

**IN THE MĀORI LAND COURT OF NEW ZEALAND
TAIRAWHITI DISTRICT**

**A20120015628
A20120015627**

UNDER Sections 231, 239 and 338(5)(a) Te Ture
Whenua Māori Act 1993

IN THE MATTER OF Puhatikotiko 2C2B2 & 2D

BETWEEN Lynda Mary Dianne Pene-Stevens
Applicant

Hearing: 30 January 2013, 28 Tairawhiti MB 97-104
29 April 2013, 30 Tairawhiti MB 116-133
(Heard at Gisborne)

Judgment: 17 September 2013

FURTHER DIRECTIONS OF DEPUTY CHIEF JUDGE C L FOX

[1] The Court has before it an application – A20120015628 under ss 231 and 239 of Te Ture Whenua Māori Act 1993. The application seeks a review of the trust and the replacement of trustees. It concerns Puhatikotiko 2C2B2 and 2D (Aggregated), two blocks comprising some 11.4813 hectares and situated near Whatatutu, Gisborne.

[2] The application follows meetings held on 12 May 2012, 16 June 2012 and 14 July 2012. The application seeks to replace Dale Teremoana Parekowhai, George Whakataka Parekowhai, Jimmy Maukau, Michael Te Rakato Parekowhai, Nellie Te Rereaute Katipa and Raniera Parekowhai.

[3] That leaves the remaining current trustees Ben Terekia, Sarah Hera McGhee and Thomas Tamarangi Terekia to act alongside the newly elected replacement trustees, namely:

- Giovanni Maxwell
- Sonia Karolyn Terekia
- Thomas Tamarangi Terekia Jnr.
- Maudella Jane Pene
- Lynda Mary Dianne Pene-Stevens

[4] The Case Manager has noted that this trust has not been reviewed since it was established in 1987. It was further noted that Clause 7 of the Trust Order for this trust requires that all trustees retire after three years service. They may, however, offer themselves for re-election.

[5] There was some concern expressed over the replacement of Mr Jimmy Maukau, also known as James Hurlstone. He indicated on 16 January 2013, before the hearing of the application, that he does not wish to retire.

Māori Land Court Procedure

[6] The first Māori Land Court hearing was held on 30 January 2013. At that hearing the Court was advised that the owners had decided that trustees selected should represent different branches of the whanau associated with the land.¹ As I was concerned that the meeting had not followed the procedure set in the Trust Order and that it had not been reported accurately, I adjourned the application for three months.

¹ 28 Tairawhiti MB 100 (28 TRW 100).

[7] During the time before the next hearing, I directed the Registrar to work with those present at the Court hearing, to organise a meeting of owners. The Registrar was to provide notice and advertise in the Gisborne Herald and the New Zealand Herald. The agenda was solely to concern the election of trustees and the future utilisation of the block. The current trustees were to resign and offer themselves for re-election.

[8] The meeting of owners was held on 22 February 2013. Despite notices being sent to 56 out of the 88 owners and notices advertised in the Gisborne Herald and the New Zealand Herald only 9 owners (one by proxy) attended the meeting. There were 13 other whanau members present. The meeting was chaired by one of the Deputy Registrars of the Māori Land Court. It was moved at that meeting to have 10 trustees representing each of the 10 tipuna associated with the whanau of this land. There were 11 nominations, but as one later withdrew, a vote was not required. Those nominated were:

- Lynda Mary Diane Pene-Stevens
- Jimmy Maukau
- Dale Teremoana Parekowhai
- Sonia Karolyn Terekia
- Alice Joyce Maukau-McPhee
- Giovanni Maxwell
- Sarah Hera McGhee
- Karaitiana Kingi
- Maudella Jane Pene
- Ben Terekia

[9] Lynda Mary Dianne Pene-Stevens, Maudella Jayne Pene, Emery Buchanan, Mihi Ellis and June Maynard objected to the appointment of Mr Jimmy Maukau also known as James Hurlstone. Ms Pene-Stevens noted that the chair of the meeting did not allow further nominations after the 11th candidate withdrew and that no vote was taken on the remaining 10 candidates. She later claimed that the chair did not query whether the nominations had a mandate to represent the various branches of the family. In the case of Mr Jimmy Maukau, Ms Alice McPhee was nominated as the trustee for his line. Conversely, Mr Jimmy Maukau objects to the appointment of Lynda Pene-Stevens upon personal grounds.

[10] The matter was before the Court again on 29 April 2013.² On that date Mr Iam gave evidence that there are only 7 lines of the whanau. That was corrected to 8 lines but no more evidence was produced to demonstrate why there should be ten representatives.

² 30 Tairawhiti MB 116 (30 TRW 116).

Further Directions

[11] Taking into account all the issues, the Court is not prepared to appoint ten people to be trustees without whakapapa evidence demonstrating the respective lines do in fact exist and that each person nominated at the meeting conducted by the Registrar does indeed have a mandate to represent that branch of the whanau. Those people will need to sign a declaration to this effect.

[12] The Registrar is to work with the current trustees to produce this whakapapa evidence and the declarations. Mr Iam is entitled to include his nomination for his whanau line as well and the Registrar is directed to accept it.

[13] The application is to be set down for Special hearing in November 2013 with notice to the parties and as many owners as possible.

Māori Reservation

[14] The Court also has before it an Application – A20120015627 seeking a recommendation to set aside two areas of land on each block for the above purposes. The application was filed following a meeting held on 16 September 2012. The Court directed that the application be advertised for hearing and that notice was to go to all parties in December 2012 and March 2013.

[15] I also note that a conditional recommendation to set aside an area of land on each block of the Trust as a Māori reservation was made on 4 July 1988.³ The beneficiaries of the reservation were to be the descendent families of Te Whakarongo and Himiona Katipa being a section of the Ngāriki Tribe earlier known as Ngāti Whakarongo. The reservations were intended to be:

- Puhatikotiko 2C2B – for the purpose of a meeting place or wharehenui over an area of 2024 square metres;
- Puhatikotiko 2D – for the purpose of an urupā over an area of 1012 square metres.

³ 129 Gisborne MB 324 (129 GIS 324).

[16] The condition on the Court order was that a diagram be “prepared by a surveyor sufficient to identify and locate the respective sites being filed in Court within 12 months from the date of this order.” No survey diagram was filed so no action was taken to have a gazette notice issued. The recommendation was, however, drawn and signed, notwithstanding that the condition was never met. However, that order was also incorrect as it purports to set aside the entire area of the blocks.

[17] The matter came before the Court on 1 July 2013. At that hearing the applicant asked for this matter to be dismissed. It was therefore dismissed by consent.⁴

Further Directions

[18] The Registrar is directed to amend the original recommendation as per s 86 to reflect the correct boundaries of the reservations in line with the order of 1988. Once complete, the case manager is to send to the CEO of Te Puni Kōkiri for gazettal.

Pronounced in Open Court at Gisborne on the 17th day of September 2013.

C L Fox
DEPUTY CHIEF JUDGE

⁴ 31 Tairawhiti MB 160 (31 TRW 160).