the Trust:

(a) If the monetary value of the Trustee's interest is able to be quantified, the nature and monetary value of that interest; or

(b) If the monetary value of that Trustee's interest cannot be quantified, the nature and extent of that interest.

15.3 **Recording of interest**: The Trustees shall keep an Interest Register in which the disclosure of interest by a Trustee (including the nature and the extent or monetary value of that interest) shall be recorded. In addition the interest shall be recorded in the minute book of the trust. Immediately following his or her appointment as a Trustee, each Trustee must enter into the minute book and must disclose in writing to the other Trustees, the name of any iwi of which he or she is a member or beneficiary, and the Trustee must also, at any time after his or her appointment, enter into the minute book and disclose to the next meeting of the Trustees, any interest of which that Trustee becomes aware.

16. DEALINGS WITH INTERESTED TRUSTEES

16.1 An interested Trustee shall not take part in any deliberation or vote in respect of any matter in which that Trustee is interested, nor shall the Trustee be counted for the purposes of forming a quorum in any meeting to consider such a matter.

17. INTERESTS IN COMMON WITH NGĀTI APA KI TE RĀ TŌ

17.1 No Trustee will be interested in a matter for the purposes of clause 15 or 16 where that Trustee is a Member of Ngāti Apa ki te Rā Tō and where his or her interest is not different in kind from the interests of other Members of Ngāti Apa ki te Rā Tō.

18. PROHIBITION OF BENEFIT OR ADVANTAGE

18.1 In the carrying on of any business by any member of the Ngāti Apa ki te Rā Tō Group under this Deed, and in the exercise of any power authorising the remuneration of the Trustees, no benefit, advantage or income shall be afforded to, or received, gained, achieved or derived by any Related Person where that Related Person, in his or her capacity as a Related Person, is able by virtue of that capacity in any way (whether directly or indirectly) to determine, or to materially influence the determination of the nature or amount of that benefit, advantage or income, or the circumstances in which that benefit, advantage or income is, or is to be, so afforded, received, gained, achieved or derived.

19. TRUSTEE REMUNERATION

19.1 The following provisions shall apply to the payment of remuneration to the Trustees:

(a) The Trustees may in their discretion, after seeking professional external advice about suitable remuneration, prescribe reasonable remuneration for the Trustees and for the Chairperson to be paid out of the Trust's Assets.

(b) Unless prescribed by a third party in the terms of any funding contract, no remuneration shall be paid to a Trustee in his or her capacity as a Trustee until that remuneration has been approved by ordinary resolution at a general meeting except for the first financial year where approval will be sought by ratification.

(c) Such remuneration may be prescribed and approved in the form of a meeting fee or as a total amount payable per annum.

(d) In addition, any Trustee may receive full reimbursement of all expenses properly incurred by that Trustee in the conduct of his or her duties as a Trustee.

This clause does not apply to any remuneration paid to any Trustees in his or her capacity as a director, trustee or board member of the Ngāti Apa ki te Rā Tō Group providing that the amount of all such remuneration is included in a report accompanying any resolution for the purposes of this clause.

19.2 The Trustees shall, in accordance with clause 10.2, show the amount of any remuneration paid to or fees charged by, any Trustee or any Trustee's firm and the amount of any premiums paid out of the Trust's Assets for any Trustee indemnity insurance separately in the financial statements including any payments made pursuant to clause 22.

20. ADVICE TO TRUSTEES

20.1 **Trustees may rely on advice**: The Trustees may, when exercising their powers or performing their duties, rely on reports, statements and financial data and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:

(a) An employee of the Trust whom the Trustees believe on reasonable grounds to be reliable and competent in relation to the matters concerned; and

(b) A professional adviser or expert in relation to matters which the Trustees believe on reasonable grounds to be within the person's professional or expert competence.

20.2 **Trustees may obtain Barrister's opinion**: If the Trustees are in doubt over any matter relating to the management and administration of the Trust's Assets, or over the exercise of any power vested in them, they may obtain and act upon the opinion of a Barrister of the High Court of New Zealand of at least seven years' standing. This right to obtain and act upon a Barrister's opinion, however, will not restrict any right on the part of the Trustees to apply to the High Court of New Zealand for directions.

21. LIABILITY OF TRUSTEES

21.1 A Trustee shall only be liable for losses attributable to his or her dishonesty or to his or her wilful commission or omission of an act which he or she knows or should have known to be a breach of this Deed. In particular, no Trustee shall be bound to take, or be liable for failing to take, any proceedings against a co-Trustee for any such breach or alleged breach.

22. INDEMNITY AND INSURANCE

22.1 **Indemnity and insurance for Trustees**: Any Trustee, officer or employee of the Trust or any member of the Ngāti Apa ki te Rā Tō Group may be indemnified or have their insurance costs met out of the Trust's Assets against any liability which he or she incurs in defending any civil or criminal proceedings issued because of his or her actions in relation to the Trust or any member of the Ngāti Apa ki te Rā Tō Group, where those proceedings do not arise out of any failure by the Trustee, officer or employee and he or she was acting in good faith in a manner that he or she believed to be in the best interests of the Trust or any member of the Ngāti Apa ki te Rā Tō Group with the object of fulfilling the Trust's Purposes.

22.2 **Indemnify and insurance costs to be just and equitable**: All indemnities and insurance costs may only be provided to the extent that the Trustees in their discretion think just and equitable.

22.3 **Record of decisions**: All decisions made under this clause 22 to give or approve indemnities or meet or approve any insurance costs shall be recorded in the minutes of the meeting at which such a decision was made together with the reasons why such indemnities or insurance costs were thought by the Trustees to be just and equitable.

22.4 **Indemnity and insurance regarding/ in relation to specific trusts**: If any assets are held by the Trustees on any separate specific trust then any Trustee, officer or employee of the Trust may in respect of proceedings brought in relation to that separate specific trust only be indemnified or have their insurance costs met out of those assets.

23. NGĀTI APA KI TE RĀ TŌ NOT TO BE BROUGHT INTO DISREPUTE

23.1 **Trustees not to bring into disrepute**: No Trustee shall act in a manner which brings or is likely to bring the Trust or any member of the Ngāti Apa ki te Rā Tō Group into disrepute.

23.2 **Directors not to bring into disrepute**: The Trustees shall also require that any directors or trustees appointed by or at the direction of the Trustees to any company (or as applicable) any trust in which the Trust has an interest do not act in a manner which brings or is likely to bring the Trust or any member of the Ngāti Apa ki te Rā Tō Group into disrepute.

23.3 **Trustee may be censured or removed**: Any Trustee that acts in a manner that brings or is likely to bring into disrepute the Trust or any member of the Ngāti Apa ki te Rā Tō Group may, by a resolution passed by a majority of not less than 75% of the other Trustees, be formally censured or removed from office.

23.4 **Censure or removal to be notified**: The censure or removal of a Trustee in accordance with this clause shall, together with reasons, be reported to the Members of Ngāti Apa ki te Rā Tō at the next annual general meeting of the Trust following such censure or removal.

23.5 **Effect of removal**: A Trustee removed from office in accordance with clause 23.3 shall cease to hold office as a Trustee forthwith and shall not be entitled to be re-elected as a Trustee for a period of not less than 3 years following his or her removal.

24. GIFTS OR DONATIONS

24.1 **Trustees may accept specific trusts**: Notwithstanding any other provision in this Deed, the Trustees may accept or otherwise deal with any property upon trust for the purposes of the Trust or for any specific purpose that comes within the Trust's Purposes. Such a trust may include any trust for the benefit of the Members of Ngāti Apa ki te Rā Tō or any of them. Any property held by the Trustees pursuant to this clause shall be dealt with in accordance with the terms of the specific trust and shall not constitute part of the Trust's Assets.

24.2 **Specific trusts to be separate**: If the Trustees accept a trust for any specific purpose as outlined in clause 24.1 above if must keep the property subject to such trust and any income derived from it, separate from the Trust's Assets, and administer that property and income as a separate specific trust in terms of the specific trust under which it was accepted.

24.3 **Use of specific trust assets**: The Trustees shall not use the assets of any separate specific trust to make good any deficit, loss, damage or breach of trust relating to any other assets that the Trustees may hold, and the Trustees shall also not use the Trust's Assets to make good any deficit, loss, damage or breach of trust relating to any specific trust.

24.4 **Expenses of specific trusts**: Each separate specific trust shall bear its own administration expenses plus a fair proportion (determined by the Trustees) of the administration expenses applicable to the Trust.

25. RECEIPTS FOR PAYMENTS

25.1 The receipt of the Trust signed by any person or persons authorised to give receipts on behalf of the Trust, shall be a complete discharge from the Trust for that payment.

26. CUSTODIAN TRUSTEE

26.1 The Trustees may appoint or incorporate a limited liability company as a custodian trustee and on any such appointment or incorporation the following provisions shall have effect:

(a) The Trust's Assets may be vested in the custodian trustee as if the custodian trustee were sole Trustee;

(b) The sole function of the custodian trustee shall be to hold the Trust's Assets, invest its funds and dispose of the assets in accordance with any direction in writing by the Trustees for which purpose the custodian trustee shall execute all such documents and perform all such acts as the Trustees in writing direct;

(c) The custodian trustee shall not be liable for acting on any such direction, provided that if the custodian trustee is of the opinion that any such direction conflicts with the trusts or the law or exposes the custodian trustee to any liability or is otherwise objectionable, the custodian trustee may apply to the Court for directions and any order giving any such directions shall bind both the custodian trustee and the Trustees;

(d) The custodian trustee shall not be liable for any act or default on the part of any of the Trustees;

(e) All actions and proceedings touching or concerning the Trust's Assets may be brought or defended in the name of the custodian trustee at the written direction of the Trustees and the custodian trustee shall not be liable for the costs; and

(f) No person dealing with the custodian trustee shall be concerned to enquire as to the concurrence or otherwise of the Trustees, or be affected by notice of the fact that the Trustees have not concurred.

27. AMENDMENTS TO DEED

27.1 **Special Resolution required**: Subject to clause 27.2, all amendments to this Deed shall only be made with the approval of a Special Resolution passed in accordance with the Fourth Schedule.

27.2 **Limitations on Amendment**: No amendment shall be made to this Deed which:

(a) Changes the Trust's Purposes so that the Trustees are no longer required to act for the collective benefit of the present and future Members of Ngāti Apa ki te Rā Tō;

(b) Changes this clause 27.2;

(c) Changes clause 28;

(d) Changes the requirement for a Special Resolution (as defined from time to time) in clause 27.1;

(e) No amendment may be inconsistent with the Māori Fisheries Act; and

(f) No amendment may be made earlier than two years after the date on which the Trustees are recognized by Te Ohu Kai Moana Trustee Limited as the Mandated Iwi Organisation for Ngāti Apa ki te Rā Tō which relates to a matter provided for, by or under the Māori Fisheries Act unless the amendment is required as a consequence of a rule made or amended under section 25 of the Māori Fisheries Act.

27.3 **Consideration of proposals**: Any Adult Member of Ngāti Apa ki te Rā Tō may put forward for consideration by the Trustees proposals for amendments to the Deed. Any proposal put forward under this clause 27.3 must be in writing and addressed to the Chairperson at the registered office of the Trust. Any proposal put forward under this clause 27.3 must be considered by the Trustees at their next available meeting. If the proposal has merit, the Trustees may call a special general meeting to ask Members of Ngāti Apa ki te Rā Tō approve the amendments are for the collective benefit of all Members of Ngāti Apa ki te Rā Tō. Should the special general meeting so approve the amendments the Trustees may call for the amendments to be voted on as a Special Resolution in accordance with the Fourth Schedule.

27.4 **Notification to Members of Ngāti Apa ki te Rā Tō**: Any amendment or proposal under clauses 27 or 28 must be notified to Members of Ngāti Apa ki te Rā Tō in its next communication to them.

27.5 **Proposals to be discarded**: Where a proposal for amendments to the Deed does not comply with clauses 27.2 and 27.3, the Trustees may discard the proposal and the Trustees will not be required to call a special general meeting in accordance with the Fourth Schedule.

28. TERMINATION OF TRUST

28.1 Subject to clause 27.2:

(a) The Trust established by this Deed shall only be terminated or dissolved if the Adult Members of Ngāti Apa ki te Rā Tō and Adult Registered Members of Ngāti Apa ki te Rā Tō Trust have, by Special Resolution in accordance with the Fourth Schedule, resolved that it has become impossible, impracticable or inexpedient to carry out the Trust's Purposes; and

(b) On the termination or dissolution of this trust, the Trust's Assets after the payment of costs, debts and liabilities shall be paid to another trust or entity that has been established for the benefit of the present and future Members of Ngāti Apa ki te Rā Tō.

28.2 **The Trustees can settle or resettle Trust Assets**: The Trustees also have power in their discretion to settle or resettle any or all of the Trust's Assets upon trust in any manner which in the opinion of the Trustees is for the advancement or benefit of the Members of Ngāti Apa ki te Rā Tō (including for the avoidance of doubt upon a charity that is (a) for the advancement of education or the relief of poverty or for other purposes beneficial to the community and (b) for the benefit of the Members of Ngāti Apa ki te Rā Tō; provided that:

(a) The resettlement is approved by Special Resolution, in accordance with the Fourth Schedule; and

(b) The resettlement does not transgress the rule against perpetuities (if applicable) as it applies to the Trust.

29. PERPETUITIES

29.1 Unless stated otherwise in the Settlement Act, the perpetuity period for the Trust is the period that commences on the date of this Deed and ends eighty years less one day after that date of this Deed, that period being within the perpetuities period permitted by section 6 of the Perpetuities Act 1964 and the perpetuities period applicable to the Trust is hereby specified accordingly.

30. ARCHIVING OF RECORDS

30.1 **Records to be held for seven years**: All minutes and other records of any proceedings of the Trust and any companies and other entities in the Ngāti Apa ki te Rā Tō Group shall be held by the Trustees and those companies and other entities at their registered offices for a period of seven years.

30.2 **Records to be archived**: At the expiry of seven years the Trustees shall archive the records of the Trust and the companies and other entities in the Ngāti Apa ki te Rā Tō Group for such period as the Trustees consider necessary.

30.3 **Records may be retained for longer**: Notwithstanding clauses 30.1 and 30.2 the Trust and any of the companies and other entities within the Ngāti Apa ki te Rā Tō Group may hold on to any records for a period exceeding seven years if in their discretion such records contain information that is commercially or otherwise sensitive or is still required by the Trust or entity to which the information relates.

31. DISPUTE RESOLUTION

31.1 **Disputes**: In the event that a dispute arises regarding membership or otherwise in connection with the tikanga, reo, kawa, whakapapa and korero of Ngāti Apa ki te Rā Tō then that dispute shall be referred in first instance to the Trustees.

31.2 **Notice of dispute**: All disputes referred to the Trustees in accordance with clause 31.1 shall be submitted to the Trustees by notice in writing and the Trustees shall acknowledge receipt in writing within 10 Business Days of the date of receipt of the notice.

31.3 **Reference of dispute**: If a dispute is not settled within 30 days of the receipt by the Trustees of written notice of the dispute in accordance with clause 31.2 then it shall be referred to a Disputes Committee constituted in accordance with clause 31.4 and 31.5.

31.4 **Dispute Committee to be appointed as required**: There shall not be a permanent Disputes Committee. Disputes Committees shall be appointed on a case by case basis, having regard to the precise subject matter of the dispute, in question, and only after the expiry of the 30 day period referred to in clause 31.3.

31.5 **Appointment and composition of Disputes Committee**: A Disputes Committee shall comprise four members who shall be appointed by the Trustees as follows:

(a) One independent (non-Ngāti Apa ki te Rā Tō) member nominated by the President from time to time of the Nelson District Law Society or his or her nominee, such member to be a barrister or solicitor with 7 or more years' experience, to act as the chair of the Dispute Committee; and

(b) Two Adult Registered Members of Ngāti Apa ki te Rā Tō Trust appointed for their skills and expertise in dealing with the issues that are the subject of the relevant dispute, provided that such members cannot also be Trustees or employees of the Trust; and

(c) One member of the Ngāti Apa ki te Rā Tō kaumatua council (if one is formed). If no kaumatua council is formed, then one additional Adult Registered Member of Ngāti Apa ki te Rā Tō Trust shall be appointed the Disputes Committee.

31.6 **Role of Disputes Committee**: The role of a Disputes Committee shall be to facilitate and make findings and decisions on the disputes referred to it.

31.7 **Deliberations of Disputes Committee**: In dealing with any dispute a Disputes Committee shall, subject to meeting the requirements of natural justice, have the sole discretion to call for evidence and determine the manner in which a dispute before it should be dealt with. The findings and decisions of a Disputes Committee shall be final and binding on the parties.

31.8 **Disputes Committee may convene hui**: In facilitating the resolution of any dispute a Disputes Committee may convene a general meeting of Ngāti Apa ki te Rā Tō in order to discuss the matters that are in dispute.

31.9 **Hui to meet notice requirements:** Any general meeting called by a Disputes Committee in order to try to settle any disputes shall be called in accordance with the requirements as to notice and meeting procedure that apply in respect of general meetings of Ngāti Apa ki te Rā Tō as set out in this Deed.

31.10 **Notification of Outcome**: A Disputes Committee shall give its findings and decision, together with the reasons therefore, in writing to the Trustees and any other party to the dispute.

FIRST SCHEDULE
NGĀTI APA KI TE RĀ TŌ REGISTER

1. **TRUST TO KEEP REGISTER**

1.1 **Trustees to establish Register**: The Trustees may enter in the Ngāti Apa ki te Rā Tō Register any existing member of Ngāti Apa ki Te Waipounamu Trust as a Member of Ngāti Apa ki te Rā Tō Trust whose details are already held by the Trustees where:

(a) The details held by the Trustees fulfil the requirements of Kaupapa 5 of the Māori Fisheries Act; and

(b) The particulars were acquired by the Trustees as a result of an application on a registration form which complied with rules 3.1 and 3.2 of this Schedule.

All Adult Registered Members of Ngāti Apa ki te Rā Tō Trust registered under this clause shall receive ballot papers and private notice unless they request otherwise.

1.2 **Trustees to maintain Register**: The Trustees shall administer and maintain the Ngāti Apa ki te Rā Tō Register which is a register of the Members of Ngāti Apa ki te Rā Tō Trust. The Trust shall make ongoing efforts to register all Members of Ngāti Apa ki te Rā Tō.

1.3 **Register to comply with this Schedule**: The Ngāti Apa ki te Rā Tō Register shall be confirmed and maintained in accordance with the rules and procedures set out in this Schedule.

2. **CONTENTS OF REGISTER**

2.1 **Register to contain Members' details**: The Ngāti Apa ki te Rā Tō Register shall record in it the full names, dates of birth, postal addresses and hapu affiliations of the Members of Ngāti Apa ki te Rā Tō.

2.2 **Beneficiary registration number**: The Trustees will allocate a beneficiary identification number to each Adult Registered Member of Ngāti Apa ki te Rā Tō on the Register. The Trust will immediately after allocation, notify the relevant Adult Registered Member of Ngāti Apa ki te Rā Tō Trust of his or her beneficiary identification number.

3. **APPLICATIONS FOR REGISTRATION**

3.1 **Form of Application**: All applications for registration as a Member of Ngāti Apa ki te Rā Tō must be made in writing to the Trustees on an application form supplied by the Trust that must contain:

(a) The full name, date of birth and postal address of the applicant;

(b) The whakapapa (genealogical connections, including hapu affiliations) through which the applicant claims affiliation to Ngāti Apa ki te Rā Tō; and

(c) Such evidence as the Trust may from time to time require as to that applicant's status as a Member of Ngāti Apa ki te Rā Tō.

3.2 **Applications to be made by**: An application for registration as a Member of Ngāti Apa ki te Rā Tō may be made by:

(a) Adult Members of Ngāti Apa ki te Rā Tō who are aged 18 years or over, on their own behalf or by their legal guardian;

(b) Members of Ngāti Apa ki te Rā Tō who are under the age of 18 years, by their parent or legal guardian on their behalf;

(c) Other Members of Ngāti Apa ki te Rā Tō by a Member of Ngāti Apa ki te Rā Tō who is aged 18 years or over, on their behalf who, in the opinion of the Membership Validation Committee, stands in the stead of a parent of that person; or

(d) Other individuals who are recognised as Ngāti Apa ki te Rā Tō by customary adoption in accordance with Ngāti Apa ki te Rā Tō tikanga. Such individuals must be Māori.

4. **DECISIONS AS TO MEMBERSHIP**

4.1 **Membership Validation Committee to be established**: The Trustees shall establish a Membership Validation Committee to make decisions on all applications made pursuant to rule 3 of this Schedule.

4.2 **Composition of Membership Validation Committee**: The Membership Validation Committee shall comprise not less than 3 and not more than 5 Adult Registered Members of Ngāti Apa ki te Rā Tō Trust, with the expertise and knowledge of Ngāti Apa ki te Rā Tō whakapapa necessary to make determinations regarding membership applications. Appointments will be made by the Trustees, from time to time, as required. Trustees with the required expertise and knowledge of Ngāti Apa ki te Rā Tō whakapapa may be appointed to the Membership Validation Committee.

4.3 **Consideration of applications**: All applications for membership pursuant to rule 3 of this Schedule together with any supporting evidence shall be forwarded by the Trustees to the Membership Validation Committee. Any applications without supporting evidence shall be returned to the applicant with an explanation of the evidence required.

4.4 **Decisions to be made on applications**: Upon receipt of an application for membership in accordance with rule 3 of this Schedule the Membership Validation Committee shall consider the application and shall make a decision as to whether the application should be accepted and the applicant registered as a Member of Ngāti Apa ki te Rā Tō.

4.5 **Successful applications to be notified and registered**: In the event that the Membership Validation Committee decides that the application should be accepted then such decision shall be notified in writing to the Trustees, who shall in turn notify the applicant and enter the applicant's name and other relevant details (including beneficiary identification number in accordance with rule 2.2 of this Schedule) in the appropriate part of the Ngāti Apa ki te Rā Tō Register.

4.6 **Notification of unsuccessful applicants**: In the event that the Membership Validation Committee decides to decline the application for registration as a Member of Ngāti Apa ki te Rā Tō then such decision shall be conveyed in writing to the Trustees, together with the reasons for the decision. The Trustees shall then notify the applicant in writing of the decision together with the reasons given for the decision.

4.7 **Unsuccessful applicant may reapply**: Any applicant whose application has been declined may at any time seek to have his or her application reconsidered by the Membership Validation Committee provided that such application for reconsideration may only be made on the basis of new evidence (being evidence that was not submitted or considered as part of the initial or, if more than one, any previous application) as to the applicant's status as a Member of Ngāti Apa ki te Rā Tō.

4.8 An applicant whose application has been declined can choose to lodge a dispute in accordance with the dispute resolution process outlined in clause 31.

5. MAINTENANCE OF REGISTER

5.1 **Trust to establish policies**: The Trustees shall take such steps and institute such policies as are necessary to ensure that the Ngāti Apa ki te Rā Tō Register is maintained in a condition that is as up to date, accurate and complete as possible in recording the Members of Ngāti Apa ki te Rā Tō, including taking steps to ensure that, upon the receipt of appropriate evidence, the names of any deceased Members of Ngāti Apa ki te Rā Tō are removed from the Register.

5.2 **Assistance in Identifying membership**: In maintaining the Ngāti Apa ki te Rā Tō Register the Trustees shall include in the policies that it develops, policies for assisting in the identification and registration of those Members of Ngāti Apa ki te Rā Tō that are not for the time being on the Ngāti Apa ki te Rā Tō Register. Such policies shall include policies as to the nature of the assistance that the Trustees will provide to those persons that believe that they are Members of Ngāti Apa ki te Rā Tō but for whatever reason are not able to establish such membership.

5.3 **Responsibility of Members of Ngāti Apa ki te Rā Tō**: Notwithstanding rules 1.1, 1.2 and 5.2 of this Schedule it shall be the responsibility of each person who is a Member of Ngāti Apa ki te Rā Tō (or in the case of those persons under 18 years, the parent or guardian of that person) to ensure that his or her name is included in the Ngāti Apa ki te Rā Tō Register and that his or her full postal address for the time being is provided and updated.

5.4 **Consequences of registration**: Registration of any person on the Ngāti Apa ki te Rā Tō Register as a Member of Ngāti Apa ki te Rā Tō Trust shall be conclusive evidence of that person's status as a Member of Ngāti Apa ki te Rā Tō.

(b) As at the date of the annual general meeting of the Trust in the second Income Year following the Settlement Date, a further four of the Initial Trustees, shall retire and an election shall be held for four Trustee positions and those positions shall thereafter hold an election every three years;

(c) For those Trustees due to retire, their effective date of retirement is the date of the annual general meeting; and

(d) If due to a delay in the holding of an annual general meeting, a Trustee will reach the limit of their tenure as a Trustee before the annual general meeting when they are due to retire, that Trustee shall be deemed to have retired as of the date that their tenure is due, regardless of whether the annual general meeting has been held.

4.3 **Order of retirement of Initial Trustees**: The order of retirement of the Initial Trustees under rule 4.2 of this Schedule shall be determined by agreement failing which the determination shall be made by the drawing of lots.

4.4 **Term following retirement of Initial Trustees**: Following the retirement of the Initial Trustees in accordance with rule 4.2 of this Schedule, each Trustee shall hold office until the conclusion of the annual general meeting of the Trust in the third Income Year following his or her appointment. However, if because of a review of the election of a Trustee's replacement under rule 13 of this Schedule the appointment of that Trustee's replacement has not been completed as at the expiry of the Trustee's term, then that Trustee shall continue to hold office by virtue of his or her previous appointment until the review process is completed. For the purposes of calculating the term of the replacement Trustee, that replacement Trustee shall, once he or she takes office, be deemed to have taken office on the date upon which the term of office of the previous Trustee expired, being the date of the relevant annual general meeting.

4.5 Four (4) Trustees shall retire on the date of the AGM in 2016. An election shall be held in that year for two (2) Trustee positions. To maintain the required Hapu balance, both Trustees elected will represent the Tarakaipa Hapu. Those positions shall thereafter hold an election every 3 years.

4.6 A further four (4) Trustees shall retire on the date of the AGM in 2017. An election shall be held in 2017 for four (4) trustee positions. Of these, the two highest polling candidates will be elected for a three year term, with the next two highest polling candidates being elected for a one year term. At all times, the Hapu balance shall be maintained and those positions will revert to a three year term at the next election.

4.6A To account for the changes to the Trust's balance date and income year in 2027 and to ensure that no Trustee's term exceeds 3 years, the following modifications to trustee term adjustments apply:

(a) The terms of Trustees elected at the AGM held in September 2025 expire at the first AGM held after the income year ending 30 September 2027;

(b) The terms of Trustees elected at the AGM held in September 2026 expire at the first AGM held after the income year ending 30 September 2028; and

(c) The terms of Trustees elected at the AGM held in September 2027 expire at the first AGM held after the income year ending 30 September 2029.

Formatted: No bullets or numbering

Commented [SW8]: To allow for the short Income Year (rather than extend it which would cause trustee terms to exceed the 3 year limit) some trustee terms will need to be adjusted to 2.5 years

Formatted: Indent: Left: 1 cm, Hanging: 1 cm

SECOND SCHEDULE
ELECTION OF TRUSTEES

1. **PROCEDURE**

1.1 **This Schedule to apply**: The Trustees shall be appointed in accordance with the rules and procedures set out in this Schedule.

2. **ELIGIBILITY FOR APPOINTMENT**

2.1 **Trustee to be registered**: To be elected a Trustee must, as at the closing date for nominations, be recorded in the Ngāti Apa ki te Rā Tō Register as an Adult Registered Member of Ngāti Apa ki te Rā Tō Trust.

2.2 **Trustees' roles**: A Trustee may not be an employee of the Trust.

2.3 **Trustees may be directors**: Nothing in rule 2.2 of this Schedule or elsewhere prevents a Trustee from holding office as a director or trustee of any member of the Ngāti Apa ki te Rā Tō Group.

2.4 **Number of Trustees**: The Trust must have a maximum of 6 Trustees of which 3 Trustees must affiliate to the Puaha Te Rangi hapu of the West Coast and 3 Trustees must affiliate to Tarakaipa hapu of Te Tau Ihu.

Notwithstanding this clause all Trustees must represent the interests of all Members of Ngāti Apa ki te Rā Tō, irrespective of hapu affiliation.

2.5 **Trustees to fill casual vacancies**: If at any time there are less than 4 Trustees, the Trustees may appoint another person or persons to increase the number of Trustees to 4. Any such appointed Trustee shall be required to retire at the next annual general meeting which follows the appointment of that Trustee but shall be eligible for re-election.

3. **APPOINTMENT OF TRUSTEES**

3.1 All Trustees shall be elected by the Adult Members of Ngāti Apa ki te Rā Tō in accordance with this Schedule, except that the Initial Trustees shall be those persons who have signed this Deed as trustees, being members of the executive committee of Ngāti Apa ki te Waipounamu Trust at the time of the adoption of this Deed, and those initial Trustees shall remain in office until their term expires and elections are held in accordance with this Schedule. This rule does not apply to Trustees appointed to fill casual vacancies under rule 2.5.

Commented [VR6]: The resignation of trustee amendments clarify the provisions when a trustee resigns before the end of their term

4. **TERM OF OFFICE**

4.1 **Term of office**: Subject to rules 4.2, 4.5, 4.6 and 4.6A of this Schedule the Trustees from time to time shall hold office for a term of 3 years.

Commented [SW7]: New clause required to amend some trustee terms

4.2 **Timing of Election of Trustees**: The Initial Trustees shall retire from office with elections having been held for their respective positions as Trustee as follows:

(a) As at the date of the annual general meeting of the Trust in the first Income Year following Settlement Date, four of the Initial Trustees shall retire and an election shall be held for four Trustee positions and those positions shall thereafter hold an election every three years;

~~4.6~~

Formatted: No bullets or numbering

4.7 **Eligibility of retiring Trustees**: Retiring Trustees shall be eligible for re-election.

5. **TIMING OF ELECTIONS**

5.1 The elections for Trustees in any given Income Year must, (except to the extent that any review under rule 13 of this Schedule has been sought in respect of an election), be concluded by the time of the annual general meeting of the Trust in that Income Year. The new trustees shall take office at the annual general meeting immediately following the announcement of the election vote results.

6. **MAKING OF NOMINATIONS**

6.1 **Calling for nominations**: The Trustees shall give notice calling for nominations for those Trustee positions for which elections are required at least 3 months before the annual general meeting of the Trust for that Income Year, and in any event in sufficient time for the election to be concluded in accordance with rule 5 of this Schedule. Such notice shall specify the method of making nominations, the requirements in rule 2 of this Schedule in terms of Trustee eligibility, and the latest date by which nominations must be made and lodged with the Trust or such other person as the notice directs.

6.2 **Timing for nominations**: All nominations must be lodged with the Trust (or such other person as directed in accordance with rule 6.1 of this Schedule) no later than 21 days following the date upon which the notice calling for nominations is first given.

6.3 **Form of notice**: All notices given under this rule shall be given in the following manner:

(a) By post (or by electronic form where available) to each Member of Ngāti Apa ki te Rā Tō shown on the Ngāti Apa ki te Rā Tō Register as entitled to vote at the election of trustees (being an Adult Registered Member of Ngāti Apa ki te Rā Tō Trust who is recorded on the Ngāti Apa ki te Rā Tō Register) and to any other Member of Ngāti Apa ki te Rā Tō aged 18 years or over who has made a written request for a notice;

(b) By newspaper advertisement published on at least 2 separate days and inserted prominently in any major metropolitan newspapers and/or any provincial newspaper circulating in regions where the Trustees consider that a significant number of Members of Ngāti Apa ki te Rā Tō reside; and

(c) By such other means as the Trustees may determine.

6.4 **Inclusion of invitation to register**: Any such notice shall also invite applications from qualified persons for inclusion of their names in the Ngāti Apa ki te Rā Tō Register, and shall set out the date upon which the registrations close, being the same date as that fixed as the latest date for making and lodging nominations.

6.5 **Nomination to be in writing**: The nomination of a candidate for election as a Trustee shall be in writing signed by not less than one (1) Adult Registered Members of Ngāti Apa ki te Rā Tō Trust shown on the Ngāti Apa ki te Rā Tō Register as being entitled to vote in respect of the election of that candidate.

6.6 **Consent of nominee**: The consent of each candidate to his or her nomination shall be endorsed on the nomination paper, provided that a candidate may at any time, by notice to the Trustees, withdraw his or her nomination.

6.7 **Eligibility for nomination**: Notwithstanding the forgoing rules of this Schedule, an Adult Registered Member of Ngāti Apa ki te Rā Tō Trust shall not be eligible for nomination as a candidate for election as a Trustee if he or she:

(a) Is or has ever been convicted of an offence involving dishonesty as defined in section 2(1) of the Crimes Act 1961, or an offence under section 373(4) of the Companies Act 1993 (unless that person is an eligible individual for the purposes of the Criminal Records (Clean Slate) Act 2004);

(b) Is bankrupt or has made any composition or arrangement with his or her creditors;

(c) Has been convicted of an indictable offence;

(d) Becomes subject to a compulsory treatment order under the Mental Health (Compulsory Treatment and Assessment) Act 1992; or

(e) Has within the last 3 years been removed from the office of Trustee in accordance with clause 23.3.

7. **HOLDING OF ELECTIONS**

7.1 **Mode of voting at elections**: Subject to rule 7.2 of this Schedule, voting at all elections shall be by way of secret ballot. Voting forms may be delivered to the Chief Returning Officer by post or by electronic form where available.

7.2 **No elections where nominees equal vacancies**: Subject to rule 2.4 regarding the affiliation of Trustees, in the event that the total number of nominations of Trustees is equal to the total number of vacancies, no election shall be necessary and the person or persons nominated shall be deemed to have been duly appointed.

7.3 **Exercise of vote**:

(a) Votes by Adult Registered Members of Ngāti Apa ki te Rā Tō Trust must be validly cast on a ballot Paper and must be received by the Chief Returning Officer on or before the notified date by which completed ballot papers are to be received by the Chief Returning Officer at the Trust's registered office.

(b) Votes by Adult Members of Ngāti Apa ki te Rā Tō must be validly cast on a ballot paper and received by the Chief Returning Officer on or before the notified date by which completed ballot papers are to be received by the Chief Returning Officer at the Trust's registered office and must be accompanied by a completed registration form which shall be attached to and form part of the ballot paper.

(c) Where applicable, a ballot paper may be cast by electronic means and sent to the Chief Returning Officer before any notified date by which completed ballot papers are to be received by the Chief Returning Officer at the Trust's registered office.

No vote cast under this Schedule shall be finally counted unless the details provided on the ballot paper are correct and the affiliation to Ngāti Apa ki te Rā Tō has been confirmed and if the vote is cast under rule 7.3(b) of this Schedule the voter has been entered as an Adult Registered Member of Ngāti Apa ki te Rā Tō Trust.

7.4 **Provisional votes**: Votes cast by Adult Members of Ngāti Apa ki te Rā Tō under clause 7.3(b) will be treated as provisional votes and will only be counted where the provisional votes could substantially influence the outcome of the election.

8. NOTICE OF ELECTIONS

8.1 **Notice to be given**: Immediately after the closing date for nominations, the Trustees shall, where an election is required fix a closing date for the election (being the last day upon which a vote may be validly cast in the election).

8.2 **Period of Notice**: The Trustees shall give not less than 28 days' notice of the closing date for the elections and the method by which votes may be cast as set out in rule 7.1 of this Schedule.

8.3 **Method of Giving Notice**: Notice under rule 8.2 of this Schedule shall be given by:

(a) Posting notice (including, by electronic form where available) to each Adult Registered Member of Ngāti Apa ki te Rā Tō Trust;

(b) Posting notice (including, by electronic form where available) to each Adult Member of Ngāti Apa ki te Rā Tō who requests such in writing;

(c) Inserting a prominent advertisement on at least 2 separate days in appropriate major metropolitan newspapers and in any provincial newspapers circulating in regions where the Trustees consider that a significant number of Members of Ngāti Apa ki te Rā Tō reside;

(d) Advertising on a radio station or radio stations broadcasting in the district or districts where the Trustees consider that a significant number of Members of Ngāti Apa ki te Rā Tō reside, if in the Trustees' view this is necessary,; and

(e) Posting a notice of the election on the Ngāti Apa ki te Rā Tō website.

8.4 **General content of notices**: Every notice given in accordance with rule 8.3(a), (b), (c) and (8.3(e)) if applicable of this Schedule shall contain:

(a) A list of the candidates for election as Trustees; and

(b) A registration form where a request is made under rule 8.3(b) of this Schedule; and

(c) The mode by which votes may be cast as set out in rule 7.1 of this Schedule.

8.5 **Additional content of notice**: Each notice given in accordance with rule 8.3(a) and (d) if applicable of this Schedule shall also contain:

(a) A voting form that complies with rule 9.1; and

(b) Details of the procedure to be followed in making a vote by post or by electronic form, including the date by which the voting form must be received by the Chief Returning Officer.

8.6 **Additional Information in other notices**: Each notice given in accordance with rule 8.3 (b) and (c) and (d) of this Schedule shall also give details about how voting forms may be obtained.

9. POSTAL VOTING

9.1 **Other details to accompany vote**: Each voting form must contain information that is sufficient to identify the voter and, where applicable, the voting documents issued to that voter.

9.2 **Timing of postal votes**: Votes must be made no later than the closing date for the election of the Trustees to which the postal vote relates. Votes otherwise validly cast are valid and able to be counted if they are received by the Chief Returning Officer no later than 3 days after the closing date for the election, but only if the envelope containing the voting form is date stamped on or before the closing date for the election.

10. APPOINTMENT OF CHIEF RETURNING OFFICER

10.1 **Appointment of Chief Returning Officer**: For the purposes of elections the Trustees shall appoint as required a Chief Returning Officer who shall not be a Trustee or employee of the Trust. The Chief Returning Officer shall be responsible for co-coordinating Trustee elections.

10.2 **Chief Returning Officer to receive voting forms**: All voting forms must be addressed to the Chief Returning Officer.

10.3 **Only one vote to be cast**: The Chief Returning Officer shall ensure that appropriate measures are in place to ensure that only one vote is cast by each person validly participating in the election of Trustees.

10.4 **Recording of votes received**: A record shall be kept by the Chief Returning Officer of all votes received.

11. COUNTING OF VOTES

11.1 **All valid votes to be counted**: Upon the expiry of the date for the receipt of postal votes, the Chief Returning Officer shall record and count all votes validly cast.

11.2 **Certification and notifying election result**:

(a) Where applicable, a provisional result, disclosing the number of votes cast under rule 7.3(b) of this Schedule and counting their votes for provisional purposes may be declared at any time. Once all votes have been counted and the result of the election determined by the Chief Returning Officer, the Chief Returning Officer shall certify the result of the election and communicate the result of the election to the Trustees.

(b) The Chief Returning Officer will confirm to the Trustees whoever won via the poll. The start date of the new Trustees will be effective once the Trustees sign an acknowledgment from confirming that they have accepted the terms of being a trustee.

(c) The Trustees shall thereafter advise the candidates of the result and give notice of the same at the annual general meeting of the Trust in accordance with clause 14.1(d).

12. RETENTION OF ELECTION RECORDS

12.1 **Compiling and sealing voting records**: The Chief Returning Officer shall, as soon as practicable after he or she has certified the result of the election, place all voting forms and other voting records into a sealed packet. The Chief Returning Officer shall endorse upon the sealed packet a description of the contents of that packet together with the final date for voting in that election. The Chief Returning Officer shall then sign the endorsement and forward the sealed packet to the Trustees.

12.2 **Retention and disposal of packets**: Subject to rule 14.1(b) the sealed packets received from the Chief Returning Officer shall be safely kept unopened by the Trustees for a period of 1 year from the closing date for making votes in the election to which the packet relates. At the expiry of that 1 year period the packets shall be destroyed unopened.

13. REVIEW OF ELECTION RESULTS

13.1 **Candidates may seek review**: Any candidate may, within 14 days after the certification of the election result and the giving of notice by the Trustees in respect of that election, seek a review of that election.

13.2 **Appointment of Electoral Review Officer to conduct reviews**: For the purposes of carrying out reviews in respect of any election the Trustees shall ensure that an Electoral Review Officer is appointed. The Election Review Officer shall be the person nominated from time to time by the President of the Marlborough District Law Society or his or her nominee.

13.3 **Form of request for review**: All applications for a review shall be submitted to the Trust and:

(a) Shall be in writing;

(b) Shall set out the grounds for the review with sufficient particularity to enable the Electoral Review Officer to ascertain precisely the basis upon which the review is being sought; and

(c) Shall be accompanied by any evidence that the applicant for review has to substantiate the grounds given in the application.

13.4 **Service of application on other candidates**: The application for review and any accompanying evidence shall also be served upon all other candidates by the applicant in the election to which the review relates, either at the same time, or as close thereto as is possible, as the review application is lodged with the Trust.

13.5 **Costs**: Upon making an application for review the applicant shall also lodge with the Trust the sum of $500 in lieu of the costs of undertaking the review. That sum shall be held by the Trust pending the outcome of the review application. If the application is successful then the $500 shall be refunded to the applicant, otherwise it shall be used to off-set the costs of the review.

14. CONDUCT OF REVIEW

14.1 **Notification of Electoral Review Officer**: Upon the receipt of an application for review the Trustees shall notify the Electoral Review Officer and provide to him or her:

(a) A copy of the application and any accompanying evidence; and

(b) The sealed packet of voting forms and other voting documents received from the Chief Returning Officer for that election.

14.2 **Electoral Review Officer to exercise wide powers**: Subject to compliance by the Electoral Review Officer with the rules of natural justice the Electoral Review Officer shall have the power to inquire into and decide upon any matter relating to a review in such manner as he or she thinks fit and may in particular seek such further evidence or reports as he or she deems necessary including any reports or evidence from the Chief Returning Officer for the relevant election.

14.3 **Electoral Review Officer to be guided by substantial merits**: In reaching his or her conclusion on any review the Electoral Review Officer shall be guided by the substantial merits of the application without regard to legal forms or technicalities, including any technical defect in complying with the requirements of this Deed, the intention being that no election shall be declared invalid by reason of such technical defect if the Electoral Review Officer is satisfied that the election was so conducted as to be substantially in compliance with the requirements of this Deed and that such defect did not materially affect the result of the election.

14.4 **Certification of result of review**: At the conclusion of the Electoral Review Officer's consideration of the review he or she shall determine whether the successful candidate, or any other candidate, was duly elected, or whether the election was void and should be conducted again, and shall forthwith certify his or her decision with reasons to the Trustees. The Trustees shall then give notice of the result of the review and advise the candidates of the outcome.

14.5 **Decision to be final**: All decisions of the Electoral Review Officer shall be final and there shall be no other rights of review or appeal granted by the Trustees.

15. TERMINATION OF OFFICE OF TRUSTEES

15.1 **Termination of office of Trustees**: Notwithstanding the foregoing rules of this Schedule, a Trustee shall cease to hold office if he or she:

(a) Retires from office by giving written notice to the Trust or dies;

(b) Completes his or her term of office and is not reappointed;

(c) Refuses to act;

(d) Is absent without leave from 3 consecutive ordinary meetings of the Trustees without good reason or without the permission of the Chairperson;

(e) Is convicted of an offence involving dishonesty as defined in section 2(1) of the Crimes Act 1961, or an offence under section 373(4) of the Companies Act 1993 (unless that person is an eligible individual for the purposes of the Criminal Records (Clean Slate) Act 2004);

(f) Is bankrupt or makes any composition or arrangement with his or her creditors;

(g) Is convicted of an indictable offence;

(h) Becomes subject to a compulsory treatment order under the Mental Health (Compulsory Treatment and Assessment) Act 1992 or becomes subject to a care and protection order under the Protection of Personal and Property Rights Act 1988;

(i) Becomes physically or mentally incapacitated to the extent that he or she is unable to perform the duties of a Trustee; or

(j) Is removed from the office of Trustee in accordance with clause 23.3.

16. RECORD OF CHANGES OF TRUSTEES

Record of changes of Trustees: Upon the notification of every appointment retirement, re-appointment or termination of office of any Trustee, the Trustees will ensure that an entry is made in the minute book of the Trust to that effect.

THIRD SCHEDULE
PROCEEDINGS OF TRUSTEES

1. TRUSTEES TO REGULATE MEETINGS

1.1 The Trustees shall meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. The Trustees shall meet no less the six (6) times on an annual basis. Any three Trustees may at any time by notice in writing to the Trust summon a meeting of the Trustees and the Trust shall take such steps as are necessary to convene such meeting.

2. NOTICE OF MEETING

2.1 **Notice to Trustees**: Written notice of every meeting, shall be either hand-delivered, posted or sent by facsimile or by electronic form to each Trustee at least five (5) Business Days before the date of the meeting. However, if shall not be necessary to give notice of a meeting of Trustees to any Trustees for the time being absent from New Zealand unless that Trustee has provided details of where he or she may be contacted while overseas. No notice shall be required for adjourned meetings except to those Trustees who were not present when the meeting was adjourned.

2.2 **Content of notice**: Every notice of a meeting shall state the place, day and time of the meeting, and the agenda of the meeting.

2.3 **Waiver of notice**: The requirement for notice of a meeting may be waived if all the Trustees who are at the time entitled to receive notice of the meeting give their written consent to such a waiver prior to or at the meeting.

2.4 **Meeting limited to notified business**: No business shall be transacted at any meeting of Trustees other than the business expressly referred to in the notice calling the meeting.

2.5 **Deficiency of notice**: Subject to rule 2.4 of this Schedule, no deficiency in the giving of notice for any meeting of Trustees shall otherwise invalidate such meeting or the proceedings at such meeting.

3. QUORUM

3.1 Four Trustees shall constitute a quorum at meetings of the Trustees.

4. CHAIRPERSON AND DEPUTY CHAIRPERSON

4.1 **Trustees to appoint**: At the first meeting of the Trustees following an election the Trustees shall appoint one of their number to be Chairperson and (at their discretion) one to be Deputy Chairperson. Except in the case of the Initial Trustees in clause 3.1 the Chairperson and Deputy Chairperson must have served at least one term.

4.2 **Voting on election**: Where there is more than one candidate for Chairperson (or as the case may be Deputy Chairperson) then a vote will be taken and the person receiving the most votes in favour of his or her appointment will become Chairperson (or Deputy Chairperson).

4.3 **Termination of office**: The Chairperson (or Deputy Chairperson) will cease to hold office in the event that he or she resigns from that office, ceases to be a Trustee or is removed from office by the Trustees passing a resolution of no confidence in him or her. In the event that the Chairperson (or Deputy Chairperson) ceases to hold that office then a further election shall be held for the position.

5. **PROCEEDINGS AT MEETINGS**

5.1 **Decisions by majority vote**: Unless stated otherwise in this Deed, questions arising at any meeting of Trustees shall be decided by a majority of votes of Trustees at the meeting. In the case of an equality of votes, the Chairperson shall have a second or casting vote.

5.2 **Chairperson**: The Chairperson shall take the chair at all the meetings of the Trustees. If the Chairperson is not present then the Deputy Chairperson, if there is one, shall take the chair. If there is no Deputy Chairperson or the Deputy Chairperson is also not present then the Trustees present shall elect one of their number to be Chairperson of the meeting.

5.3 **Vacancies**: The Trustees may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the quorum fixed by these rules, the continuing Trustees may act only for the purpose of advising of the vacancy or vacancies and taking the steps necessary to procure ~~the election of new Trustees~~ to fill any ~~vacancy or~~ vacancies in accordance with rule 2.5 of the Second Schedule.~~, and for no other purpose~~.

Commented [VR7]: The resignation of trustee amendments clarify the provisions when a trustee resigns before the end of their term

5.4 **Defects of appointment**: All acts done by any meeting of the Trustees or of any committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of such Trustee or person co-opted to any committee, or that they were disqualified, be valid as if every such person had been duly appointed and was qualified to act.

5.5 **Unruly meetings**: If any meeting of Trustees becomes so unruly or disorderly that in the opinion of the Chairperson, the business of the meeting cannot be conducted in a proper and orderly manner, or if any meeting in the opinion of the Chairperson becomes unduly protracted, the Chairperson may, and without giving any reason, adjourn the meeting and may direct that any uncompleted item of business of which notice was given and which, in his or her opinion, requires to be voted upon, be put to the vote without discussion.

6. **DELEGATION TO COMMITTEES BY TRUSTEES**

6.1 **Trustees may appoint committees**: The Trustees may from time to time as they think expedient appoint one or more Trustees to be a committee for making any inquiry on such terms as the Trustees may by resolution direct and any committee so appointed may co-opt, for the purposes of consultation and advice, persons who are not Trustees, provided that a Trustee shall chair any such committee.

6.2 **Committees to report to Trustees**: All committees appointed under rule 6.1 of this Schedule shall report to the Trustees in respect of their activities and such reports shall, unless a direction is made to the contrary by the Trustees:

(a) Be provided on a monthly basis: and

(b) Contain details of the activities of the committee since the last such report.

6.3 **Regulation of procedure by committees**: Subject to these rules and the provisions of this Deed, any committee established by the Trustees may co-opt any person to be a member of that committee and otherwise regulate its procedure as it sees fit provided that the committee must notify the Trustees of all persons co-opted to the committee.

7. WRITTEN RESOLUTIONS

7.1 A written resolution signed by all the Trustees shall be as effective for all purposes as a resolution passed at a properly convened and conducted meeting of the Trustees. Such a resolution may comprise several duplicated documents, each signed by one or more of the Trustees.

8. MINUTES

8.1 **Minutes to be kept**: The Trustees shall keep a proper record in a minute book of all decisions taken and business transacted at every meeting of the Trustees.

8.2 **Minutes to be evidence of proceedings**: Any minute of the proceedings at a meeting which is purported to be signed by the Chairperson of that meeting shall be evidence of those proceedings.

8.3 **Minutes to be evidence of proper conduct**: Where minutes of the proceedings at a meeting of the Trustees have been made in accordance with the provisions of this rule then, until the contrary is proved, the meeting shall be deemed to have been properly convened and its proceedings to have been properly conducted.

9. TELECONFERENCE MEETINGS

9.1 For the purposes of these rules a teleconference meeting between a number of Trustees or committee members who constitute a quorum shall be deemed to constitute a meeting of the Trustees or the committee members (as the case may be). All the provisions in these rules relating to meetings shall apply to teleconference meetings so long as the following conditions are met:

(a) All of the Trustees or committee members (as the case may be) for the time being entitled to receive notice of a meeting shall be entitled to notice of a teleconference meeting and to be linked for the purposes of such a meeting. Notice of a teleconference meeting may be given on the telephone;

(b) Throughout the teleconference meeting each participant must be able to hear each of the other participants taking part;

(c) At the beginning of the teleconference meeting each participant must acknowledge his or her presence for the purpose of that meeting to all the others faking part;

(d) A participant may not leave the teleconference meeting by disconnecting his or her telephone or other means of communication without first obtaining the Chairperson's express consent.

Accordingly, a participant shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the teleconference meeting unless he or she leaves the meeting with the Chairperson's express consent; and

(e) A minute of the proceedings at the teleconference meeting shall be sufficient evidence of those proceedings, and of the observance of all necessary formalities, if certified as a correct minute by the Chairperson of that meeting.

FOURTH SCHEDULE
PROCEDURE FOR PASSING SPECIAL RESOLUTION

1. **THIS SCHEDULE TO APPLY**

1.1 A Special Resolution to:

(a) Approve a Major Transaction in accordance with clause 2.6; or

(b) Amend this Deed in accordance with clause 27; or

(c) Terminate the Trust in accordance with clause 28;

(d) Any resolution under the Māori Fisheries Act for:

(i) Ratification of, or changes to, this Deed in accordance with the requirements of sections 17, and 18 as the case may be, of the Māori Fisheries Act;

(ii) Disposal of ~~Income~~ Ordinary Shares in accordance with section ~~70~~ 69 of the Māori Fisheries Act;

Commented [VR8]: Section 69 of the MFAA replaces section 70 of the MFA

(iii) Quota to be treated as Settlement Quota in accordance with section 159 of the Māori Fisheries Act;

(iv) Disposal of Settlement Quota in accordance with section 162 of the Māori Fisheries Act; and

(v) A request for rationalisation of Settlement Quota under section 172 of the Māori Fisheries Act; or

(e) Any resolution under the MCACS Act for:

(i) Transfer of authorisations or coastal permits that are settlement assets (except where the proposed transfer is to a company that is wholly owned by the iwi aquaculture organisation); and

(ii) A request that Te Ohu Kai Moana Trustee Limited transfer authorisations or coastal permits that are settlement assets (except where the proposed transfer is to a company that is wholly owned by the iwi aquaculture organization); or

(f) Re-settlement of the trust fund in accordance with clause 28.2(a);

shall only be passed as set out this Schedule.

2. **POSTAL VOTING AND SPECIAL GENERAL MEETING**

2.1 Voting on a Special Resolution shall occur either by placing voting forms into a ballot box in person at the special general meeting held for the purposes of considering the Special Resolution, or by post or by electronic means.

3. **VOTING**

3.1 In order for a Special Resolution to be passed, it must receive the approval of not less than 75% of those Adult Members of Ngāti Apa ki te Rā Tō and all Adult Registered Members of Ngāti Apa ki te Rā Tō Trust who validly cast a vote in favour of the proposed Special Resolution in accordance with this Schedule and the voting procedures set out clause 14.11.

4. SPECIAL GENERAL MEETING REQUIRED

4.1 A special general meeting of the Trust must be called for the purposes of considering one or more Special Resolutions. No other business may be transacted at such special general meeting.

5. NOTICE

5.1 **Notice of special general meeting**: The Trust shall give not less than twenty-one (21) calendar days' notice of the date, time and place of the special general meeting called for the purposes of considering any Special Resolution (to the intent that notice of the postal vote and the special general meeting shall be given in the same notice).

5.2 **Method of giving notice**: Notice of a special general meeting called for the purposes of considering a Special Resolution shall be:

(a) In writing and posted (including, by electronic form where available) to all Adult Registered Members of Ngāti Apa ki te Rā Tō Trust at the last address shown for each such Adult Registered Member of Ngāti Apa ki te Ro To Trust on the Ngāti Apa ki te Ro To Register; and

(b) In writing and posted (including, by electronic form where available) to all Adult Members of Ngāti Apa ki te Rā Tō who request in writing to receive information on the Special Resolution; and

(c) Advertised prominently in any major metropolitan newspapers circulating in New Zealand and in any provincial newspapers circulating in regions where the Trustees consider that a significant number of Members of Ngāti Apa ki te Rā Tō reside.

5.3 **Content of notice to members**: All notices given in accordance with rule 5.2(a) of this Schedule shall contain:

(a) The date, time and place of the special general meeting called for the purposes of considering the Special Resolution;

(b) Details of the proposed Special Resolution;

(c) Details of the reasons for the proposed Special Resolution and the effect that the Special Resolution will have;

(d) Details of the procedure to be followed in making a postal vote or a vote by electronic means where available, including the date voting closes;

(e) A statement that postal votes may either be delivered to the Chief Returning Officer at the special general meeting, or posted or by electronic means; and

(f) A voting form.

5.4 All notices given in accordance with rule 5.2(b) of this Schedule shall contain the matters referred to in rule 5.3(a) to (f) of this Schedule and shall also include an application form for registration as an Adult Registered Member of Ngāti Apa ki te Rā Tō Trust.

5.5 **Content of advertisement**: All advertisements published in accordance with rule 5.2(c) shall contain the matters referred in rule 5.3(a) and (b) together with details of how and where any further information can be obtained.

6. **POSTAL VOTING**

6.1 **Other details to accompany vote**: Each voting form must contain sufficient information to identify the voter and the voting documents issued to that voter.

6.2 **Timing of Postal Votes**: Votes must be cast no later than the closing date for voting. Votes otherwise validly cast are valid and able to be counted if they are received by the Chief Returning Officer no later than 3 days after the closing date, but only if the envelope containing the voting form is date stamped on or before the date for voting closes.

6.3 **Postal Votes may be received at the special general meeting**: Voting forms may be delivered to the Chief Returning Officer at the special general meeting, rather than being posted or sent by electronic means.

7. **APPOINTMENT OF CHIEF RETURNING OFFICER**

7.1 **Appointment of Chief Returning Officer**: For the purposes of the Special Resolution, the Trust shall appoint a Chief Returning Officer who shall not be a Trustee or employee of the Trust.

7.2 **Chief Returning Officer to receive voting forms**: Voting forms must be addressed to the Chief Returning Officer.

7.3 **Chief Returning Officer to be present at special general meeting**: The Chief Returning Officer must be present at the special general meeting. The Chief Returning Officer will be available to collect any completed voting forms at the special general meeting. The Chief Returning Officer shall also ensure that additional voting forms are available at the special general meeting.

7.4 **Only one vote to be cast**: The Chief Returning Officer must ensure that appropriate measures are in place to ensure that only one vote is cast by each Adult Registered Member of Ngāti Apa ki te Rā Tō Trust.

7.5 **Recording of votes**: A record shall be kept by the Chief Returning Officer of all votes received.

8. **COUNTING OF VOTES**

8.1 **All votes to be counted**: Upon the expiry of the date for the receipt of votes, the Chief Returning Officer shall record and count all votes validly cast.

8.2 **Certification and notifying result**: Once all votes have been counted and the result of the Special Resolution determined by the Chief Returning Officer, the Chief Returning Officer shall certify the result of the Special Resolution and communicate the result to the Trustees.

9. **PROCEEDINGS AT SPECIAL GENERAL MEETING**

9.1 Except as otherwise set out in this Schedule the provisions of clause 14 shall apply to the holding of any special general meeting called for the purposes of considering a Special Resolution and the meeting shall be conducted accordingly.

FIFTH SCHEDULE

MANDATED IWI ORGANISATION AND IWI AQUACULTURE ORGANISATION

1. PURPOSES

1.1 **Incidental purposes**: Incidental to, and to give effect to the purposes in clause 2.5 the Trustees shall:

(a) Directly receive and hold, on behalf of Ngāti Apa ki te Rā Tō on the trusts set out in clause 2.5, future settlement assets allocated and grants made to Ngāti Apa ki te Rā Tō by Te Ohu Kai Moana Trustee Limited, other than assets referred to in section 16(1)(c) of the Māori Fisheries Act, which other assets are to be transferred to a Fisheries Asset Holding Company;

(b) Receive distributions from Te Putea Whakatupu Trustee Limited and Te Wai Māori Trustee Limited, as provided for under subparts 4 and 5 of Part 2 of the Māori Fisheries Act and to hold those distributions on the trusts set out in clause 2.5 or on such other trusts as are required in order to ensure that a distribution to the Trustees by either of those companies would be within the purposes for which those companies hold their funds and make those distributions but not in a manner that could adversely affect the charitable status of any charitable trust/s that the Trustees have settled;

(c) If relevant, enter into agreements with other Mandated Iwi Organisations in relation to:

(i) Coastline claims under section 11 of the Māori Fisheries Act;

(ii) The allocation of:

(1) Harbour quota under section 143 of the Māori Fisheries Act; and

(2) Freshwater quota under section 148 of the Māori Fisheries Act;

(d) Establish separate companies to undertake fishing and fisheries-related activities, including, but not limited to, any activity related to the seafood industry, including, for the avoidance of doubt, a Fishing Enterprise, and to hold the shares in those companies and any distributions or other benefits resulting from them on the trusts in clause 2.5;

(e) Establish one or more Fisheries Asset Holding Companies that, in each case:

(i) Is wholly owned by the Trustees;

(ii) Is separate to the companies referred to in sub-paragraph (d);

(iii) Performs the function and complies with the requirements set out in sections 16 to 18 of the Māori Fisheries Act; and

(iv) Performs any other function, but not if doing so would be inconsistent with sections 16 to 18 of the Māori Fisheries Act;

and to hold the shares in those companies and any distributions or other benefits resulting from them on the trusts in clause 2.5;

(f) Perform the functions provided for, by or under the Māori Fisheries Act in respect of a Mandated Iwi Organisation, in a manner consistent with the Māori Fisheries Act;

~~(g) Represent Ngāti Apa ki te Rā Tō by voting at any meeting convened under:~~

~~(i) Clause 1 or clause 6 of Schedule 8 to the Māori Fisheries Act, to appoint or remove a member or alternative member of Te Kawai Taumata; and~~

~~(ii) Section 117 of the Māori Fisheries Act, implemented in accordance with clause 1 of Schedule 8 to the Māori Fisheries Act, to appoint a member of a committee of representatives;~~

~~(h)~~(g) Act on behalf of Ngāti Apa ki te Rā Tō in relation to aquaculture claims and Settlement Assets under the MCACS Act, in respect of which the Trustees must act for the benefit of all beneficiaries of the Iwi, irrespective of where those beneficiaries reside, including:

(i) Directly receive and hold, on behalf of Ngāti Apa ki te Rā Tō Settlement Assets allocated to the Ngāti Apa ki te Rā Tō by Te Ohu Kai Moana Trustee Limited in accordance with the MCACS Act; and

(ii) Enter into agreements with other Iwi Aquaculture Organisations in relation to the allocation of Settlement Assets;

~~(i)~~(h) If the Ngāti Apa ki te Rā Tō determine, directly receive and hold, on behalf of the Ngāti Apa ki te Rā Tō on the trusts set out in clause 2.5, any other assets including but not limited to Treaty of Waitangi settlement assets; and

~~(j)~~(i) Perform other functions provided for, by or under the Māori Fisheries Act or any other enactment or otherwise.

Commented [VR9]: a)Rule 1.1(g) refers to mandated iwi organisations voting by the Trust at a meeting convened under Schedule 8 of the MFA. The MFAA repeals Schedule 8.

1.2 **Iwi Aquaculture Organisation must not undertake commercial aquaculture activities**: An Iwi Aquaculture Organisation must not undertake commercial aquaculture activities (as that term is used in section 32(3) of the MCACS Act) except through a separate commercial enterprise that is responsible to the Ngāti Apa ki te Rā Tō Trust.

2. FISHERIES ASSET HOLDING COMPANY AND FISHING ENTERPRISE

2.1 **Trustees must hold a Fisheries Asset Holding Company**: The Trustees must ensure that it has at least one Fisheries Asset Holding Company and that, to the extent and for so long as required by the Māori Fisheries Act subject to the provisions of rule 2.2 of this Schedule, that Fisheries Asset Holding Company is wholly owned by the Trustees and performs the functions and complies with the requirements set out in sections 16 and 17 of the Māori Fisheries Act, which at the date of this Deed are that the Fisheries Asset Holding Company:

(a) Must be and remain wholly owned and controlled by the Trustees;

(b) Must not have more than 40% of its Directors who are also Trustees elected in accordance with this Deed and no less than 1 Director but no more than 3. The Chief Executive Office or an employee of the Trust is eligible to be a Director;

(c) Must have constitutional documents that have been approved by a simple majority of the Trustees, as complying with the requirements of the Māori Fisheries Act;

(d) Must have constitutional documents that have been ratified by a resolution passed by a majority of not less than 75% of the Trustees, whether or not present at the meeting at which that resolution is proposed;

(e) Must receive and hold, on behalf of the Trustees, for so long as they are to be retained, all Settlement Quota and ~~Income~~ Ordinary Shares allocated by Te Ohu Kai Moana Trustee Limited to, or otherwise acquired by Ngāti Apa ki te Rā Tō under the Māori Fisheries Act;

(f) Must provide dividends solely to the Trustees;

(g) Must not undertake fishing or hold a fishing permit;

(h) Must not enter into any transactions relating to or affecting the ~~Income~~ Ordinary Shares it holds unless the Trustees has complied with its obligations under this Deed including without limitation rule 2.3, and sections 69 to 72 of the Māori Fisheries Act;

(i) Must not enter into any transactions relating to or affecting the Settlement Quota it holds unless the Trustees have complied with its obligations under this Deed including without limitation rule 4.2, and sections 161 to 176 of the Māori Fisheries Act;

(j) In its function of receiving and holding Settlement Quota and Income Shares is bound by all the requirements specified for Mandated Iwi Organisations in relation to those matters in the Māori Fisheries Act;

(k) May establish one or more Subsidiaries to be the Fisheries Asset Holding Company Subsidiaries;

(l) May transfer to that Fisheries Asset Holding Company Subsidiary some or all of the assets received under rule 2.1;

(m) Any Fisheries Asset Holding Company Subsidiary established under the preceding clause:

  (i) Must be and remain wholly owned by the Fisheries Asset Holding Company that established it;

  (ii) Must receive and hold, on behalf of the Fisheries Asset Holding Company, Settlement Quota and ~~Income~~ Ordinary Shares transferred to it by the Fisheries Asset Holding Company under rule 2.1;

  (iii) Must provide dividends solely (but indirectly) to the Trustees;

  (iv) Must not enter into any transactions relating to or affecting the ~~Income~~ Ordinary Shares it holds unless the Trustees has complied with its obligation under sections 69 to 72 of the Māori Fisheries Act;

  (v) In its functions of receiving and holding Settlement Quota and ~~Income~~ Ordinary Shares is bound by all the requirements specified for Mandated Iwi Organisations in relation to those matters in the Māori Fisheries Act;

  (vi) May establish one or more Subsidiaries which it shall ensure complies with the obligations imposed on it in this rule 2.1; and

  (vii) Must not undertake fishing or hold a fishing permit,

but the Fisheries Asset Holding Company and its Subsidiaries may undertake any other activity or hold any other assets.

2.2 **Establishment of Fishing Enterprise**: If the Trustees wish to establish their own fishing operation, utilising annual catch entitlement from its Settlement Quota, to harvest, process or market fish, or to be involved in a joint venture for those purposes, it must establish an enterprise which is separate from, but responsible to, the Trustees to undertake those operations, which must not be the Fisheries Asset Holding Company or a Fisheries Asset Holding Company Subsidiary that receives the Settlement Quota.

2.3 **Requirements of constitution**: The constitution of every Fisheries Asset Holding Company or Fishing Enterprise or a subsidiary of any of them must require that company to:

(a) Hold its assets and all accretions to those assets whether of a capital or revenue nature on trust for the purposes as set out in clause 2.5, such purposes to be promoted by the payment of dividends or other revenue or capital distributions directly or indirectly to the Trustees;

(b) Present an annual plan and statement of corporate intent that sets out for approval by the Trustees the following (as per Kaupapa 11 of the Māori Fisheries Act):

(i) The key strategies for the use and development of fisheries assets of Ngāti Apa ki te Rā Tō;

(ii) The expected financial returns on the assets;

(iii) Any programme to (a) manage the sale of annual catch entitlements derived from the Settlement Quota held by the Fisheries Asset Holding Company or Fishing Enterprise or a subsidiary of any of them; and (b) reorganise the Settlement Quota held by the Fisheries Asset Holding Company or Fishing Enterprise or a subsidiary of any of them, as by buying and selling Settlement Quota in accordance with the Māori Fisheries Act;

(c) Report annually to the Trustees on:

(i) The performance of that asset-holding company or any of its subsidiaries;

(ii) The investment of money of that asset-holding company or any of its subsidiaries; and

(iii) The matters set out In paragraph (b) of kaupapa 11 of the Māori Fisheries Act; and

(d) Have its accounts audited,

and may provide for the Trustees to appoint up to two Trustees as Directors or trustees, as the case may be as Directors of that Company or Fishing Enterprise, as the case may be, provided however that at no time may the Trustees comprise more than 40% of the total number of Directors or trustees of that Company or Enterprise.

2.4 **Changes to constitutions**: To the extent any proposal for the amendment of the constitutional documents of the Fisheries Asset Holding Company or any Fishing Enterprise relates to a matter provided for in the Māori Fisheries Act. The proposal:

(a) Must not be made earlier than two years after the date on which the Trustees are recognised by Te Ohu Kai Moana Trustee Limited as the Mandated Iwi Organisation for Ngāti Apa ki te Rā Tō unless the amendment is required as a consequence of a rule made or amended under section 25 of the Māori Fisheries Act;

(b) Must be consistent with the Māori Fisheries Act; and

(c) May only be promoted if the amendment is put and passed at a general meeting in accordance with clause 14.11.

2.5 **Commercial Aquaculture Activities**: If the Trustees wish to undertake commercial aquaculture activities (as that term is used in the MCACS Act), it must establish an enterprise which is separate from, but responsible to, the Trustees to undertake those activities, and which may be the Fisheries Asset Holding Company that receives the Settlement Quota and ~~Income~~ Ordinary Shares.

3. GENERAL MEETINGS

3.1 **Notice of special meetings**: Subject to the provisions of rule 3.2 of this Schedule no meeting may be convened to consider:

(a) Disposal of ~~Income~~ Ordinary Shares in accordance with section ~~70~~ 69 of the Māori Fisheries Act;

(b) Declaring quota owned by the Asset-holding Company is ~~A request to Te Ohu Kai Moana Trustee Limited to treat~~ Settlement Quota in accordance with section 159 of the Māori Fisheries Act;

(c) Disposal of Settlement Quota in accordance with section 162 of the Māori Fisheries Act; and

~~(d) A request for rationalisation of Settlement Quota under section 172(3) of the Māori Fisheries Act;~~

Unless the Trustees have resolved to:

(a) Seek approval of the Adult Members of Ngāti Apa ki te Rā Tō under section 70 of the Māori Fisheries Act;

(b) Obtain the approval of the Adult Members of Ngāti Apa ki te Rā Tō under section 159 of the Māori Fisheries Act;

(c) Obtain the prior approval of the Adult Members of Ngāti Apa ki te Rā Tō under section 162 of the Māori Fisheries Act; or

~~(d) Obtain the prior approval of the Adult Members of Ngāti Apa ki te Rā Tō in accordance with section 172 of the Māori Fisheries Act;~~

As the case may be; and

(a) The request must state the objects for which the Special Meeting is required and be signed (including counterparts) by those requesting the Special Meeting; and

(b) The Special Meeting must be held within 30 Business Days from the date the request was received by the Secretary.

3.2 **Resolution**: A resolution shall be passed at a General Meeting in accordance with clause 14.11.

4. DISCLOSURE OF INTERESTS

4.1 **Disclosure of interest a requirement of subsidiary constitutions or deeds**: The Trustees shall require that a clause to the same effect as clause 15.2 of this Deed be Included in the constitution of every Fisheries Asset Holding Company or Fishing Enterprise or any subsidiary of any of them.

Commented [VR10]: a)Section 159 of the MFA is replaced with a new section 159 that records:
i)*A mandated iwi organisation may declare any quota owned by the asset-holding company of that mandated iwi organisation to be settlement quota.*
A declaration must not be made under [the subsection above] until the mandated iwi organisation has obtained the approval of any party that holds a mortgage or caveat registered against the quota.

Commented [VR11]: Rule 3.1(d) under the subheading *Unless the Trustees have resolved to* refers to section 172 of the MFA. The MFAA repeals this section

Commented [VR12]: Rule 3.1(d) under the subheading *Unless the Trustees have resolved to* refers to section 172 of the MFA. The MFAA repeals this section