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Report to Trustees for Annual General Meeting, 12 March 2022

Ngāti Te Whiti Whenua Tōpu Trust

1. I submit below a short report to the Trustees for the purposes of the Ngāti Te Whiti Whenua Tōpu Trust (the Trust) Annual General Meeting for 12 March 2022. The deferral of this AGM to March 2022 was approved by Order of the Māori Land Court given the constraints relating to Covid-19: 445 Aotea MB 230.

Trustee elections

2. The Court has approved the appointment of the new trustees to the Trust, following the 2021 election process. The trustees of the Trust (and the Ngāmotu Marae Māori Reservation are: Linda McCulloch, Haydn Te Ruki, Shelton Healey and Allan Tito. The advisory trustees are Perry Cassidy and Pauline Lockett. (445 Aotea MB 230).

Trust Review proceedings - Māori Land Court

3. The Court issued its decision on the Trust review application on 10 September 2021 (437 Aotea MB 3) with some further submissions required in order to complete the case. Judge Harvey decided that:
 - (a) The trustees acted honestly and believed they were acting reasonably and responsibly. However, the trustees should have asked more questions when presented with incomplete and insufficient financial reporting.
 - (b) The trustees are relieved from any liability associated with the trust funds lost as a result of the Shaun Keenan theft.
 - (c) However, where they were not prudently exercising their obligations by way of oversight of Mr Keenan, the Court wants further submissions on whether the trust meeting fees received by the Trustees during the time Mr Keenan was stealing, should be reimbursed to the Trust; and whether the Trustees are liable for the final employment payment made to Mr Keenan when his employment was terminated. Submissions are also required as to whether former trustees should serve any term of ineligibility to stand again as trustees in future elections.
4. Further information has been provided to assist with the finalisation of those submissions and an extension of time was sought. There will be a final decision issued by the Court in due course.

5. The Court also granted the trustees' application that the legal costs incurred will not be passed to the trustees personally, and the Court has met the legal costs under the special aid fund. There is therefore no legal cost to the Trust for these proceedings.

Trustee Remuneration

6. The request to the Court to approve trustee remuneration (in line with market appraisal and supported by beneficiaries at the 2019 AGM) has not yet been approved by the Court. This matter is ongoing.

Review of the Trust Order

7. A review of the Trust Order has been completed following consultation with stakeholders and beneficiaries. This has included work on behalf of the Hapū Society to better align the organisations representing Ngāti Te Whiti interests.
8. Clause 17 of the Trust Order provides that an application to vary the constitution can be made to the Māori Land Court if there is sufficient degree of support for the variation among registered adult beneficial owners. It is recommended that the variations be discussed at the wananga to be convened by the Trust, following the upcoming wananga that are happening with the Hapū Society. The issue of whakapapa and registration is central to the review process. A separate paper with the proposed variations will be made available to the wananga.

Noho ora mai koutou,

Leo Watson