

A Guide To Setting Up A Whanau Trust

*Ko Mamari te waka
Ko Hokianga a Kupe te moana
Ko Whakarongorua te maunga
Ko Utaura te awa
Ko Tauratamaru te Tupuna
Ko Utatewhanga te raorao
Ko Te Popoto, Ngati Toro, Te Ngahengahe, Te Honihoni nga hapu
Ko Ngapuhi te iwi*



Utaura 7 Incorporation encourages shareholders to set up a 'Whanau Trust' to hold their land interests. It is a way of stopping shares being further split or fragmented as the generations rapidly increase and it also assists to tidy up share interests in any lands around the country, as they can all be included in the one Whanau Trust. The incorporation has a minimum share policy of 10. If the share number falls below 10 a Whanau Trust must be set up for any successions to take place.

Planning

- Call a meeting to agree to set up a Whanau Trust if more than one shareholder is involved. Who needs to be at the meeting?
- Those who have a right to succeed to the shares that will go into the Whanau Trust (in the case of the shareholder being deceased)
- And/or those whose shares are going to be included (if they are living)
- Be clear about the purpose of the trust, (e.g. to prevent further fragmentation of shares, to hold and administer the shares of tupuna/whanau under one trust, to build up small share numbers etc).
- Decide who's interests and which blocks of land the Whanau Trust will include, e.g. grandmother/grandfather/grandparents/mother/father/parents/group of siblings, an individual etc or any combination of these
- Evidence that the families concerned have been consulted should be documented, e.g. representatives from each branch of the family/all his/her children/all his/her brothers and sisters etc, have discussed the matter. Consent from the living owners being vested in a Whanau Trust needs to be obtained (on Form 59), and a will or death certificate if the owner/s is deceased.

- Only one application is needed for a Whanau Trust regardless of how many different share interests/land blocks are included, or where the blocks of land are located.

Documents Required for the Application

- Minutes or notes from any meetings held as evidence to show the date, who was present, the decisions made, the trustees elected, trust name, who are the beneficiaries etc.
- Whanau Trust Order “objects” - this sets out the trustee’s powers, rights and obligations. There is a standard form to follow which allows you to vary parts to suit your needs.
- Trustees elected - The numbers are up to you but it makes sense to have representation from the grouping in the Whanau Trust especially when there are several branches of a whanau involved.
- Written consent is needed from each trustee, e.g. “I (name of trustee) consent to being a trustee of the (name of Whanau Trust) Whanau Trust”, sign and date. OR
- One page for all, e.g. We the undersigned consent to being trustees of the Whanau Trust (write each trustees name and get them to sign alongside)
- Name for Whanau Trust (decide on the name for the trust)
- Who the beneficiaries to the Whanau Trust will be, e.g. all the direct descendants of
- A Share Certificate is needed for every person whose shares are going to be included in the Whanau Trust. These can be obtained from the land block concerned and are proof of the shares that person has.
- Written consents from the Owners (if alive), that identify the land interests being put into the Whanau Trust – Form 59, Schedule E. They can include all of your interests in any blocks. However, in the case of deceased owners a copy of the will, if there is one, and the death certificate is required.
 - Complete Maori Land Court Application Form 52.
 - Succession and setting up a Whanau Trust can be done at the same time and should require only one Maori Land Court hearing.
 - Application fee payable to the Maori Land Court is currently \$63.00

Application lodged with Maori Land Court

Once the application is lodged with the Maori Land Court they set a hearing date for the succession/Whanau Trust that you (or someone involved) need to attend. The application form asks for two options for where you want the hearing to be held. Once they have researched the application and have all the necessary documentation you are advised of the hearing date and venue.

- The 'Order' is made by the Judge at this hearing and then the details are sent to our Incorporation Management Committee for confirmation. If it is all in order the details are minuted, entered on our Share Register and process is complete.
- We need your help to keep our records up-to-date. For hearings held outside of Tai Tokerau the Maori Land Court often does not let us know the outcome, so please send a copy of the 'Orders' to us so we can update the Share Register.
- When your Whanau Trust is set up, please also let me know the Trustees addresses so that they can be put on the Incorporation mailing list and kept in touch. The court does not usually provide this information.

If you want any further assistance, please let me know.

Heoi ano

*Nellie Robertson
219 Abbey Caves Road
R D 5, Whareora
Whangarei 0175*

OR

*Nellie.robertson@hotmail.com
Share Register Administrator*