

Te Rūnanga o Ngāi Takoto Trust Deed Review 2025



Slide 2

Trust Deed Review



Why are we reviewing the Trust Deed?

- First review since establishment in 2013
- Ensuring the Trust Deed is fit for purpose for the future
- Aligning governance structures with iwi needs
- Incorporating initial feedback from hui-a-iwi (October 2024)

Key kaupapa requiring strategic decisions:

Composition of Trustees – representation & skills

- Bringing together Trustees who reflect the people and have the right skills for the job

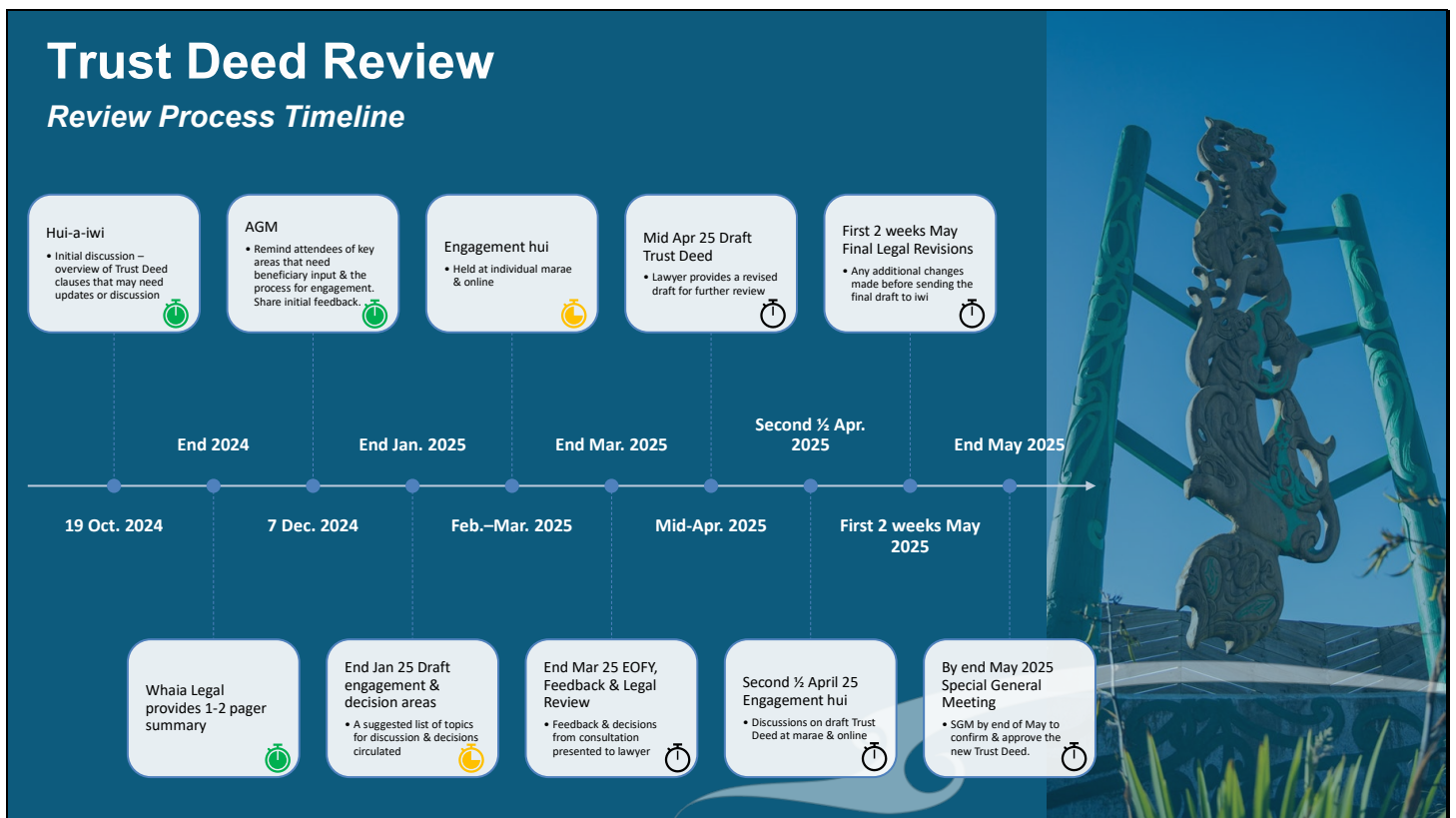
Elections & Governance accountability

- Ensuring fair, transparent appointments & clear expectations for leadership conduct

Looking at a 'Corporate Trustee' model

- Exploring a new way of managing the Trust to strengthen & build resilience





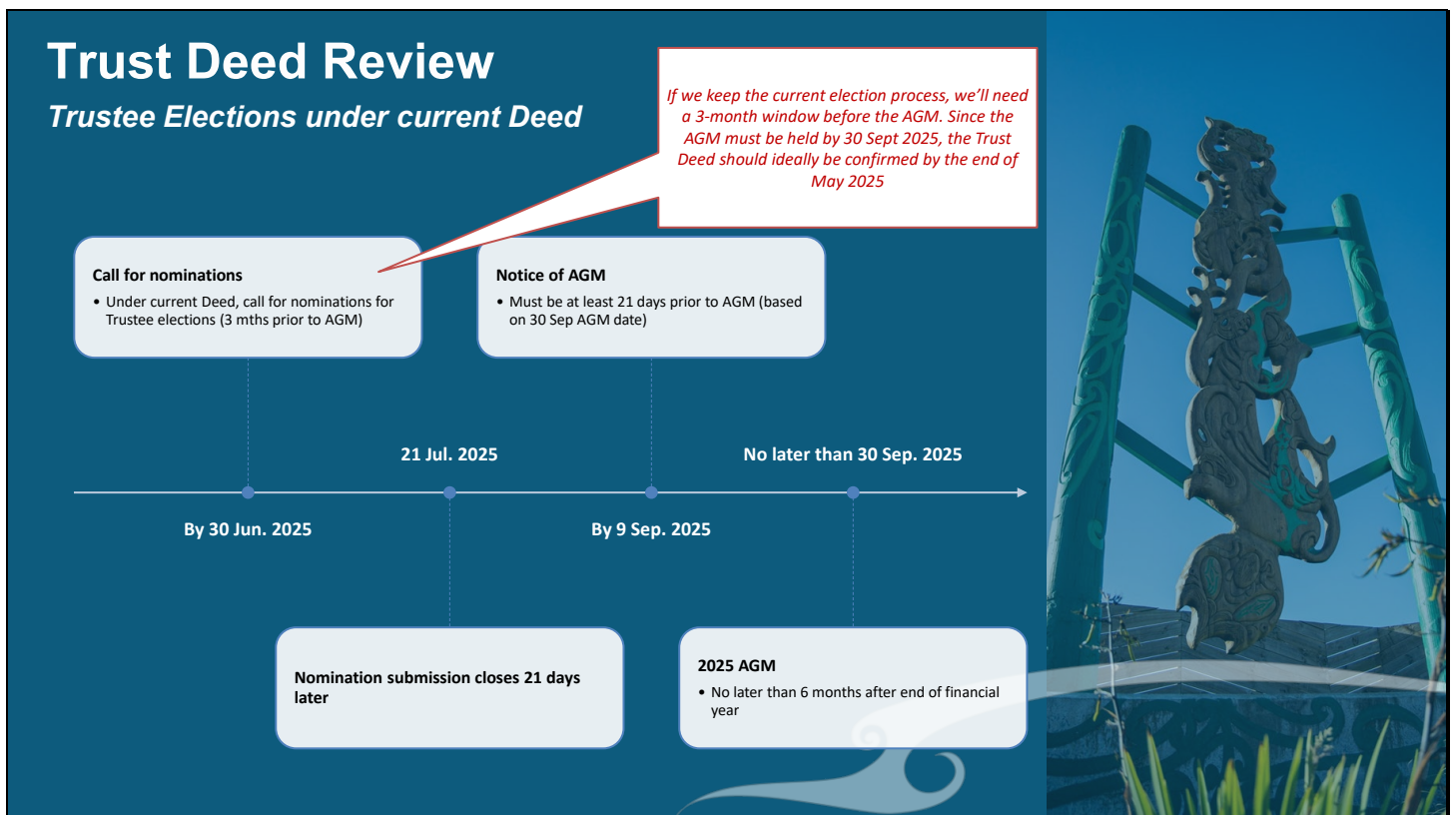
Key Milestones

2024

- The Hui-a-iwi in October served as the launchpad for this review, introducing the key issues and receiving initial feedback.
- At the AGM we talked about the importance of this review and encourage further engagement.

2025

- Between January and March, the engagement process will continue with both online and marae-based sessions to ensure broad participation.
- By mid-April, feedback will be consolidated, and a draft Trust Deed will be prepared for review.
- In May, a Special General Meeting will be convened to confirm the new Trust Deed, ensuring it is ratified before the trustee election process begins in June.
- The final AGM in September will present the finalised Deed and report election outcomes.




- Should the current election process remain as the preferred election process for Trustees, a 3-month window prior to the AGM would be required for this to occur.
- Given the AGM cycle (to be held no later than six months after the end of the financial year ~ by 30 Sept. 2025); and election process, ideally the Trust Deed would need to be confirmed by the end of May 2025.

Trust Deed Review

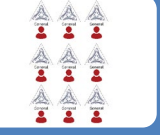


Composition of Trustees: options to think about for a future representation model




Option: Hybrid model

- Election 1: If more than 1 nomination, iwi beneficiary votes for their marae rep
- Election 2: All beneficiaries participate, vote for a general rep if more candidates than trustee spots available



Option: General election

- People with most votes elected
- Examples of variations to this could include: must have a certain number of trustees spread across marae, certain number of trustees reside in the rohe, or certain number of spots reserved for kaumatua



Option: Marae model (current model)

- Current model – with up to 2 reps per marae
- Beneficiary votes/appoints their marae rep



NOTE: *the graphics in the slide are for a visual reference only – whatever is decided upon by beneficiaries as the preferred model going forward, the finer detail is to be confirmed, e.g. the general election model has 9 ‘icons’, but this does not infer 9 trustees are being proposed*

Issue one – the composition of trustees

Trustees play an important role, they are elected to make decisions on behalf of the collective, the beneficiaries. Further trustees have duties under the trust deed, and trust law generally. Getting the composition right is important, and needs to be fit for purpose for Ngāi Takoto. Current composition includes the ability for marae to elect up to two (2) trustees each. This is known as a marae-based model. At the hui-a-iwi, we discussed a range of options. While there a range of options and combinations, we set out some key options below for discussion.

1. Option one – a hybrid approach

A hybrid approach, includes a composition whereby trustees are elected by marae *and* trustees are elected generally. This could be done by each marae appointing one (1) trustee (resulting in four (4) trustees), and three (3) further trustees being elected generally. Practically, this will involve:

- Every beneficiary electing one marae, as the marae they can vote for in elections.
- If there is more than one nomination for a particular marae trustee, there will be an ‘election’, whereby beneficiaries registered with that marae, can vote.
- Separately, a ‘general election’ is held which allows for all beneficiaries to participate in a general vote. This will only apply, if there are more candidates, than trustee spots available.

This approach retains the marae-based model, together with opening up trustee spots for others, for example, for those that may live outside of the rohe, but this would not be a requirement. The risk in the hybrid approach, is that you may end up with some marae being represented (from a number of trustees perspective) more than others.

2. Option two – a general election only

This option is the easiest to administer, and is simply a general election whereby the people with the most votes, are elected. Variations to this option, include:

- Requiring a certain number of trustees to be from a spread of marae;
- Requiring a certain number of trustees, to reside in the rohe; or
- Allowing for reserved spots, i.e. for kaumatua.

Without the variations above, there is no guarantee the composition of trustees will include a balanced marae view, and/or the views of those beneficiaries who live within the rohe. On the other hand, the approach is arguably the fairest. A reminder, that all trustees elected, no matter how they are elected, must act in the best interests of all beneficiaries.

3. Option three – retain wholly marae-based model

There is of course, the ability to retain the current model – which allows for each marae to appoint two (2) trustees each. This approach allows for a guaranteed spread across marae, but arguably does not allow for those who live outside of the rohe, to participate in the same way.

Trust Deed Review



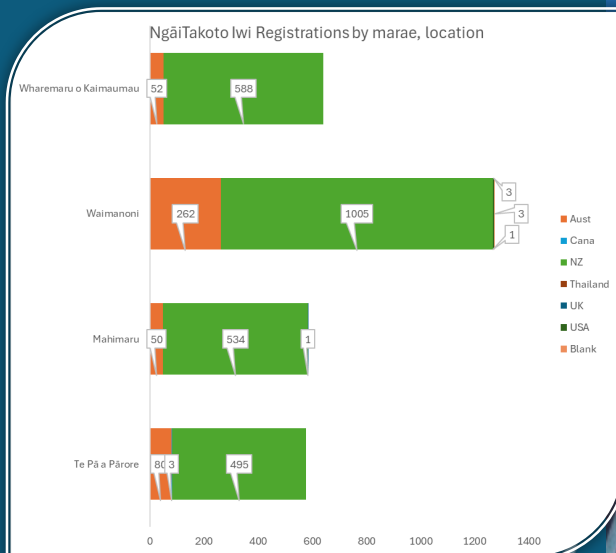
Composition of Trustees: where are our people

KŌRERO

Census 2023: Te Whata

3,273 people whakapapa to NgāiTakoto

39% of NgāiTakoto live in Northland
33% live in Auckland
7% in Waikato
6% in Bay of Plenty




Our people

- As at our December AGM, we had 3,077 iwi registrations. The primary marae that our people affiliate to is broken down to:
 - Te Pā a Parore 578
 - Mahimaru 585
 - Waimanoni 1,274
 - Wharemaru o Kaimaumuau 640
- 2023 Census data tells us 3,273 people have indicated they whakapapa to NgāiTakoto.


Trust Deed Review




Composition of Trustees related matters

- 


Maximum Term

 - Consideration: setting a 3 x 3 term (3 terms of 3 years)
 - Allows for succession
- 

Appointment of Chairperson(s)

 - Currently, Trustees appoint the Chair
 - Consideration: appointed by iwi members at large? Appointed by trustees?
 - Consideration: having a Co-Chairperson?
- 

A rotational system

 - Many Trust Deeds have, to avoid the associated risks of “all on, all off”
 - Don’t lose institutional knowledge all at once
 - Associated costs with more frequent elections
- 

Co-opting Trustees

 - Trust Deeds can often include co-opting, which can help in scenarios such as falling below a minimum number of trustees



• **1.4 MAXIMUM CLAUSES?**

We **recommend** a maximum term clause be inserted. A maximum term clause will mean that trustees serve a maximum of terms - for example three terms, of three years. This could apply retrospectively, or from the date the changes are made.

While not a legal requirement, this allows for succession which can be important for a PSGE. The downside is that you may lose trustees with significant historical context and experience after the maximum term.

• **1.5 THE APPOINTMENT OF THE CHAIRPERSON(S)**

The Chairperson can be appointed, either by the trustees, or iwi members at large. The more common approach is that trustees appoint a chairperson.

If iwi members agree to a Co-Chairpersons, the trust deed needs to provide for this also.

• **1.6 A ROTATIONAL SYSTEM?**

Many trust deeds introduce a rotational system to avoid the risks associated with an “all on, all off” system. The downside of a rotational system is the costs associated with holding elections more frequently. We **ultimately recommend** a rotational system.

• **1.7 THE USE OF CO-OPTING TRUSTEES**

Trust deeds can often include the power for trustees to co-opt other trustees, to avoid the requirement to hold elections, which can be costly. Co-opting can be useful in certain scenarios, for example to fall below a minimum number of trustees. We **recommend** co-opting be used, but in a limited way.

Trust Deed Review



Composition of Trustees | Whaia Legal Recommendation

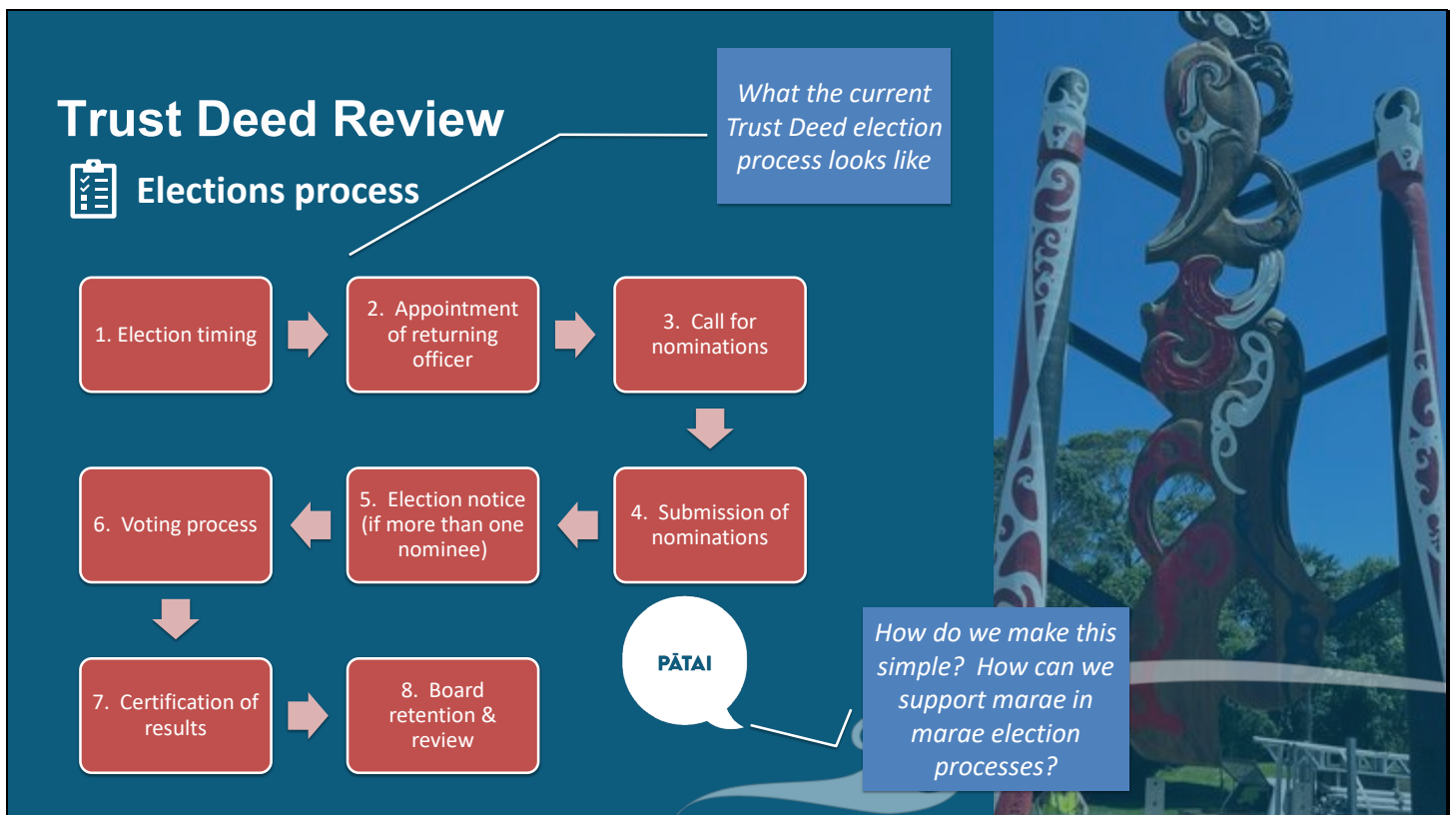
We recommend a maximum term clause be inserted. A maximum term clause will mean that trustees serve a maximum of three terms, of three years.

We recommend a rotational system.

- Avoids the risks associated with “all on, all off” system

We recommend co-opting to be used, but in a limited way.





Issue two – election and removal processes

It is important to understand and follow the correct election processes set out in your trust deed. Failure to do so, can leave the Rūnanga and individual trustees exposed. The current election processes is prescriptive, and complex.

We **recommend** adopting a simplified approach, that allows for flexibility and cost savings where possible. The approach will need to empower marae to facilitate the election process.

Trust Deed Review



Elections processes | Whaia Legal Recommendation

We recommend adopting a simplified approach, that allows for flexibility and cost savings where possible. The approach will need to empower marae to facilitate the election process, if a marae-based model is retained in some form.



Issue two – election and removal processes

It is important to understand and follow the correct election processes set out in your trust deed. Failure to do so, can leave the Rūnanga and individual trustees exposed. The current election processes is prescriptive, and complex.

We **recommend** adopting a simplified approach, that allows for flexibility and cost savings where possible. The approach will need to empower marae to facilitate the election process.

Trust Deed Review



Governance accountability

Discussions around governance accountability, including Trustee removal, have been raised in past kōrero – this is an important area where clarity and fairness are key

Misconduct

- Ensure clear provisions and a fair process for removal

Marae-led

- If marae prefer removal rights, a transparent process with beneficiary support should be in place

Current Trust Deed

- Includes a clause around not bringing NgāiTakoto into disrepute, allowing for censure or removal if required



Issue two – election and removal processes continued

Removal of trustees is also an important issue. Removal can occur for a range of reasons, including misconduct by trustees (and by ensuring a fair process is followed), and potential removal by marae of trustees.

We recommend:

- Removal provisions relating to misconduct of trustees – this is important as trustees can put other trustees, and the PSGE at risk; and
- If removal by marae is preferred, that a fair and transparent process be adopted

Trust Deed Review



Governance Accountability | Whaia Legal Recommendation

Removal provisions relating to misconduct of trustees – this is important as trustees can put other trustees, and the PSGE at risk.

If removal by marae is preferred, that a fair and transparent process be adopted.



Issue two – election and removal processes continued

We recommend:

- Removal provisions relating to misconduct of trustees – this is important as trustees can put other trustees, and the PSGE at risk; and
- If removal by marae is preferred, that a fair and transparent process be adopted

Trust Deed Review

Looking at a 'Corporate Trustee' model

PĀTAI

- What is a corporate trustee?**

A corporate trustee is where the trustee is a **company**. This model allows Trustees to act through a company as Directors. It reduces personal liability
- What's the advantages of a corporate trustee?**

The advantages include:
Limited liability & asset protection – shields trustees from personal liability, safeguards iwi assets;
Continuity & succession – ensures longterm stability, avoids disruptions from trustee resignations or disputes;
Stronger governance & professionalism.
- What are the risks with our current model?**

Under the current model, the representatives to the Board are individual Trustees. Individual trustees are personally liable for trust debts & legal issues. Trustee resignations, disputes, or passing away can disrupt governance & decision-making.

Issue three – the shift to a 'corporate trustee' model

One matter that was discussed at the hui-a-iwi, is a potential shift to what is known as a 'corporate trustee' model. The model means that a company is established, and the company acts as the trustee. Elected individuals still make decisions on your behalf, but trustees shift to being directors of the trustee company, rather than trustees personally. The model is beneficial for the following reasons:

- It means that trustees are not acting personally, rather they are acting through a company.
- This mitigates any risk exposure to their personal assets if there is any liability issues (even if there is no wrongdoing on the part of the trustees).
- It provides some practical benefits, some of which are currently covered by the current custodian trustee, for example land and other trust property are held by the company and not trustees personally and you do not have to change titles, every time trustees change.

Importantly, it does not change the way trustees are elected, the objects of the Rūnanga, or commercialise the Rūnanga at all.

Trust Deed Review



Looking at a 'Corporate Trustee' model | Whaia
Legal Recommendation

We recommend the appointment of a
corporate trustee.



Issue three – the shift to a 'corporate trustee' model

We **recommend** the appointment of a corporate trustee.

Trust Deed Review:

Next steps



Send your feedback or pātai on the key issues to feedback@ngaitakotoiwi.co.nz by 28 March 2025

⚡ The key issues information sheet does not set out every proposed amendment, rather it focuses on the significant issues that were discussed at the hui-a-iwi.

⚡ Any amendments to the Trust Deed need to be approved by a Special Resolution of iwi members at a general meeting of the Rūnanga.

⚡ Further information, including a full set of amendments will be shared before any decisions are sought.

PĀTAI?

