

**OIR: 2526/269**

16 February 2026

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████████████████████

Tēnā koe ██████,

**Request for Information under the Local Government Official Information and Meetings Act 1987 (the Act) (the LGOIMA)**

Thank you for your email of **22 January 2026** requesting the following information:

***Further to my enquiry 12/01/2026 I wish to request further clarification for the purposes of understanding the guidelines, service provision, and financial oversight, that were used in identifying the choice of possible options available for the analysis and assessment of how the community housing portfolios are owned and managed for the benefit of the wider Kapiti community both ratepayers and residents alike.***

***This OIR representing KCDC's engagement needs to cover the Governance aspects of ownership, management, and funding structure for the following Community Housing projects:***

<b><i>Older persons Housing</i></b>	<b><i>[OPH]</i></b>
<b><i>Kapiti Housing Solutions Trust</i></b>	<b><i>[KHST] of the four entities this is the only registered charitable trust</i></b>
<b><i>Homes for Good</i></b>	<b><i>[HFG]</i></b>
<b><i>The Affordable Housing Trust</i></b>	<b><i>[AFHT funded by the Ministry of Housing]</i></b>

***Because of the significance in terms of balance sheet assets and liabilities, and the extent of impact on the ratepayer Opex funded Statement of Comprehensive Revenue and Expenses [ CRE] it may be that the SEP rules are triggered along with the Materiality financial alert benchmarks for Risk and Assurance.***

***Question 1: In preparation for understanding what is already in place and for a future plan of action the following information is required in order for transparent and open assessment of the best options available for community outcomes both in terms of service provision, management, and the most cost and capital beneficial outcomes.***

**For the above mentioned four entities-**

Responses to your request for information about the four Community Housing Projects are provided below:

<b>Project</b>	<b>Current ownership / service provision</b>	<b>Management</b>	<b>Reviews and/or decisions</b>	<b>Financial implications</b>
Older Persons Housing	<p>Kāpiti Coast District Council owns and manages 118 one-bedroom units in ten locations throughout the district. The units are let to older people who met eligibility criteria.</p> <p>Information on the portfolio is available here:</p> <ul style="list-style-type: none"> <li><a href="https://www.kapiticoast.govt.nz/propertyhousingandrates/housing/housing/">https://www.kapiticoast.govt.nz/propertyhousingandrates/housing/housing/</a></li> </ul>	<p>In 2023, Council considered a report regarding the review of the Older Persons Housing Portfolio (refer to: <a href="https://storage.googleapis.com/kapiti-1-agendas/1_agenda_14Dec2023_9_30am.pdf">https://storage.googleapis.com/kapiti-1-agendas/1_agenda_14Dec2023_9_30am.pdf</a> ). The Council resolved to include consultation on the preferred recommended option for the future of the portfolio as a key issue for formal consultation in the 2024-34 Long-term Plan process.</p> <p>Council also undertook a review of the Older Persons' Housing Portfolio. The details and findings of the review are contained in the following two reports:</p> <ul style="list-style-type: none"> <li><a href="https://www.kapiticoast.govt.nz/media/0tslzyqw/review-of-older-persons-housing-stage-1-report-october.pdf">https://www.kapiticoast.govt.nz/media/0tslzyqw/review-of-older-persons-housing-stage-1-report-october.pdf</a></li> <li><a href="https://www.kapiticoast.govt.nz/media/5hrfm5ma/review-of-older-persons-housing-stage-2-report.pdf">https://www.kapiticoast.govt.nz/media/5hrfm5ma/review-of-older-persons-housing-stage-2-report.pdf</a></li> </ul>	<p>For information on the review of the Older Persons Housing Portfolio please refer to:</p> <ul style="list-style-type: none"> <li><a href="https://www.kapiticoast.govt.nz/propertyhousingandrates/housing/review-of-older-persons-housing/">https://www.kapiticoast.govt.nz/propertyhousingandrates/housing/review-of-older-persons-housing/</a></li> </ul> <p>Council consulted on this topic in the Long Term Plan 2024-34 <a href="https://www.kapiticoast.govt.nz/council/forms-documents/annual-and-long-term-plans/long-term-plan/long-term-plan-2024-34/">https://www.kapiticoast.govt.nz/council/forms-documents/annual-and-long-term-plans/long-term-plan/long-term-plan-2024-34/</a>.</p> <p>Please see the post-consultation decisions related to the portfolio and next steps noted in the Response to Question 2.</p> <p>No decision has yet been made to transfer the future ownership of the portfolio to another service provider or entity. Although the 2024-34 Long-Term Plan expected a decision to be made in 2025, this has not yet occurred and will be a future decision for the current Council.</p>	<ul style="list-style-type: none"> <li>Currently, Council provides in-house services for the older persons housing portfolio. The forecast budget across the 10 years to 2034 anticipates that, without a change to the operating model, an operating loss of up to \$37 million will be funded from rates.</li> <li>The current capital value of the portfolio in the Council's balance sheet should reflect the current book value of the portfolio, as a resolution on next steps has not yet been made. Notably, this decision was deferred in 2025 due to the election period.</li> <li>Options for next steps will be set out in 2026. Councillors will be asked to make a series of decisions through to December 2026, with full information about the financial implications of these options and decisions. Councillors will be briefed on consultation implications relevant to these decisions.</li> </ul>

<b>Project</b>	<b>Current ownership / service provision</b>	<b>Management</b>	<b>Reviews and/or decisions</b>	<b>Financial implications</b>
Kāpiti Housing Solutions	Independent Trust.	<p>The Trust was settled by Kāpiti Coast District Council on 11 December 2024.</p> <p>Kāpiti Housing Solutions was incorporated under the Charitable Trust Act 1957 on 3 February 2025.</p>	<p>Information regarding the formation of Kāpiti Housing Solutions Trust appears on Council's website: <a href="https://www.kapiticoast.govt.nz/propertyhousingandrates/housing/affordable-housing-trust/">https://www.kapiticoast.govt.nz/propertyhousingandrates/housing/affordable-housing-trust/</a></p>	<ul style="list-style-type: none"> <li>• Council supported minor operating set-up costs to establish the Trust.</li> <li>• Council transferred the <i>Rangiuru Road project</i>, along with funding of \$6-7 million from the Ministry of Housing and Urban Development to part-fund the project. Council has not otherwise funded this specific project.</li> </ul>
Homes for Good	<p>Independent Trust.</p> <p>Kāpiti Coast District Council was not involved in the formation or incorporation of Homes for Good Trust Board.</p> <p>The Trust is completely independent from Council. Link to the Trust's website: <a href="https://www.homesforgood.nz/">https://www.homesforgood.nz/</a></p> <p>We understand that the Homes for Good Trust Board was incorporated under the Charitable Trusts Act 1957 on 11 October 2024.</p>	<p>Homes for Good Trust Board successfully applied to Council via the Community and Affordable Housing Seed Fund to assist the Trust to develop models of housing provision for older persons.</p> <p>The Trust has also been contracted by Kāpiti Coast District Council to deliver workshops in Paraparaumu and Waikanae to raise awareness of the "Additional Dwelling Guide" developed by Council. The workshops were offered free to the public to provide interested residential property owners in the district with an opportunity to find out more information. Homes for Good Trust were contracted to organise and facilitate the workshops.</p>	<p>Details of the Community and Affordable Housing Seed Fund and the grant provided to Homes for Good Trust appear on Council's website: <a href="https://www.kapiticoast.govt.nz/services/grants-and-funding/community-and-affordable-housing-seed-fund/">https://www.kapiticoast.govt.nz/services/grants-and-funding/community-and-affordable-housing-seed-fund/</a></p> <p>Information concerning the Additional Dwelling Guide and the workshops run by Homes for Good Trust appear on Council's website: <a href="https://www.kapiticoast.govt.nz/council/forms-documents/resources-and-reference-materials/guides-and-forms/thinking-about-adding-an-additional-dwelling/">https://www.kapiticoast.govt.nz/council/forms-documents/resources-and-reference-materials/guides-and-forms/thinking-about-adding-an-additional-dwelling/</a></p>	<ul style="list-style-type: none"> <li>• Grant funding of \$7.5K (including GST) related to the Affordable Housing seed fund was provided via the central government's "Better Off Funding" allocation, rather than from rates funding.</li> <li>• \$3.1K (including GST) related to a contract to organise and facilitate workshops to raise awareness of the "Additional Dwelling Guide" for the public.</li> </ul>

<b><i>Project</i></b>	<b><i>Current ownership / service provision</i></b>	<b><i>Management</i></b>	<b><i>Reviews and/or decisions</i></b>	<b><i>Financial implications</i></b>
The Affordable Housing Trust funded by the Ministry of Housing	<p>Council is not aware of a separate entity / project called The Affordable Housing Trust.</p> <p>However, prior to settlement Kapiti Housing Solutions Trust was sometimes referred to as the Affordable Housing Trust. See above for information on Kapiti Housing Solutions Trust.</p>	-	-	-

## **Governance aspects of ownership, management, and funding structure**

- 2. The dated, moved and minuted resolutions in Council that authorised the creation of a Community Housing entity either in the past or currently being formed or to be in the future, this business model will include the decision and rationale to chose from the creation or use of a CHP, a Trust, a Limited Liability Company, a Lease arrangement, a Suspensory Debt arrangement and any other possible business models considered.**

Council authorised the creation of the 'Community Housing entity' in three separate Committee meetings:

- A. In the Council meeting on 26 May 2022, Council considered a report "[Consultation on Affordable Housing Entity](#)", which outlined options and considerations to establish an affordable housing entity.

In summary, the options considered included:

- Option 1: Council Controlled Organisation, via a Holding Company
- Option 2: Community Housing / Land Trust
- Option 3: Support existing providers
- Option 4: A hybrid approach, comprising a combination options 2 and 3.

Council confirmed a preference for Option 4. The meeting resolved to consult with the community on the preferred option, see resolutions below:

### **RESOLUTION CO2022/43**

Moved: Cr Robert McCann

Seconder: Cr James Cootes

That Council:

Confirm that the preferred option for an affordable housing entity in Kāpiti is the establishment of an Independent Community Land Trust.

Confirm that the preferred affordable housing entity option is to be structured so that it can partner with Iwi and other organisations to deliver social and affordable housing solutions and support existing providers to improve housing outcomes in Kāpiti.

Approve the draft Statement of Proposal as attached in appendix 1, with minor editing to be delegated to the Chief Executive and Cr McCann.

Approve consultation on the preferred option, occurring for a four-week period commencing in early June 2022.

**CARRIED**

- B. In the Council meeting on 29 February 2024, Council considered a report "[Affordable Housing Trust: Trust Establishment](#)".

In summary, the paper provided background to the proposal to establish an affordable housing trust, details of draft documentation including a draft Trust Deed and Relationship Framework Agreement, see resolutions below:

## RESOLUTION CO2024/2

Moved: Cr Martin Halliday

Seconder: Cr Liz Koh

That the Council:

- A. **Approve** in principle the Trust Deed attached at Appendix 1 for the establishment of an independent housing trust in Kāpiti, including:
  - A.1 Trust Board composition described at clause 2 of Schedule 2 of the Trust Deed
  - A.2 The appointment process for Trustees described at Schedule 2 of the Trust Deed.
- B. **Delegate** the power to finalise the Trust Deed, including any required amendments made on legal advice that do not affect the fundamentals of the Trust, to the Chief Executive and Mayor
- C. **Approve** 'Kāpiti Coast Affordable Housing Trust' as the placeholder name for the Trust
- D. **Approve** in principle the draft Relationship Framework Agreement (RFA; attached at Appendix 3)

- C. In the meeting on 5 December 2024, the Strategy, Operations and Finance Committee considered a report "[Affordable Housing Trust: Steps to Settle the Trust](#)".

In summary, the paper noted the processes to appoint Independent Trustees, and to finalise the draft Trust Deed and Relationship Framework were complete, see resolutions below:

## COMMITTEE RESOLUTION SOF2024/51

Moved: Cr Nigel Wilson

Seconder: Deputy Mayor Lawrence Kirby

That the Strategy, Operations and Finance Committee:

- A. **Note** that the Independent Trustees have now been appointed to the Affordable Housing Trust using the process approved by Council on 29 February 2024.
- B. **Note** the Trustees have considered the draft Trust Deed and Relationship Framework Agreement ("RFA") which were approved in principle by Council on 29 February 2024 and have made suggested changes for consideration.
- C. **Note** that Council has received legal advice on the changes and that changes proposed by the Trustees to do not affect the fundamentals of the Trust Deed and in terms of the RFA are not substantive, therefore, subsequent Council approval of the documents is not required.
- D. **Note** that further to the decision made by Council on 29 February 2024, the Mayor and Chief Executive have the delegation to finalise and agree the documentation with the Trust, enabling the Trust to be settled.
- E. **Note** that the Trust will be settled on the 11 December 2024, and that discussion of a potential first project for the Trust will be discussed in February 2025.

**CARRIED**

- 3. Documentation outlining the legal vehicle authorised and to be used e.g. – Trust deed document \*, LLC Incorporation, Iwi Partnership including trustees, beneficiaries, directors, shareholders, any beneficial**

**interests. The legal vehicle chosen would of necessity include a pre-existing authority to act e.g. as Donor, Owner etc.**

Please refer to the Response to Question 2 (section B outlines information related to this matter).

Further to this, I have attached the finalised Trust Deed and Relationship Framework Agreement executed by Council and the Kāpiti Housing Solutions on 11 December 2024.

- 4. Dated, moved and minuted resolutions in Council that authorised the business funding model chosen above to finance the housing entity either in the past or currently being formed, this will include any debt, who holds it, who provided the capital funding, who and how much operating [maintenance] expenditure is being funded and by whom e.g. Ministry of Housing in the case of AFT or Kapiti Ratepayers in the case of OPH.**

Please refer to the Response to Question 2 (section C outlines information related to this matter).

In summary, the report to the Strategy, Operations and Finance Committee meeting of 5 December 2024 identifies financial support offered to Kāpiti Housing Solutions during its establishment phase. The paper also points out that the Relationship Framework Agreement includes a framework to agree partnering on project opportunities identified.

- 5. The financial assessment(s) done and documented, or to be done currently to establish the best possible outcome for:-**

- **Current and future cashflows and NPV analysis done for housing assets currently on KCDC's balance sheet or under KCDC management [both direct and indirect i.e. Trusts, JV's Partnerships etc], and /or subsidised and funded by Kapiti Ratepayers .**
- **Accounting rationale and calculations used to establish any asset write-downs including independent valuation assessment(s) done by arms length independent parties to support same.**
- **Audit verification and assurance by Ernst and Young for all of the above.**

Please refer to the Response to Question 1. To confirm:

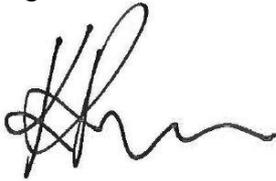
- Council determined through consultation of the Long-Term Plan 2024-34 that there was community support to 'transfer the ownership and management of the older person's housing to another service provider.
- However, Council has not yet made resolution to enact a 'transfer' of future ownership and management of the older person's housing assets to another entity. On that basis:
  - Any proposal to change the ownership or management of the portfolio will be a future decision for Council (including *Current and future cashflows and NPV analysis done for housing assets currently on KCDC's balance sheet or under KCDC management [both direct and indirect i.e. Trusts,*

*JV's Partnerships etc], and /or subsidised and funded by Kapiti Ratepayers).* This part of your request is therefore refused under section 17(e) of the Act as the documents believed to contain the information requested does not exist, or despite reasonable efforts to locate them, they cannot be found.

- Any adjustment to asset values would be a consideration when future decisions are made (including *Accounting rationale and calculations used to establish any asset write-downs including independent valuation assessment(s) done by arms-length independent parties to support same; and Audit verification and assurance by Ernst and Young for all of the above*). This part of your request is therefore refused under section 17(e) of the Act as the documents believed to contain the information requested does not exist, or despite reasonable efforts to locate them, they cannot be found.

You have the right to request the Ombudsman to review this decision. Complaints can be sent by email to [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz), or by post to The Ombudsman, PO Box 10152, Wellington 6143.

Ngā mihi,



**Kris Pervan**

Group Manager Strategy and Growth  
Te Kaihautū Rautaki me te Tupu

Dated 11 December 2024

**TRUST DEED FOR KĀPITI HOUSING SOLUTIONS**  
**BETWEEN**

**KĀPITI COAST DISTRICT COUNCIL**  
Settlor

AND

**THE TRUSTEES OF KĀPITI HOUSING SOLUTIONS**  
Trustees

I certify that this is a correct copy of the Trust Deed of the Kāpiti Housing Solutions Trust as per section 10(2)(a) of the Charitable Trusts Act 1957.

Jacinda Ann Fook



witnessed by  
Te Anha Jennings, solicitor  
Kapiti.  
Jennings



## CONTENTS

INTRODUCTION	1
1. INTERPRETATION	1
2. NAME OF TRUST	4
3. TRUST FUND AND DECLARATION	4
4. CHARITABLE PURPOSES	4
5. REGISTRATION AND STATUS	5
6. BOARD OF TRUSTEES	5
7. TRUSTEE DUTIES	6
8. TRUSTEES' GENERAL DUTY OF CARE	6
9. TRUSTEE POWERS AND DISCRETIONS	7
10. APPLICATION OF INCOME	7
11. APPLICATION OF CAPITAL	8
12. INVESTMENT OF THE TRUST FUND	8
13. EXECUTION OF DOCUMENTS	9
14. KEEPING RECORDS	9
15. LIMITATION OF LIABILITY AND INDEMNITY	10
16. NO PRIVATE PECUNIARY PROFIT	10
17. CONFLICT OF INTEREST	12
18. AMENDMENTS OF THE TRUST DEED	12
19. WINDING UP	12
20. GOVERNING LAW	13
SCHEDULE 1: TRUSTEE POWERS	17
SCHEDULE 2: BOARD OF TRUSTEES	21
SCHEDULE 3: TRUSTEE MEETINGS	26

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TRUST DEED dated the 11th day of December

2023

## PARTIES

- (1) KĀPITI COAST DISTRICT COUNCIL (the Settlor)
- (2) NAME OF COUNCIL-APPOINTED TRUSTEE, Rev. Murray Edridge of Kāpiti  
NAME OF MĀORI TRUSTEE, Kim Tahiwī of Kāpiti, on behalf of Te Whakaminenga o Kāpiti on the Trust  
NAME OF INDEPENDENT TRUSTEE, Alison Cadman of Wellington  
NAME OF INDEPENDENT TRUSTEE, Jacinda Foote of Kāpiti  
NAME OF INDEPENDENT TRUSTEE, Waipuna Grace of Kāpiti  
NAME OF INDEPENDENT TRUSTEE, Alexandra Hare of Kāpiti  
NAME OF INDEPENDENT TRUSTEE, Greg Foster of Whitby (Original Trustees)

## INTRODUCTION

- A. The Settlor wishes to establish a charitable trust to be known as Kāpiti Housing Solutions for the Charitable Purposes set out in this Trust Deed.
- B. The Settlor gifts \$10.00 (Initial Gift) to the Trustees to settle the Trust. It is anticipated that further money, property, and investments may, from time to time, be paid or transferred to the Trust.
- D. The Settlor and the Original Trustees have agreed to enter into this Trust Deed specifying the terms of the Trust.

## 1. INTERPRETATION

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

**Act** means the Trusts Act 2019;

**Associated Person** means a person who is an associated person of any Trustee for the purposes of the exemptions from income tax for a tax charity as set out in the Income Tax Act 2007;

**Board** means the board of Trustees of the Trust;

**Board Appointments Panel** means the panel of persons specified in clause 3.3 of Schedule 2;

**Charitable Purposes** means the purposes of the Trust as set out in clause 4.1;

**Community Housing Provider** means a "community housing provider" as defined in section 2 of the Public and Community Housing Management Act 1992;

**Conflict of Interest** has the meaning given in clause 17.1;

**Council-Appointed Trustee** means a Trustee that is appointed by the Settlor in accordance with clause 4.1(a) of Schedule 2;

**Council-Controlled Organisation** means an entity that is a "council-controlled organisation" pursuant to section 6 of the Local Government Act 2002;

**Council Organisation** means an entity that is a "council organisation pursuant to section 6 of the Local Government Act 2002;

**Council Officer** means an employee of, or contractor to, the Settlor;

**Elected Member** means a person elected as a councillor of the Settlor;

**Financial Year** means each 12-month period ending on 30 June;

**Income Related Rent Subsidy** or **IRRS** means the subsidy paid by the Ministry of Housing and Urban Development to Registered Community Housing Providers pursuant to a reimbursement agreement or tailored agreement under the Public and Community Housing Management Act 1992 to cover the difference between rent paid by public housing tenants and the market rent for the property;

**Independent Trustee** means a Trustee that is not associated with the Settlor (including as an Elected Member or Council Officer) or any of the Māori Trustee Appointing Parties and is appointed by the Board Appointments Panel in accordance with clause 4.1(c) of Schedule 2;

**Kapiti Coast District** means the district of the Kapiti Coast District Council as constituted by the Local Government (Wellington Region) Reorganisation Order 1989, Gazette 1989, page 2491

**Local Authority** means "local authority" as defined in section 5 of the Local Government Act 2002;

**Māori Trustee** means a Trustee that is appointed by Te Whakaminenga o Kāpiti in accordance with clause 4.1(b) of Schedule 2;

**Registered Community Housing Provider** means a "registered community housing provider" as defined in section 2 of the Public and Community Housing Management Act 1992;

**Settlor Representatives** means persons, who are not Trustees, that are chosen by the Settlor to attend Board meetings;

**Subsidies** means any subsidies, payments or financial accommodation provided by the Crown to Registered Community Housing Providers or community housing providers to assist such providers with the provision of public, social or community housing, including the payment of IRRS;

**Te Whakaminenga o Kāpiti** means the independent advisory forum for the partnership between mana whenua and Kapiti Coast District Council, where mana whenua means each of:

- (a) Ngāti Raukawa ki te Tonga;
- (b) Ngāti Toa Rangatira; and
- (c) Te Ātiawa ki Whakarongotai;

**Trust** means the trust evidenced by this Trust Deed;

**Trust Deed** means this Trust Deed and any deed of variation or replacement;

**Trust Fund** means the Initial Gift, all money, investments or other property paid or given to or acquired or agreed to be acquired by the Trustees, and additions and accretions to the Trust Fund and any part of the Trust Fund after this Trust Deed has been signed with the intention that it be held by the Trustees subject to the trusts and other provisions set out in this Trust Deed;



**Trustee Skills and Experience** means one or more of the following:

- (a) experience in community, social or affordable housing;
- (b) experience in management or governance in any or all of tenancy management, property development, asset management and social services;
- (c) experience in the operation and implementation of government funding programmes;
- (d) an empathy with the communities in the locations where the Trust intends to provide community, social and/or affordable housing;
- (e) an understanding of the Charitable Purposes;
- (f) financial management experience;
- (g) governance experience in either not-for-profit or business organisations;
- (h) legal experience in either not-for-profit or business organisations;
- (i) experience in strategy development, policy development, risk management or organisational change;
- (j) experience in operations or service delivery;
- (k) knowledge and understanding of Te Tiriti o Waitangi, Te Ao Māori and tikanga Māori;
- (l) financial literacy relevant to the financial and economic issues related to the Trust; and
- (m) any other attributes deemed necessary or desirable; and

**Trustees** means the trustees for the time being of the Trust.

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

- (a) the singular includes the plural and vice versa;
- (b) a reference to parties is a reference to the parties to this Trust Deed, including their successors, permitted assignees and permitted transferees;
- (c) a reference to persons includes a reference to human beings and any form of legal personality, incorporated or unincorporated;
- (d) whenever the words includes or including (or any similar expression) are used, they are deemed to be followed by the words "without limitation";
- (e) headings are included for the purpose of ease of reference only and are not to have any effect on construction and interpretation;
- (f) a clause is a reference to the clauses of this Trust Deed;
- (g) a schedule is a reference to a schedule of this Trust Deed;
- (h) a reference to documentation includes:
  - (i) a reference to that document as varied, supplemented, novated or substituted from time to time; and

- (ii) a reference to that documentation in any form, whether paper based or in electronic form encoded on or as part of any form of media; and
- (i) legislation includes amendments to and re-enactments of that legislation.

## **2. NAME OF TRUST**

- 2.1 The name of the Trust is Kāpiti Housing Solutions.
- 2.2 The Trustees may by deed, and only with the consent of the Settlor, change the name of the Trust at any time.

## **3. TRUST FUND AND DECLARATION**

- 3.1 The Settlor directs and the Trustees acknowledge and declare that they hold the Trust Fund upon trust for the Charitable Purposes and on the trusts set forth in this Trust Deed.
- 3.2 The Trustees shall be at liberty to receive and accept from any source, gifts or grants of monies, investments, or other property for the Charitable Purposes or for any specific purpose that falls within the Charitable Purposes. The receipt of the secretary, treasurer or other person or persons appearing to the Trustees to be authorised to give receipts on behalf of the recipient of any payment made under the terms of this deed, shall be a complete discharge to the Trustees for that payment.

## **4. CHARITABLE PURPOSES**

- 4.1 The Trust is established to relieve poverty and benefit the people of the Kāpiti Coast District by providing community housing, social housing, public housing, older persons' housing, affordable housing or any other similar housing in the Kāpiti Coast District, which may include the Trustees carrying out (without limitation) any of the following activities:
  - (a) acquiring, developing and leasing community housing, social housing, public housing, affordable housing, older persons' housing or any other similar housing;
  - (b) providing associated housing services;
  - (c) carrying out any other activities that may assist or support community housing, social housing, public housing, affordable housing, older persons' housing or any other similar housing schemes;
  - (d) engaging with local, and central government authorities and other social agencies to assist with the provision of housing in the Kāpiti Coast District;
  - (e) engaging and working with existing Community Housing Providers, iwi and other housing providers in the Kāpiti Coast District;
  - (f) advising, educating and supporting households facing housing stress through hosting seminars, workshops and any other means deemed appropriate by the Trustees that help households with their housing needs;
  - (g) becoming a Registered Community Housing Provider.
- 4.2 In carrying out the Charitable Purposes, the Trustees shall, to the extent deemed appropriate:

2025

- (a) focus on benefitting those who qualify for community housing, social housing, public housing, affordable housing, older persons' housing or any other similar housing due to their financial position and income;
- (b) have due regard to the following:
  - (i) te Tiriti o Waitangi;
  - (ii) Tikanga Māori;
  - (iii) Te Ao Māori; and
  - (iv) principles, including (but not limited to):
    - (1) manaakitanga, inclusivity and collaboration with mana whenua;
    - (2) recognition and respect for sacred kinship networks that extend to our natural environment;
    - (3) balance during processes, engagements and interactions;
    - (4) honesty and transparency;
    - (5) solutions that bring success through aroha and kotahitanga; and
    - (6) humility and service to promote care and safety to others;
- (c) engage with local whānau, hapū and iwi, where appropriate, to ensure their needs are understood and recognised, and housing for mana whenua is provided for through the Trust's housing development projects.

## 5. REGISTRATION AND STATUS

- 5.1 As soon as reasonably practicable and as a matter of priority, following the date of execution of this Trust Deed, the Trustees shall apply:
  - (a) to be registered as a charitable entity under the Charities Act 2005;
  - (b) to be incorporated as a board pursuant to the Charitable Trusts Act 1957; and
  - (c) a donee organisation recorded on the Inland Revenue register of donee organisations.
- 5.2 The Trust may apply to become a Registered Community Housing Provider in accordance with the Public and Community Housing Management Act 1992.
- 5.3 The Trustees shall endeavour to ensure that no action is carried out that would result in the Trust becoming a Council-Controlled Organisation or subsidiary of the Settlor or any other Local Authority.

## 6. BOARD OF TRUSTEES

- 6.1 The Board shall conduct the business and activities of the Trust only so as to achieve the Charitable Purposes.
- 6.2 Schedule 2 sets out provisions in relation to the following:
  - (a) the number of Trustees;

- (b) the composition of the Board;
- (c) the appointment and removal of Trustees;
- (d) the appointment and composition of the Board Appointments Panel;
- (e) the terms of appointment for Trustees; and
- (f) the appointment of a chairperson,

and will bind the Trustees both before and after their incorporation as a board under the Charitable Trusts Act 1957.

- 6.3 Subject to the terms of this Trust Deed, the Trustees may by deed, amend the provisions relating to the composition of the Board and the appointment and removal of Council-Appointed Trustees specified in Schedule 2 only with the consent of the Settlor.

## 7. TRUSTEE DUTIES

- 7.1 In addition to the mandatory and default duties specified below, the Trustees shall:

- (a) develop and maintain a working relationship with the Settlor and iwi, and with other community, social, public and affordable housing providers in the Kāpiti Coast District; and
- (b) consult with the Settlor on a regular basis to ensure that the Trustees are aware of the Settlor's views and policies relating to community housing, provided that the Trustees shall not be bound to promote any views and/or policies of the Settlor.

- 7.2 The Trustees must comply with the mandatory duties set out in sections 23 to 27 of the Act as follows:

- (a) know the terms of the Trust;
- (b) act in accordance with the terms of the Trust;
- (c) act honestly and in good faith;
- (d) act to further the Charitable Purposes; and
- (e) exercise their Trustee powers for a proper purpose.

- 7.3 The Trustees must comply with the default duties set out in sections 29-36 of the Act, save as to any modification contained in this deed.

- 7.4 The duties contained in sections 36 (duty of impartiality) and 38 (duty to act unanimously) of the Act are excluded and shall not apply to the Trustees.

## 8. TRUSTEES' GENERAL DUTY OF CARE

- 8.1 Notwithstanding section 29 of the Act, it is hereby declared that the care and skill to be exercised by the Trustees when administering the Trust shall, at all times, be the care and skill that is reasonable in the circumstances, without having regard to:

- (a) any special knowledge or experience that a Trustee has or holds themselves out as having; and

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- (b) if a Trustee acts as a trustee in the course of a business or profession, any special knowledge or experience that is reasonable to expect of a person acting in the course of that kind of business or profession.

8.2 Clause 8.1 represents a modification of section 29 (general duty of care) of the Act.

## 9. TRUSTEE POWERS AND DISCRETIONS

- 9.1 In addition to all the powers, authorities and discretions vested in the Trustees by law, the Trustees shall have all the powers of an absolute owner of property and shall have the widest possible powers and discretions to achieve the Charitable Purposes, subject to the terms of this Trust Deed and any direction to the contrary in any instrument evidencing or conferring a gift accepted by the Trustees, provided that such direction is not inconsistent with the charitable nature of the Trust.
- 9.2 The Trustees may appoint, from time to time, any committee, sub-committee, focus group or adjunct as they may from time to time think expedient for carrying out the Purposes. The Trustees may appoint a member of any such committee, sub-committee, focus group or adjunct to exercise or perform, on behalf of the Trustees, specified powers or functions in relation to the Trust or to make specified decisions in relation to the Trust Fund subject always to the restrictions contained in section 67(2) of the Act.
- 9.3 Without prejudice to the generality of clause 9.1, or to any of the Trustees' express or implied powers, the Trustees shall also have the powers set out in Schedule 1 and may exercise them either alone or with any other person(s).
- 9.4 Subject to the provisions of this Trust Deed, including clause 9.5, all powers and discretions of the Trustees may be exercised by the Trustees in their absolute discretion on such terms as the Trustees think fit.
- 9.5 In the exercise of the Trustees' powers and discretions the Trustees shall:
  - (a) observe the duties set out in clause 7; and
  - (b) not breach, and shall further, the Charitable Purposes.
- 9.6 In developing, purchasing, holding, maintaining or selling property for the Charitable Purposes the Trustees are not to be taken to be exercising a power of investment of the Trust Fund.

## 10. APPLICATION OF INCOME

- 10.1 The Trustees may at any time pay, apply or appropriate, or decide to pay, apply or appropriate as much of the income arising from the Trust Fund in a Financial Year as they think fit towards one or more of the Charitable Purposes, provided that where there is more than one Charitable Purpose, the Trustees need not treat each Charitable Purpose equally.
- 10.2 The Trustees, by written resolution, may appropriate any investments for one or more of the Purposes of the Trust in anticipation of a payment or application under clause 11.1.
- 10.3 In any Income Year, the Trustees may appropriate all or part of the income derived or to be derived from the Trust Fund during that Income Year even though, at the time of appropriation, they have not received the income being appropriated.



- 10.4 If the Trustees appropriate any income for any purpose of the Trust the recipient of that income shall take an absolute and indefeasible interest in that income as from the date on which it is appropriated.
- 10.5 The Trustees need not distribute all of the income arising from the Trust Fund in an Income Year but may retain or decide to retain all or part of that income to establish or augment any reserve fund, which may be used at any later time for any purpose for which income arising from the Trust Fund may be used.
- 10.6 Any payment or application pursuant to clause 10.1:
- (a) shall be after the payment or provision for costs or expenses arising or expected to arise out of the Trust's activities; and
  - (b) take account of any trust or obligation that may be impressed upon a part of the Trust Fund.

## 11. APPLICATION OF CAPITAL

- 11.1 At any time, the Trustees may, or may decide to pay, apply or appropriate as much of the capital of the Trust Fund as they think fit for or towards one or more of the Charitable Purposes of the Trust provided that where there is more than one Charitable Purpose, the Trustees need not treat each Charitable Purpose equally. Any payment, application or appropriation of capital may be made either in addition to or in place of any payment, application or appropriation of income.

## 12. INVESTMENT OF THE TRUST FUND

- 12.1 The Trustees may invest the Trust Fund and the income from it in any form of investment, and vary any such investment from time to time. Where, for the time being, there is more than one person acting as a trustee of the Trust Fund, and one or more, but not all, of them is or are engaged in a profession, employment or business which is or includes acting as a trustee or investing money on behalf of others, then in exercising any power of investment, that trustee or those trustees (as the case may be) shall not be required to exercise the care, diligence and skill that a prudent person engaged in that profession, employment or business would exercise in managing the affairs of others. Rather, that trustee or those trustees (as the case may be) shall be required only to exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others. This clause represents a modification of sections 29 (general duty of care) and 30 (duty to invest prudently) of the Act.
- 12.2 The Trustees may retain any investments coming into the Trustees' hands as part of the Trust Fund for as long as the Trustees think proper, even if they are not investments which could be properly made by a trustee. This clause represents a modification of sections 29 (general duty of care) and 30 (duty to invest prudently) of the Act.
- 12.3 The Trustees may hold any part of the Trust Fund uninvested and in any currency for as long as the Trustees think fit without being liable for any loss due to devaluation or any foreign exchange or other governmental restriction except in circumstances where that loss was sustained as a result of that Trustee dishonesty, wilful misconduct or gross negligence. This clause represents a modification of sections 29 (general duty of care) and 30 (duty to invest prudently) of the Act.

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12.4 The Trustees may have regard to the factors set out in section 59 of the Act when exercising the power to invest.

### 13. EXECUTION OF DOCUMENTS

13.1 If the Trustees become incorporated as a board under the Charitable Trusts Act 1957, they shall have custody of the common seal, and from time to time by resolution they may adopt any seal they think fit. The common seal must not be affixed to any document unless the Trustees have already authorised its use on that document. When a document is to be sealed on the prior authority of the Trustees the seal must be affixed to the document in the presence of two Trustees who must sign the document.

13.2 Contracts may be made on behalf of the Board as follows:

- (a) a contract which if made by private persons would be by law required to be by deed may be made on behalf of the Board in writing under the common seal, attested to by at least 2 of the Trustees; and
- (b) a contract which if made between private persons would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the board in writing signed by a Trustee acting under its express authority.

### 14. KEEPING RECORDS

14.1 The Trustees shall maintain full and accurate records of the activities of the Trust and comply with the requirements of sections 45-48 of the Act. The records may be in hard copy or electronic format.

14.2 The Trustees shall ensure that adequate arrangements are in place for the continuous retention of documents and records relating to the Trust such as:

- (a) the Trust Deed and deeds effecting Trustee changes;
- (b) correspondence and records on implementation of the Charitable Purposes;
- (c) minutes of Trustee meetings; and
- (d) records of title, accounting, payroll and investment records, contracts in writing and other records created in the course of conduct of the activities of the Trust.

14.3 The Trustees may arrange for the retention of the records in electronic format.

14.4 Each Trustee:

- (a) shall retain a copy of the Trust Deed; and
- (b) in the event of ceasing to be a Trustee, hand over to a continuing Trustee all documents and records relating to the Trust.

14.5 The Trustees shall appoint an auditor or other party with appropriate qualifications and experience to audit or undertake an independent review the activities of the Trust. The appointed individual will continue in this role until removed by resolution of the Trustees.

## **15. LIMITATION OF LIABILITY AND INDEMNITY**

- 15.1 Subject to clause 15.4 The Trustees are fully indemnified by and out of the Trust Fund for any loss or liability incurred in the exercise or attempted exercise of any trust, power, authority or discretion vested in the Trustees of the Trust, to the extent the Trust has sufficient funds. The indemnity includes, in particular, any liability to satisfy all costs and expenses arising out of conduct of the activities of the Trust. The Trustees shall have a lien on and may use monies forming part of the Trust Fund in pursuance of the indemnity contained in this clause 15.1.
- 15.2 The Board may effect insurance for a Trustee or employees of the Trust in respect of any liability referred to in clause 15.1 and will meet all costs associated with such insurance.
- 15.3 The indemnity conferred by clause 15.1 may extend to any loss or liability arising after a person has ceased to be a Trustee.
- 15.4 The indemnity conferred by clause 15.1 does not extend to a loss or liability that is attributable to a Trustee's dishonesty, wilful misconduct or gross negligence.
- 15.5 The Trustees are not liable to account to the Trust in its own right for:
- (a) the consequence of any act or omission or for any loss; and
  - (b) any loss or cost caused by a special trust adviser or an attorney, delegate, manager, agent or employee engaged by the Trustees, despite any rule of law or equity to the contrary.
- 15.6 The exclusion from liability set out in clause 15.5 does not apply where the consequence or loss is attributable to a Trustee's dishonesty, wilful misconduct or gross negligence.
- 15.7 If there is more than one Trustee, no Trustee is bound to take any proceeding against a co-Trustee for any alleged breach of trust by the co-Trustee.

## **16. NO PRIVATE PECUNIARY PROFIT**

- 16.1 Despite any other provision in this Trust Deed but subject to clauses 4 and 16.5, neither the Trustees nor an Associated Person shall receive any form of private pecuniary profit from the Trust.
- 16.2 In the conduct of the activities of the Trust:
- (a) any income, benefit or advantage shall be applied to promote the Charitable Purposes;
  - (b) the Trustees and an Associated Person shall not receive any form of private income, benefit or advantage from the activities of the Trust, nor influence receipt of the same; and
  - (c) any payment to a Trustee or an Associated Person for goods or services that help promote the Charitable Purposes must be reasonable and commensurate with payments that would be made between unrelated parties.
- 16.3 The effects of this clause 16 must be retained in any other Trust Deed evidencing or continuing the Trust.
- 16.4 Notwithstanding this clause 16, the Trustees may allow a Trustee or committee member appointed by the Trustees to be paid:

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- (a) reasonable and proper remuneration for services actually provided to the Trust and/or for carrying out their role as Trustee or committee member;
- (b) for 'out of pocket' expenses properly incurred in carrying out the duties and responsibilities of a Trustee or committee member;
- (c) any Trustee is to be paid all usual professional, business or trade charges for services rendered, time expended and all acts done by that Trustee or by any firm or entity of which that Trustee is a member, employee or associate in connection with the affairs of the Trust; and
- (d) any Trustee may retain any remuneration properly payable to that Trustee by any company or undertaking with which the Trust may be in any way concerned or involved for which that Trustee has acted in any capacity whatsoever, notwithstanding that that Trustee's connection with that company or undertaking is in any way attributable to that Trustee's connection with the Trust.

The provisions of this clause 16.4 represent a modification of the duties contained in sections 31 (duty not to exercise power for own benefit), 34 (duty to avoid conflict of interest), 36 (duty not to profit) and 37 (duty to act for no reward) of the Act.

16.5 Any such payment made under clause 16.4 shall:

- (a) be reasonable having regard to the nature and extent of the services provided or expenses incurred; and
- (b) be an amount that is at a market rate (consistent with an appropriate fee framework(s) for not-for-profit boards) and not more than the Trust would have paid a third party for a similar service or expense.

16.6 The amount of any payment referred to in clause 16.4 shall be decided by the Trustees in accordance with clause 16.5 above and the restrictions imposed by this clause 16.

16.7 The Trustees shall not fix any Trustee remuneration for time spent as Trustee more than once annually.

16.8 No person with control over any business carried on for the benefit of the Trust shall be permitted to direct or divert an amount derived from such business in a manner that would breach section CW 42(1)(c) of the Income Tax Act 2007. For the purposes of the preceding sentence, the terms "control over a business" and "carrying on a business" shall be interpreted having regard to the ordinary meanings of those terms and sections CW 42(3) and CW 42(5) of the Income Tax Act 2007.

16.9 For the avoidance of doubt, a person who is in the course of and as part of the carrying on, of their business of a professional public practice, shall not, by reason only of them rendering professional services to the Trust or to any company or person by which any business of the Trust is carried on, be in breach of clause 16.8.

## 17. CONFLICT OF INTEREST

17.1 A Conflict of Interest in relation to a transaction of the Trust exists for a Trustee where the Trustee:

- (a) is associated with any company, partnership, organisation, group or trust with which the Trustee is dealing with in his/her capacity as Trustee;
- (b) is a party to, or will derive or may derive a material financial benefit from that transaction;
- (c) has a material financial interest in another party to the transaction;
- (d) is a director, officer or trustee of another party to, or person who will or may derive a material financial benefit from the transaction, not being a party that is wholly owned by the Trust;
- (e) is the parent, child or spouse, civil union partner, or de facto partner of another party to, or person who will or may, derive a material financial benefit from the transaction; or
- (f) is otherwise directly or indirectly materially interested in the transaction.

17.2 The procedure for dealing with a Conflict of Interest is set out in clause 6 of Schedule 3.

## 18. AMENDMENTS OF THE TRUST DEED

18.1 Subject to any relevant legislation, clause 18.2 and other provisions of this Trust Deed in relation to amendments to specific terms of this Trust Deed, the Trustees may by unanimous decision only, by deed, vary the terms of the Trust by way of amendments, deletions or additions to the Trust Deed.

18.2 The Trustees shall not vary the terms of the Trust if such variations would result in:

- (a) the Trust being permitted to operate in a manner other than to advance the Charitable Purposes, or operate for the private pecuniary profit of any individual; or
- (b) any status obtained by the Trust as referred to in clauses 5.1 being revoked, suspended, altered or being unable to be renewed.

## 19. WINDING UP

19.1 The Trustees may at any time, by unanimous decision only, wind up the Trust if:

- (a) in their opinion, it becomes impossible, impracticable or inexpedient to carry out the Purposes; and
- (b) they decide not to exercise their power under clause 11.1 to pay, apply or appropriate the whole of the capital of the Trust Fund for the Charitable Purposes.

19.2 In the event the Trustees unanimously vote to wind up the Trust and after all liabilities of the Trust have been discharged, the Trustees shall, subject to clause 19.3, apply the surplus assets of the Trust Fund to some other charitable organisation or body registered under the Charities Act 2005 and having similar objects to the Trust.

19.3 In complying with their obligations under clause 19.2, and subject to the Trustees being unanimously satisfied (acting reasonably) that a transfer would further the Charitable Purposes (or

similar charitable purposes as defined in section 5(1) of the Charities Act 2005), the Trustees must offer the Settlor the first right to accept the transfer of the land owned by the Trust that was provided to the Trust by Kāpiti Coast District Council or purchased by the Trust using a financial contribution from Kāpiti Coast District Council, under a written protocol..

19.4 If the Trustees cannot determine the application of the Trust Fund in accordance with the requirements of this clause 19, the Trust Fund will be applied to such charitable purposes within New Zealand as directed by a Judge of the High Court of New Zealand.

**20. GOVERNING LAW**

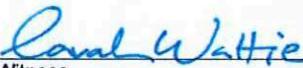
20.1 This Trust Deed will be governed by and construed in accordance with the laws of New Zealand.

**EXECUTION**

SIGNED on behalf of KĀPITI COAST  
DISTRICT COUNCIL  
as Settlor by the Mayor in the presence  
of:

)  
)  
)

  
\_\_\_\_\_  
Mayor Janet Holborow

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Print Name

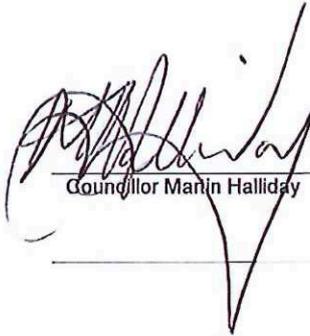
  
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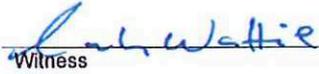
  
\_\_\_\_\_  
Occupation



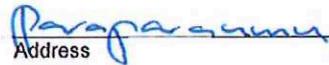


SIGNED on behalf of KĀPITI COAST DISTRICT COUNCIL as Settlor by Councillor Martin Halliday in the presence of:

  
Councillor Martin Halliday

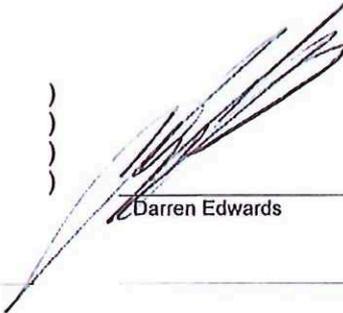
  
Witness

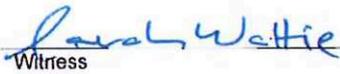
  
Print Name

  
Address

  
Occupation

SIGNED on behalf of KĀPITI COAST DISTRICT COUNCIL as Settlor by DARREN EDWARDS in the presence of:

  
Darren Edwards

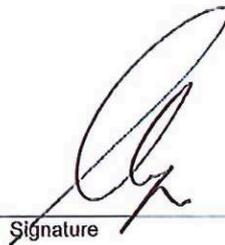
  
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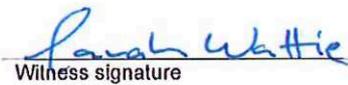
  
Print Name

  
Address

  
Occupation

SIGNED by Rev. Murray Edridge as a Trustee in the presence of

  
Signature

  
Witness signature

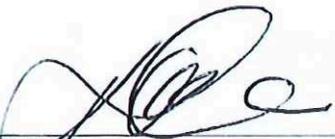
  
Occupation

  
Address



SIGNED by Kim Tahiri  
as a Trustee in the presence of

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)

  
Signature

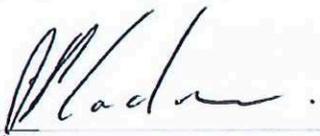
  
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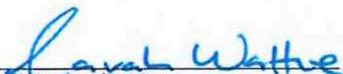
  
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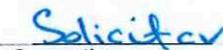
  
Address

SIGNED by Alison Cadman  
as a Trustee in the presence of

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)

  
Signature

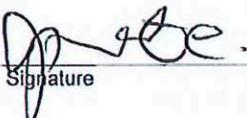
  
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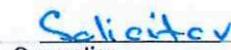
  
Address

SIGNED by Jacinda Foote  
as a Trustee in the presence of

)  
)

  
Signature

  
Witness signature

  
Occupation

  
Address



SIGNED by Waipuna Grace  
as a Trustee in the presence of

)

*Waipuna Grace*

Signature

*Laura Wattie*

Witness signature

*Solicitor*

Occupation

*Paraparaumu*

Address

SIGNED by Alexandra Hare  
as a Trustee in the presence of

)

*Alexandra Hare*

Signature

*Laura Wattie*

Witness signature

*Solicitor*

Occupation

*Paraparaumu*

Address

SIGNED by Greg Foster  
as a Trustee in the presence of

)

*Greg Foster*

Signature

*Laura Wattie*

Witness signature

*Solicitor*

Occupation

*Paraparaumu*

Address

*Handwritten initials/signature*

## SCHEDULE 1: TRUSTEE POWERS

### 1. POWERS

1.1 Subject to the provisions of this Deed, the Trustees have the power to undertake the following activities:

- (a) to sell any real or personal property forming part of the Trust Fund in the manner and on the terms and conditions the Trustees think fit, including (without limitation) power to allow such part of the purchase price as the Trustees think fit to remain on loan with or without security or to be payable by instalments;
- (b) to postpone the sale of any real or personal property forming part of the Trust Fund for as long as the Trustees think fit without being liable for any resultant loss to the Trust Fund;
- (c) to let any real and personal property at such rent (including on a rent free basis) and on such terms and conditions (including an option to purchase) as the Trustees think fit and to accept surrenders of any leases and tenancies. This clause represents a modification of the duties contained in sections 29 (general duty of care) and 30 (duty to invest prudently) of the Act;
- (d) to borrow any money at whatever rate of interest and upon whatever other terms and conditions the Trustees may think fit. For this purpose, the Trustees may give security for repayment over the entire Trust Fund or any part of it, whether or not any part over which the security is given benefits from the borrowing;
- (e) undertake fundraising activities to help with promotion of the Charitable Purposes;
- (f) adopt procedures for inviting and processing applications for assistance from the Trust in ways which would promote the Charitable Purposes;
- (g) seek and receive any conveyance, transfer, gift, devise, donation or bequest to help the Trustees promote the Charitable Purposes;
- (h) maintain a bank account and set authorisations on operating the account and the payment of creditors;
- (i) pay all costs and expenses incurred in the course of the Trustees carrying out or exercising any of the Trustees' powers and discretions;
- (j) create a provision for possible liabilities;
- (k) make any loans or advances (with or without security) for any of the Charitable Purposes in such manner and on such terms and conditions as the Trustees think fit (this clause represents a modification of the duties contained in sections 29 (general duty of care) and 30 (duty to invest prudently) of the Act);
- (l) for any part of the Trust Fund, the Trustees may:
  - (i) apply the Trust Fund to make an investment in a debt security and/or an equity security;

- (ii) apply the Trust Fund towards the purchase of property or any interest in property which the Trustees consider will advance the purposes of the Trust and in exercising this power, the Trustees shall not be taken to be exercising a power of investment;
  - (iii) retain the Trust Fund even if it is of a wasting, speculative or reversionary nature, may not produce income, or might be decreasing or not increasing in value;
  - (iv) pay all insurance premiums, rates, taxes, rents, repairs and other outgoings;
  - (v) improve, develop or subdivide the Trust Fund;
  - (vi) do anything that may increase value including, for example, adding to any buildings or structures, and entering into leases, tenancy agreements, party wall agreements, easements or profits à prendre;
  - (vii) grant a lease or licence;
  - (viii) waive debts, breaches, accept surrenders and terminate tenancies and licences either absolutely or on such terms as the Trustees think expedient except in circumstances where that loss was sustained as a result of the Trustee's own dishonesty, wilful misconduct or gross negligence;
  - (ix) deposit all or part of the Trust Fund in any currency in a savings or other interest or non-interest bearing account with any bank, trust, company or other financial or investment institution in New Zealand;
  - (x) convert the Trust Fund into money;
  - (xi) grant security over the Trust Fund;
  - (xii) deal generally and manage the Trust Fund as if the Trustees were the absolute owners of it; and
  - (xiii) carry on any business or venture and establish any company, partnership or joint venture to conduct the same and the Trustees may use any part of the Trust Fund as capital in the business, and may also employ in the business such managers, agents, employees and other persons (including any Trustee other than a person who for the time being is the sole Trustee of the Trust Fund) as they think fit provided that each Trustee shall be absolutely indemnified out of the Trust Fund for any losses which they may sustain in so carrying on any such business except in circumstances where that loss was sustained as a result of a Trustee's dishonesty, wilful misconduct or gross negligence;
- (m) enter into and perform swap, hedging or other financial transactions;
  - (n) enter into and perform a contract of indemnity and act as surety with any guarantee and security in support (this clause represents a modification of the duty contained in section 29 (general duty of care) of the Act);
  - (o) in relation to any company or other legal body:
    - (i) exercise any voting, decision-making rights or other powers;
    - (ii) appoint directors, officers or employees or trustees of it; and

- (iii) provide further share or loan capital;
- (p) engage any person including volunteers as:
  - (i) a special trust adviser;
  - (ii) an expert to assist the Trustees;
  - (iii) an attorney or delegate for the Trustees;
  - (iv) a manager or agent for the Trustees;
  - (v) a secretary of the Trustees;
  - (vi) an employee of the Trustees in any matter relating to the Trust; or
  - (vii) a nominee or custodian pursuant to section 67 of the Act (and in accordance with section 68 of the Act, keep the arrangements under review and consider whether to exercise any power to intervene);
- (q) engage an accountant to prepare annual accounts or to perform an audit or review of accounts;
- (r) effect policies of insurance or assurance for such amounts and on such terms as the Trustees in their absolute discretion think fit, including trustee liability insurance, and to transfer, assign, surrender or mortgage any interest in any such policies and to hold, accept and deal with any interest in any policy of insurance or assurance or its proceeds, but no Trustee will be liable for any loss due to lack of insurance or inadequate insurance not attributable to their own dishonesty, wilful misconduct or gross negligence (this clause represents a modification of sections 29 (general duty of care) and 30 (duty to invest prudently) of the Act);
- (s) act upon any expert or professional opinion or advice;
- (t) accumulate the income of the Trust Fund;
- (u) treat as capital of the Trust Fund the income of a Financial Year not determined by the end of the Financial Year to be applied for the Charitable Purposes;
- (v) set apart any part of the Trust Fund under a distinguishing name:
  - (i) as a sub-trust;
  - (ii) as a special endowment; or
  - (iii) for a special purpose,and the costs of administration of any such discrete fund shall be met either out of such fund or out of the Trust Fund or any income derived from the Trust Fund as the Trustees may in their absolute discretion determine;
- (w) adopt procedures for the execution of documents;
- (x) decide all questions arising in the course of the management, administration, investment, realisation, distribution, liquidation, partition, resettlement or winding up of the Trust;

- (y) in respect of any company in which the Trust Fund holds or is the beneficial owner of shares, notes, stock or debentures:
- (i) to act as a director of the company and to receive and retain fees or other remuneration for so acting without having to account to the Trust Fund unless the Trustees otherwise require;
  - (ii) to provide out of the Trust Fund on such terms as the Trustees think fit further capital for the company either by way of advances, loans, deposits or otherwise (with or without security) or by taking further shares in the company, but only insofar as the Trustees are satisfied on reasonable grounds that the provision of such further capital will contribute to the ability of the Trustees to fulfil the Purposes;
  - (iii) to concur in the winding up, reconstruction or amalgamation of the company or in the modification of its regulations, on whatever terms the Trustees think fit; and
  - (iv) generally to act in relation to the company in whatever manner the Trustees consider to be in the best interests of the Trust Fund,
- (and this subclause represents a modification of the duties contained in sections 31 (duty not to exercise power for own benefit), 34 (duty to avoid conflict of interest), 36 (duty not to profit) and 37 (duty to act for no reward) of the Act);
- (z) generally do all other lawful acts and things that may promote the Charitable Purposes; and
- (aa) enter into any arrangement with any part of the government or local authority to obtain any rights, privileges or concessions that the Trustees may think desirable to obtain and carry out, and exercise and comply with any such arrangements.



## **Schedule 2: Board of Trustees**

### **1. Number of Trustees**

1.1 Subject to the provisions in the Schedule, there must be no fewer than five Trustees, and no more than seven Trustees. There will always be one Council-Appointed Trustee and one Māori Trustee on the Trust.

### **2. Appointment of Original Trustees**

2.1 The Original Trustees are the signatories to this Trust Deed.

2.2 For the purpose of:

- (a) clause 4.1(a) of this Schedule, [name] is appointed as a Council-Appointed Trustee;
- (b) [clause 4.1(b) of this Schedule, [name] is appointed as a Māori-Appointed Trustee;
- (c) clause 4.1(c) of this Schedule, [name] is deemed to be appointed as an Independent Trustee;
- (d) clause 4.1(c) of this Schedule, [name] is deemed to be appointed as an Independent Trustee;
- (e) clause 4.1(c) of this Schedule, [name] is deemed to be appointed as an Independent Trustee.]
- (f) clause 4.1(c) of this Schedule, [name] is deemed to be appointed as an Independent Trustee.]
- (g) clause 4.1(c) of this Schedule, [name] is deemed to be appointed as an Independent Trustee.]

2.3 Following the establishment of the Trust:

- (a) the Board Appointments Panel will be constituted in accordance with clause 3.3 of this Schedule; and
- (b) once the Board Appointments Panel has been constituted, the Board Appointments Panel will appoint further Independent Trustees if the Trust Board determines that more than three Independent Trustees are required in accordance clause 4.1(c) of this Schedule.

### **3. Board Appointments Panel**

3.1 The Board Appointments Panel will:

- (a) identify and appoint suitable candidates to fill any Board vacancy that arises for an Independent Trustee from time to time;
- (b) when making any appointment have regard to any guidance it receives from the Board of Trustees regarding particular skills or experience referred to in clause 4.3 of this Schedule that the Board of Trustees considers are desirable in relation to the vacancy; and
- (c) carry out its function as soon as practicable and use best endeavours to appoint an Independent Trustee within 60 calendar days of the relevant vacancy arising.

3.2 The Board Appointments Panel shall notify the Trust in writing of any appointment of an Independent Trustee made by the Board Appointments Panel as soon as such appointment has been made.

3.3 The Board Appointments Panel will be constituted as follows:

- (a) the Council-Appointed Trustee;
- (b) the Māori-Appointed Trustee appointed collectively by Te Whakaminenga o Kāpiti, with [name of Māori-Appointed Trustee] being a member of the initial Board Appointments Panel
- (c) An Independent Trustee who shall be nominated by the initial Board Appointments Panel to be a member of the Board Appointment Panel

3.4 At any time:

- (a) If the Settlor removes the Council-Appointed Trustee and appoints a new Council-Appointed Trustee in accordance with clause 4.1(a) of this Schedule, the new Council-Appointed Trustee will become a Board Appointments Panel member;
- (b) if Te Whakaminenga o Kāpiti removes the Māori- Trustee and appoints a new Maori Trustee, the new Maori Trustee will become a Board Appointments Panel member; and
- (c) the Trust Board may by majority resolution remove any independent panel members referred to in clause 4.1(c) of this Schedule 2, at any time during that person's term; and
- (d) if an Independent Trustee who is a member of the Board Appointments Panel is removed under clause 3.4(c) of this Schedule 2, the remaining members of the Board Appointments Panel must, by consensus, appoint another Independent Trustee as a member of the Board Appointments Panel

3.5 Unless a person is removed from the Board Appointments Panel in accordance with clause 3.4 of this Schedule 2, each person appointed to the Board Appointments Panel shall be appointed for a term of three years and may be reappointed under clause 3.4 for subsequent periods of up to two years, except that the Council-Appointed Trustee member of the panel will remain a member of the panel for so long as the member remains a Council-Appointed Trustee. A Trustee whose term has expired under this clause remains a Trustee until a replacement Trustee is appointed, or the Trustee is informed in writing that the vacancy is not to be filled.

3.6 In performing its duties and undertaking its functions under this Trust Deed, the Board Appointments Panel shall not be liable to the Trust or any Trustee for any losses for damages incurred as a result of any act or omission of the Board Appointments Panel, provided that the Board Appointments Panel has acted honestly and has not wilfully committed any act known to be in breach of this Trust Deed

3.7 The Board Appointments Panel shall not delegate its powers under this Trust Deed.

#### **4. Composition of Board and appointment of Trustees**

4.1 Each of the following persons shall have the power, exercisable by deed, to appoint trustees and to remove any trustees appointed by them, without assigning any reason, as follows:

- (a) the Settlor shall appoint one (1) Council-Appointed Trustee;
- (b) Te Whakaminenga o Kāpiti shall have the right to appoint one (1) Trustee; and



- (c) the Board Appointments Panel shall appoint the number of Independent Trustees determined by the Board of Trustees (being not less than three (3) or more than five (5) Independent Trustees).
- 4.2 Subject to clause 4.3, each of the appointors referred to in clause 4.1 of this Schedule shall be entitled to determine and follow their own appointment process.
- 4.3 In making the appointments of Trustees pursuant to clause 4.1 of this Schedule 2, the relevant appointing party must:
- (a) be reasonably satisfied that the relevant candidate possesses a combination of skills and experience that align with the Trustee Skills and Experience; and
  - (b) ensure that the following essential skills and experience are represented by at least one Trustee on the Board at all times:
    - (i) social tenancy management;
    - (ii) property development;
    - (iii) strategy development and business planning;
    - (iv) financial management and literacy;
    - (v) asset management;
    - (vi) legal and risk management; and
    - (vii) Mātauranga Māori,before any appointment of such candidate as a Trustee can be made.
- 4.4 A person disqualified by the Charities Act 2005 from being an officer of a charitable entity may not be a Trustee.
- 5. Chairperson**
- 5.1 The appointment of a Trustee as the chairperson of the Board will be made by majority resolution of the Trustees.
- 5.2 The appointment of the chairperson will be made at the first meeting of the Original Trustees.
- 5.3 The Board will decide on the period for which the chairperson will hold office.
- 5.4 In the absence of the chairperson at a meeting, another Trustee may be elected by Trustees present to be the chairperson for the meeting.
- 5.5 The chairperson shall take the chair at all meetings of the Trustees but shall not have a casting vote.
- 5.6 The chairperson may be removed from that position by a majority resolution passed by the other Trustees.
- 6. Term of Appointment**
- 6.1 Subject to clause 6.3, any Trustee that is appointed to the Board shall have a term of appointment of three years (unless they cease to be a Trustee under clause 7 of this Schedule 2).

6.2 Any Trustee may be reappointed for a maximum of two subsequent terms of three years each. The maximum consecutive term to be served by any Trustee shall be nine years, unless the Trustees by unanimous decision resolve otherwise that a Trustee may serve for a longer period in order to further the Charitable Purposes. The power of reappointment shall be vested in the parties referred to in clause 4.1 of this Schedule 2.

6.3 Two of the Trustees shall retire two years after the date of execution of this Trust Deed Unless agreed by the Trustees, the Trustees that will retire at the end of those specified periods shall be determined by lot.

## **7. Cessation and Removal**

7.1 A person shall cease to be a Trustee if:

- (a) the Trustee's term of appointment as provided for in clause 6] of this Schedule 2 comes to an end;
- (b) the Trustee resigns by notice in writing to the chairperson of the Board;
- (c) the Trustee becomes a person whom clause 4 of this Schedule 2 does not permit to be a Trustee;
- (d) the Trustee can no longer adequately fulfil the office of Trustee due to physical or mental incapacity, as determined by the remaining Trustees (acting reasonably);
- (e) the Trustee dies;
- (f) the Trustee refuses to act as a Trustee;
- (g) the Trustee fails to attend three consecutive Trustee meetings in the absence of reasons acceptable to the chairperson of the Board;
- (h) the relevant appointing party in clause 4 of this Schedule 2 removes its appointed Trustee;
- (i) the Trustee ceases to qualify as an officer of a charitable entity under section 16 of the Charities Act 2005; or
- (j) the Trustee has been deemed by unanimous resolution of the other Trustees to have failed to fulfil their duties as a Trustee.

7.2 The Trustees able to continue to act as Trustees shall resolve any question of whether a Trustee has ceased to be a Trustee pursuant to clause 7.1 of this Schedule 2. The decision of the continuing Trustees shall be final.

## **8. Minute book**

8.1 Upon every appointment, retirement, re-appointment or termination of office of any Trustee the Trustees will ensure that:

- (a) an entry is made in the minute book of the Trust to that effect;
- (b) any statutory requirements as to the vesting of the Trust Fund in the Trustees and the notification of the appointment are satisfied; and
- (c) if the Trust is registered under the Charities Act 2005, the Charities Commission is notified in accordance with the requirements of that Act.

**9. Validity of proceedings**

- 9.1 Where, for any reason, a Trustee is not properly appointed, re-appointed or is disqualified from holding office, anything done by that Trustee (or by a meeting at which that Trustee was present as a Trustee or committee member) before discovery of the irregularity, shall be as valid as if that Trustee had been duly appointed, re-appointed or had not been disqualified (as the case may be).
- 9.2 If at any time the Trustees number less than the minimum number of Trustees required by the Trust Deed they shall not take any action until first restoring the number of Trustees to five Trustees.

### SCHEDULE 3: TRUSTEE MEETINGS

#### 1. Meetings

- 1.1 The Trustees have the discretion to decide when and where ordinary meetings of the Board shall be held to ensure the efficient and proper conduct of the affairs of the Trust, but in any event the Board shall meet at least four times in each Financial Year.
- 1.2 A Trustee may at any time summon a special meeting, subject to clause 2 of this Schedule 3.

#### 2. Notice of meeting and attendees

- 2.1 Seven days' notice of any Board meeting shall be communicated by the chairperson to each of the other Trustees. However, all of the Trustees may unanimously agree to shorten or waive the period of notice.
- 2.2 No notice is necessary for the resumption of an adjourned meeting. However, a Trustee who was not present at the meeting adjourned must be notified of the time and place of the reconvened meeting.
- 2.3 Subject to clause 2.4, two Settlor Representatives may be invited to attend Board meetings at the discretion of the Trustees, and for that purpose will be provided with each notice of meeting specified in clauses 2.1 and 2.2 of this Schedule. The Trustees will ensure that such Settlor Representatives are also provided with the relevant materials for consideration prior to meetings, and well as any minutes taken. Settlor Representatives do not have any rights to participate in any vote of the Trustees of the Trust.
- 2.4 The Trustees may exclude the Settlor Representatives from meetings, or part of the meetings of the Trust in appropriate circumstances, including when the Trust is considering entering into transactions with the Council.

#### 3. Quorum

- 3.1 Subject to clause 3.2 of this Schedule 3, a quorum for meetings of Trustees shall be:
- (a) one more than half the current number of Trustees if there is an even number of Trustees; and
  - (b) a majority of the current number of Trustees if there is an odd number of Trustees (so that, by way of example only, if the current number of Trustees is seven, a majority of Trustees will be four)
- 3.2 Where this Trust Deed requires a unanimous decision, a quorum will not be present unless the meeting of Trustees present comprises at least 75% of the total number of Trustees.
- 3.3 A Trustee suffering from any temporary physical incapacity, who is mentally incapable, or for whom a Conflict of Interest exists, shall not be treated as a Trustee for the purposes of clause 3.1 or 3.2 of this Schedule 3.

#### **4. Adjournment**

- 4.1 If a quorum is not present within thirty minutes after the time appointed for a Board meeting, the Board meeting may be adjourned.
- 4.2 A Board meeting in session may be adjourned if the Trustees present so resolve.

#### **5. Holding a meeting and attendance**

- 5.1 A Board meeting may be held:
  - (a) in person by the number of Trustees who constitute a quorum, being assembled together at the place, date and time of the meeting; or
  - (b) by means of audio or electronic communication by which all Trustees participating and constituting a quorum can simultaneously hear or communicate with each other throughout the meeting (with electronic messages treated as the equivalent of views expressed in person).

#### **6. Conflict of Interest**

- 6.1 A Trustee for whom a Conflict of Interest may exist:
  - (a) shall disclose as soon the Trustee becomes aware that a Conflict of Interest may exist to the Board meeting all relevant details concerning the Conflict of Interest and, if the monetary value of the Trustee's interest is able to be quantified, the nature and monetary value of that interest;
  - (b) must not be involved in deliberations, vote, or attend meetings in relation to any Conflict of Interest;
  - (c) may, subject to the provisions above being complied with, sign any written resolution or any other document relating to the Conflict of Interest on behalf of the Trust, be counted towards the quorum required for a Board meeting and do anything else as a Trustee in relation to the Conflict of Interest, as if he or she were not interested in the Conflict of Interest, unless the Board determines otherwise.
- 6.2 Clause 6.1 represents a modification of the duties contained in sections 31 (duty not to exercise power for own benefit), 34 (duty to avoid conflict of interest), 36 (duty not to profit) and 37 (duty to act for no reward) of the Act.
- 6.3 The Trust shall maintain a register of Conflicts of Interest to record Conflict of Interest disclosures by trustees further to clause 17 of the Trust Deed or clauses 6.1 and 6.2 of this Schedule 3.

#### **7. Decisions and voting rules**

- 7.1 Unless this Trust Deed requires a unanimous decision for a matter, the Trustees present at a meeting must reach agreement by a majority vote to pass an effective resolution or decide a matter.
- 7.2 Each Trustee shall be entitled to one vote.
- 7.3 The method of voting on motions and Trustee resolutions shall be decided by the Trustees. Different methods may be adopted for different motions.
- 7.4 A resolution may be prepared and signed in counterparts including signature in electronic format.



- 7.5 A resolution of the Trustees may be rescinded or varied by the Trustees in the same manner as it was passed.
- 7.6 A written resolution signed by at least a majority of the Trustees for the time being, excluding any Trustee for whom any matter dealt with by the resolution is a Conflict of Interest, will be as effective as a resolution compliant with clause 7.1 in a duly convened meeting of the Trustees.

## **8. Minutes**

- 8.1 The Trustees shall maintain a minute book recording minutes of their Board meetings and their decisions.
- 8.2 The minute book may be in hard copy or electronic format.
- 8.3 Unless there is evidence to the contrary, matters referred to in a meeting minute shall be treated as approved where the chairperson of the meeting, or the chairperson of the next meeting:
- (a) records the minute in an electronic message; or
  - (b) signs the minute.
- 8.4 Decisions recorded in the minutes shall be read in conjunction with this Deed and are binding on all persons interested in the Trust.

## **9. Financial reporting, record-keeping and audit**

- 9.1 The Trustees must ensure that any and all financial reporting or record-keeping requirements to which the Trust may from time to time be subject under the Charities Act 2005 or any other enactment are complied with. In addition, and without limiting the obligations of the Trustees as set out in the preceding sentence, the Trustees may from time to time resolve to prepare or to procure the preparation of such financial and other reports dealing with the affairs of the Trust as they may deem appropriate.

AD 7-5

DATED 11 December 2024

**RELATIONSHIP FRAMEWORK  
AGREEMENT**

between

**KĀPITI COAST DISTRICT COUNCIL**

and

**KĀPITI HOUSING SOLUTIONS**

## CONTENTS

1. INTERPRETATION	1
2. RELATIONSHIP PRINCIPLES AND OBJECTIVES	2
3. TRUST ROLE AND INDEPENDENCE	3
4. SUPPORT SERVICES PROVIDED BY KCDC	3
5. ADDITIONAL SUPPORT AND THE DEVELOPMENT OF COMMUNITY HOUSING OFFERINGS	3
6. LIMITS ON USE OF CONTRIBUTIONS	4
7. REPORTING AND MONITORING	5
8. DISPUTE RESOLUTION	5
9. TERM AND REVIEW OF AGREEMENT	6
10. TERMINATION	6
11. GENERAL	6

## RELATIONSHIP FRAMEWORK AGREEMENT BETWEEN KAPITI COAST DISTRICT COUNCIL AND KĀPITI HOUSING SOLUTIONS

### PARTIES

- (1) KĀPITI COAST DISTRICT COUNCIL (KCDC)
- (2) KĀPITI HOUSING SOLUTIONS (Trust)

(each a "party", together "the parties").

### BACKGROUND

- A. KCDC has established [name of trust] to contribute to the improvement of social housing, public housing, community housing, older persons' housing and affordable housing outcomes in the Kāpiti Coast District. The Trust will:
  - (a) be a council organisation (but for the avoidance of doubt, not a council-controlled organisation) as defined in the Local Government Act 2022;
  - (b) operate at arms-length from KCDC; and
  - (c) be a charitable trust board, and register as a charity under the Charities Act 2005.
- B. The Trust may register as an independent Community Housing Provider (**CHP**) in due course.
- C. The purpose of this Relationship Framework Agreement (**Agreement**) is to describe how KCDC and the Trust will work together. In particular, this Agreement formalises:
  - (a) the ongoing relationship principles and shared objectives of KCDC and the Trust;
  - (b) the rights and responsibilities of each party;
  - (c) the development of Written Protocols relating to Community Housing offerings; and
  - (d) the key monitoring and reporting arrangements between KCDC and the Trust.

### 1. INTERPRETATION

1.1 In this Agreement, unless the context requires otherwise:

- (a) **Commencement Date** means the date that this agreement is executed;
- (b) **Community Housing** means community housing, social housing, public housing, affordable housing, older persons' housing, or any other similar housing that the Trust will provide in the Kāpiti Coast District through a variety of tenure models, in accordance with the charitable purposes specified in the Trust Deed;
- (c) **Contribution** means a gift, transfer of land (including by way of long-term lease), or funding from:
  - (i) KCDC to the Trust; or

- (ii) a third party to the Trust if KCDC requires the third party to make that gift, transfer of land, or funding to the Trust;
- (d) **CHP** means "Community Housing Provider" as defined in section 2 of the Public and Community Housing Management Act 1992;
- (e) **Housing Records** mean all information relating to the establishment and on-going provision and management of Community Housing offerings by the Trust including, but not limited to, information prescribed by a Written Protocol.
- (f) **KCDC** includes its successors and permitted assigns;
- (g) **Kāpiti Coast District** means the district of the Kapiti Coast District Council as constituted by the Local Government (Wellington Region) Reorganisation Order 1989, Gazette 1989 page 2491
- (h) **Trust** includes its successors, administrators and permitted assigns; and
- (i) **Trust Deed** means the Kāpiti Housing Solutions trust deed dated [11 December 2024] between the settlor and the trustees named in the Trust Deed;
- (j) **Written Protocol** means an agreement that sets out a Contribution that will be made by KCDC to the Trust, and the obligations on the Trust in relation to that Contribution (such as how that Contribution may be used, and reporting obligations).

## 2. RELATIONSHIP PRINCIPLES AND OBJECTIVES

### 2.1 Both parties agree:

- (a) to act with integrity and in a manner that promotes mutual trust and confidence;
- (b) to work together with openness, promptness, consistency and fairness in all dealings and communications;
- (c) that they share a common objective of improving Community Housing outcomes in the Kāpiti Coast District, and will work together to achieve that objective;
- (d) not to do anything that could reasonably be expected to have an adverse effect on the reputation, good standing or good will of the other party;
- (e) to use their best efforts to perform their obligations in a manner consistent with Te Tiriti o Waitangi, Te ao Māori and tikanga Māori; and
- (f) that the Trust is an independent entity that has the responsibility of governing and managing its operations.

### 2.2 Both parties acknowledge that the Trust:

- (a) has been established, and has the objective of operating in partnership with, Iwi and other partners;
- (b) should seek to qualify for government and other funding and support;
- (c) will operate with independence and will seek to ensure that it has access to necessary specialist skills and experience;

- (d) will provide affordable rentals and affordable housing ownership options (e.g. a range of alternative tenure options) to the local community;
- (e) will operate with financial sustainability over the long term; and
- (f) will reinvest any returns into additional community housing outcomes.

### **3. TRUST ROLE AND INDEPENDENCE**

3.1 The parties agree and acknowledge that:

- (a) the primary object and charitable purposes of the Trust are recorded in the Trust Deed. The Trust will carry out its activities in accordance with the Trust Deed, and accepted principles of good governance for similar community organisations;
- (b) the Trust may register as a CHP. If it does register as a CHP, the Trust will maintain that registration, and meet the performance standards and guidelines prescribed by the Community Housing Regulatory Authority or any successor organisation; and
- (c) in order for the Trust to be registered as a CHP and maintain that registration, the Trust must be, and be perceived to be, independent from KCDC.

### **4. SUPPORT SERVICES PROVIDED BY KCDC**

4.1 Subject to clause 4.2, KCDC will provide the following support services on a transitional basis to the Trust on the terms agreed between the parties:

- (a) IT services, [in that KCDC hosts, as agent or for the sole purpose of safe custody, on its server the Trust's information];
- (b) administrative services; and
- (c) an annual operating grant.

4.2 The parties will:

- (a) review the appropriateness of the support services described in clause 4.1 no later than 2 years after the Commencement Date; and
- (b) over time, work together to reduce the support services that KCDC provides to the Trust.

### **5. ADDITIONAL SUPPORT AND THE DEVELOPMENT OF COMMUNITY HOUSING OFFERINGS**

5.1 The Trust will provide Community Housing within the Kāpiti Coast District.

5.2 KCDC acknowledges that the Trust may wish to request further support from KCDC in order to better improve Community Housing outcomes. The Trust may request further financial or non-financial support from KCDC by providing KCDC with a proposal showing:

- (a) the level of support required and why the support will advance the Trust's objectives;
- (b) other options the Trust has considered to achieve the outcome prior to requesting support from KCDC;
- (c) the potential exposure, financial and/or reputational, to KCDC;

- (d) the steps the Trust has taken to identify and mitigate any risks to KCDC; and
  - (e) when and how the need for support will end (for example, updated financial forecasts).
- 5.3 If KCDC receives a proposal in accordance with clause 5.2, KCDC will take reasonable steps to confirm its position, and advise the Trust of that position within an appropriate timeframe, taking into account its obligations under the Local Government Act 2002. However, the Trust acknowledges that KCDC has no obligation to support the Trust beyond what is set out in the Trust Deed and clause 4 above.
- 5.4 The Trust acknowledges that KCDC may itself provide a proposal to the Trust to better improve Community Housing outcomes. The Trust will take reasonable steps to reach a position on the proposal and advise KCDC of its position within an appropriate timeframe, but has no obligation to accept the proposal.
- 5.5 If the parties agree in principle about a proposal, they will work together to prepare and agree a Written Protocol, which will specify, for example:
- (a) the mechanism and ownership model of the Community Housing offering;
  - (b) the objectives and outcomes of the Community Housing offering;
  - (c) any Contributions that KCDC proposes to provide to the Trust for the Community Housing offering;
  - (d) terms and conditions on the use of the Contributions, in addition to those specified in this Agreement; and
  - (e) how KCDC will monitor the performance of the Trust to achieve the objectives or outcomes of the Community Housing offering; and
  - (f) any reporting obligations on the Trust relating to the Community Housing offering.
- 5.6 After a Written Protocol has been agreed by the Parties, it will be:
- (a) executed by the parties, and attached to this Agreement; and
  - (b) subject to the general provisions of this Agreement.

## **6. LIMITS ON USE OF CONTRIBUTIONS**

- 6.1 Any Contribution must be used exclusively by the Trust for the purposes for which the land or funding is provided.
- 6.2 KCDC expects that any land that it provides to the Trust will be used by the Trust for the Community Housing offering described in the relevant Written Protocol, and that it will be retained by the Trust notwithstanding any changes in the relationship between the Trust and KCDC or any internal or external restructuring or other changes to either the Trust or KCDC. The Trust agrees that it will not sell, transfer or otherwise alienate such land without the written consent of KCDC.
- 6.3 At KCDC's election, land will be subject to an encumbrance, covenant or other appropriate charge in favour of KCDC in order to preserve the purposes for which the land is transferred and on terms to be agreed in an applicable Written Protocol if:

- (a) the land was transferred to the Trust by way of a Contribution from KCDC; or
- (b) the land was acquired or developed by the Trust using funding procured or provided by KCDC by way of a Contribution.

## **7. REPORTING AND MONITORING**

7.1 The Trust acknowledges that the reporting obligations specified in this Agreement are necessary to:

- (a) provide KCDC with information to determine whether the intended outcomes of the Trust are being achieved; and
- (b) ensure that KCDC is able to meet its obligations under section 65 of the Local Government Act 2002 to undertake performance monitoring of council organisations (such as the Trust).

7.2 The Trust will:

- (a) keep, store and maintain Housing Records in accordance with proper business, accounting practice and all applicable laws;
- (b) make sure that Housing Records include any information prescribed by Written Protocols;
- (c) provide a report to KCDC every 3 months that:
  - (i) outlines the activities undertaken by the Trust in the preceding 6 month period; and
  - (ii) includes any other information reasonably requested by KCDC, which may include information such as the number of houses completed or in the pipeline, the types of housing being developed, or have been developed, and numbers on the Trust's waitlist
- (d) make those 3 monthly reports publicly available (however the Trust may withhold any information that could be withheld under the Local Government Official Information and Meetings Act 1987 as if that Act applied to the Trust); and
- (e) report to KCDC in accordance with any other requirements and milestones agreed between the parties.

7.3 In addition to the above, KCDC may, from time to time, reasonably request the Trust to provide information. If the Trust receives such a request, it will provide that information within a reasonable time of the request.

7.4 The parties acknowledge that any tenant related reporting is to be consolidated, so that no personal information is provided to KCDC unless separately agreed to by the tenant in accordance with the Privacy Act 2020.

7.5 It is intended that KCDC and the Trust will agree:

- (a) how to securely manage the flow of information between each party; and
- (b) to hold regular relationship and coordination meetings.

## **8. DISPUTE RESOLUTION**

8.1 If any dispute arises under this Agreement or any Written Protocol (**Dispute**), the parties will use their best endeavours to resolve the dispute within [15 Business Days] through good faith discussions.

- 8.2 If the parties fail to resolve the Dispute through good faith discussions under clause 9.1, the parties will refer the Dispute to a mediator or an independent expert, that is acceptable to both parties on terms that are acceptable to both parties.
- 8.3 If the parties fail to resolve the Dispute through mediation or an independent expert (as applicable, depending on the matter), within [3 calendar months] from the Dispute arising, either party may submit the Dispute for resolution by arbitration.
- 8.4 Nothing precludes the parties from applying to a court for urgent interim injunctive or declaratory relief.

## **9. TERM AND REVIEW OF AGREEMENT**

- 9.1 The parties acknowledge that the relationship governed by this Agreement is intended to be a long-term relationship. Therefore, the Agreement:
- (a) commences on the Commencement Date; and
  - (b) will continue in effect unless it is terminated in accordance with clause 10.
- 9.2 The parties will conduct periodic reviews of the operation of the Agreement and of any written protocols or funding agreements from time to time on an agreed timeframe. The purpose of each review is to assess whether the Agreement and each Written Protocol remains fit for purpose (i.e. the Agreement continues to enable a positive and effective working relationship between the parties).
- 9.3 The first review shall take place within 2 years of the Commencement Date.
- 9.4 The parties agree that they are able to vary the Agreement at any time by mutual written agreement.

## **10. TERMINATION**

- 10.1 Either party may serve notice that it wishes to terminate this Agreement. However, this Agreement may only be terminated on terms:
- (a) agreed by the parties, following good faith discussions; and
  - (b) that ensure that, to KCDC's satisfaction, any property transferred to the Trust under the Agreement will continue to be used for the purpose for which it was transferred.

## **11. GENERAL**

- 11.1 The parties acknowledge that they may each publicly discuss the activities that they are undertaking or providing in the Kāpiti Coast District relating to housing.
- 11.2 However, each party acknowledges and agrees that:
- (a) they will not comment publicly on the activities provided by the other party unless the parties have jointly agreed to the comment;
  - (b) they will not publicly criticise or undermine the position of the other party; and
  - (c) any challenges, problems, or criticisms of Community Housing matters may be directed to either KCDC or the Trust.

- 11.3 The parties intend to keep the information that they hold and obtain on Community Housing matters confidential. However, the Trust recognises that KCDC is a statutory body and may be required to disclose such information to other parties or to the wider public if requested.
- 11.4 If either party is required by law to disclose any information that has been obtained by them under this Agreement or a Written Protocol, they will immediately notify the other party.
- 11.5 Both parties to this Agreement will, at all times, act in accordance with the Privacy Act 2020 and any relevant codes of practice.
- 11.6 The parties acknowledge that KCDC is the local authority for the Kāpiti Coast District, and that, in terms of its regulatory functions as a local authority, KCDC must act as an independent local authority and not as a party to this Agreement. No act of KCDC under this Agreement will be construed as consent or approval or bind it in its regulatory capacity.

**SIGNED** for and on behalf of  
**KAPITI COAST DISTRICT COUNCIL** by )  
 )  
 )  
 \_\_\_\_\_ )  
 Mayor Janet Holborow )

**SIGNED** for and on behalf of  
**Kāpiti Housing Solutions** by )  
 )  
 )  
 \_\_\_\_\_ )  
 Murray Edridge )

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Chair