IN THE MĀORI LAND COURT OF NEW ZEALAND
AOTEA DISTRICT

A20180003539

UNDER	Section 21, Māori Reservations Regulations Act 1994
IN THE MATTER OF	Hauhungaroa 1A3 (Poukura Pā)
	PARANAPA REWI OTIMI ON BEHALF OF THE KAUMĀTUA KI TE TINI O PAREKAAWA Applicant
	JASON FA'UHIVA, KAHURANGI DAVISON, TE AURERE HEPI, WILLOW DAVISON, GREGORY RIWAI, CRAIG PARANIHI AND ATONIO FA'UHIVA AS TRUSTEES OF POUKURA PA Respondents

Hearing: 20 May 2019, 401 Aotea MB 45-57
(Heard at Tūrangi)

Appearances: Paranapa Rewi Otimi in person
Kahurangi Riwai-Davison in person

Judgment: 20 June 2019

JUDGMENT OF JUDGE L R HARVEY

Introduction

[1] By a decision dated 24 December 2018, an election of trustees for Poukura Marae was to be convened on or before 31 March 2019.[1] That meeting has now been held and an election has been conducted. Following the announcement of the results at the marae, several submissions from concerned beneficiaries have been filed as to the conduct of the meeting by Court staff. In summary, two specific concerns were raised. First, that there were insufficient voting forms which resulted in hand written forms being used thereby raising questions as to the integrity of the vote.

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1 *Otimi v Fa'uhiva - Hauhungaroa 1A3 (Poukura Pā)* (2018) 394 Aotea MB 182 (394 AOT 182).

[2] Second, there was no procedure in place to determine whether individuals voting were beneficiaries, being members of Ngāti Parekaawa. Several submissions asserted a distinction between Ngāti Parekaawa and Ngāti Parekaawa a Poukura. It was also alleged that one of the nominees, Neil Edwards, was unsuitable as a candidate for appointment. For these reasons, it was submitted that the election outcomes should be declared invalid and a new election held but with more robust processes in place.

[3] The applicant Paranapa Otimi and his supporters reject these criticisms. They say that as uri of the tipuna Parekaawa, they have every right to participate in the business of the hapū, in the election process and to nominate candidates for election. They implored the Court to appoint the successful nominees.

[4] The case manager provided the Court with a detailed report on the meeting procedure and the outcomes. That report underscored that firstly, 120 voting forms were taken to the meeting and that the actual participation level was 131 individuals. Eighteen hand written forms had to be used as seven forms were returned uncompleted or not returned. Secondly, that each beneficiary confirmed on their voting form that they were a member of the Ngāti Parekaawa hapū and therefore entitled to participate in the election.

[5] The issues for determination are:

(a) Can the Court determine membership of hapū?

(b) Was the election conducted appropriately?

(c) Should the successful nominees be appointed trustees?

[6] The issue of the marae charter is also considered in this judgment.

Background

[7] The background to these proceedings is set out in my earlier decision.[2] The only additional background material concerns the title determination for Hauhungaroa since the issue of ownership in the marae and surrounding lands as a condition of participation as a beneficiary of the marae has been argued by those individuals opposed to the appointment of

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[2] Ibid, at [5] – [24].

the nominees who were successfully elected at the March 2019 hui. On 22 February 1887, the Native Land Court determined:[3]

> …that the northern portion of the block as defined in Patena Kerehi's statement be awarded to such of the following hapus that can prove occupation viz: N' Parekawa, N' Turumakina, N' Te Maunga, N' Meremere and N' Kohera. The northern portion to be called as on maps at present Hauhungaroa Karangahape."

[8] The southern portion, which was called Waituhi-Kuratau, was awarded to "N' Whanaupukupuku, N' Manunui, N' Moetu, N' Te Atahaunui, N Purakau."[4] The Court then confirmed the lists of owners dated 22 and 24 September 1887 and it is from those lists that the majority of the current owners have derived their interests in the Hauhungaroa lands.[5]

Submissions for the applicant

[9] Mr Otimi implored the Court to appoint the successful nominees who he said had been through the correct process in terms of the elections. He underscored that all the meeting participants in the recent election *were* uri of the tipuna Parekaawa and were therefore entitled to participate.

[10] In addition, Mr Otimi stressed that there were opportunities for ongoing dialogue and debate on issues of whakapapa. However, he emphasised that there was much to be done at the marae and so the trustees now elected should be appointed so that the tasks that needed to be dealt with could now commence. Mr Otimi did not consider that any productive outcome would be assisted by ongoing and further litigation before this or any other court. Mr Otimi also disagreed with those opposing the appointments that a further election was required. Several individuals who identified themselves as beneficiaries spoke in support of Mr Otimi and provided written submissions endorsing his stance. For example, a submission was received from Tikina Kereama which, in part, stated:[6]

> …I would like to put forward my support for Ngakurur [sic] Neil Edwards. I have personally served on the Poukura Marae Trustees with Ngakuru and the other trustees during our term, I believe it was the 2015-2018. Prior to that I and other whanau were present on the marae as hau kainga to man the kitchen, go for wood, watercress, etc. For either hui or tangi.
> Of the last chairs we have had at Poukura Ngakuru was able to perform duties in all areas of the marae, and any areas he felt someone was able to do the job better, he seconded the right person.

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3 7 Taupo MB 83-84 (7 TPO 83-84).
4 Ibid.
5 9 Taupo MB 269- 271, 295-298.
6 Letter from Tikina Kereama dated 16 May 2019.

> I for one am very tired of the pettiness that has been promoted with in the whanau of Poukura Marae.

[11] A written submission was also received from a group styled 'Te Kaumatua o te Tini o Parekawa' and they too supported the position advocated by Mr Otimi.

Submissions in opposition

[12] Ms Davison expressed concern over the hui procedure and the identification of beneficiaries to Poukura Marae. First, she claimed that the election process was deficient because there were errors in the counting as well as a shortage of voting forms. This may have led, it was asserted, to the inclusion of participants who were ineligible to vote. This defect was exacerbated by the exclusion of any scrutineers given that the Court staff alone counted the votes, made errors in so doing and then had to reissue the results subsequently.

[13] Secondly, Ms Davison submitted that, effectively, there is a distinction between uri of Parekaawa and the uri who were also descendants of owners from Hauhungaroa 1A3. According to Ms Davison and those supporting her stance, this then led to the participation in the election process by individuals who are not owners or descendants of owners.

[14] Ms Davison and her supporters emphasised that the overall result of these procedural deficiencies and the lack of proper scrutiny of voting eligibility then inevitably led to suspicions of improper conduct. They felt that the outcomes were so tainted as to require a fresh election and a process for determining eligibility to vote.

[15] Submissions in support were received from Marie Maeva, Willow Davison, Kia Paranihi, Tawhai Davison, Lavinia Fau'hiva, Horomona Te Tomo and Rana Gardiner. Many of these simply repeated earlier submissions, although some included allegations of bias, "bullying" and unfair treatment. The submission of Lavinia Fau'hiva is an example:[7]

> I support the lack of integrity to procedures and inefficient resources used to conduct the voting process resulted in a big mistake being made in the tally up of votes, and that days later we were notified of this mistake and the changes that were made accordingly. The impact this whole debacle [sic] has had on me and other members of my family is that I/we, am left with the suspicion that foul play has been conducted within the voting process and that we, the beneficiaries who hold rangatiratanga status over the reservation on Hauhungaroa 1A3, are being bullied again, not only by the mana munchers of Ngāti Tuwharetoa and the people who want to exploit our resources, our whenua and our hapu practices, but also the very office that is meant to uphold such Mana and Rangatiratanga within the Whenua Maori communities.

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[7] Letter from Lavinia Fau'hiva dated 16 May 2019.

[16] Another submitter, Marie Maeva, made comments in similar vein:[8]

> I have only just recently been made aware of the circumstances of the application made to the courts by Paranapa Otimi who is NOT a beneficiary of Ngati Parekaawa o Poukura.
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> On that note I would like to lodge my formal objection to the initial court decision in the form of a support letter along with Kahurangis court submission as I believe it was made in error, due to inadequate investigations into claims made by the application and/or intentional bias towards the applicant.
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> …
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> Until the above issues are addressed I don't feel the court has made a just ruling, nor facilitated a fair and transparent election process.

[17] Several submitters also opposed the appointment of Neil Edwards due to allegations of bullying, abusive behaviour and the taking of marae taonga.

The Law

[18] Section 222 and 338(7) of Te Ture Whenua Māori Act 1993 are relevant:

> **222 Appointment of trustees**
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> (1) Subject to subsections (2) and (3) of this section, the Court may appoint as trustee of any trust constituted under this Part of this Act—
> (a) An individual; or
> (b) A Maori Trust Board constituted under the Maori Trust Boards Act 1955 or any other enactment, or any body corporate constituted by or under any enactment; or
> (c) A Maori incorporation; or
> (d) The Maori Trustee; or
> (e) Public Trust; or
> (f) A trustee company within the meaning of the Trustee Companies Act 1967.
> (2) The Court, in deciding whether to appoint any individual or body to be a trustee of a trust constituted under this Part of this Act, —
> (a) Shall have regard to the ability, experience, and knowledge of the individual or body; and
> (b) Shall not appoint an individual or body unless it is satisfied that the appointment of that individual or body would be broadly acceptable to the beneficiaries.
> (3) The Court shall not appoint any individual or body to be a trustee of any trust constituted under this Part of this Act unless it is satisfied that the proposed appointee consents to the appointment.
> (4) Subject to subsection (5) of this section, the Court may appoint any such individual or body as a responsible trustee, or an advisory trustee, or a custodian trustee.
> (5) For every trust constituted under this Part of this Act the Court shall appoint 1 or more responsible trustees and may appoint 1 or more advisory trustees and 1 or more custodian trustees.
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> **338 Māori reservations for communal purposes**
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> (7) The Court may, by order, vest any Māori reservation in any body corporate or in any 2 or more persons in trust to hold and administer it for the benefit of the persons

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[8] Letter from Marie Maeva dated 17 May 2019.

> or class of persons for whose benefit the reservation is made, and may from time to time, as and when it thinks fit, appoint a new trustee or new trustees or additional trustees.

[19] The leading authority on the appointment of trustees is the Court of Appeal decision *Clarke v Karaitiana.* In that judgment the Court confirmed:[9]

> [51] The touchstone is s 222(2) itself. In appointing a trustee, the Court is obliged to have regard to the ability, experience and knowledge of the individual concerned. In considering those issues, the Court will no doubt have regard to such matters as the nature and scale of the assets of the trust concerned and the issues the trust is facing. The importance of the views of the beneficial owners of the trust is underlined by s 222(2)(b) which forbids the Court from appointing a trustee unless the Court is satisfied that the appointment of that person will be broadly acceptable to the beneficiaries.
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> [52] It may be putting the matter too highly to say that the Court should only depart from the views of the owners in rare circumstances. The Court is not bound to appoint the leading candidates resulting from an election by the beneficial owners. A candidate who has strong support from the owners might be regarded by the Court as unsuitable through lack of ability, experience and knowledge or for other reasons. For example, the existence of conflicts of interest might be relevant or the need to obtain a suitable spread of skills amongst the trustees. Nevertheless, the Court would ordinarily give substantial weight to the views of the owners as demonstrated by the outcome of the election. If the Court is minded not to appoint the leading candidates as elected by the owners, it must still be satisfied the requirements of s 222(b) are met. For that purpose, the Court would need to have appropriate evidence before it. The outcome of an election at a meeting of owners is a useful means of obtaining such evidence.

[20] I adopt the reasoning set out in that judgment.

Discussion

Can the Court determine membership of hapū?

[21] It is widely understood that the Native Land Court had, on occasion, an undue influence in undermining and interfering with Māori customary land tenure.[10] The move from collective to individual interests in land eventually precipitated its wholesale alienation on a vast scale. Even so, that is not to say that all its title determinations were completely wrong. Outcomes during the nineteenth century were invariably fact dependent in terms of who spoke where and whether they had underlining motivations including alienation of the land. While there is much to be gleaned from the historic record about Māori customary

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9 [2011] NZCA 154.

10 For relevant discussions see David V Williams *Te Kooti Tango Whenua – The Native Land Court 1864-1909* (Huia Publishers, Wellington, 1999) at 51-62; Richard Boast *Buying the Land, Selling the Land: Governments and Māori Land in the North Island 1865-1921* (Victoria University Press, Wellington, 2008) at 448-453 and Richard Boast *The Native Land Court A Historical Study. Cases and Commentary 1862-1887* Vol 1 (Thomson Reuters, Wellington, 2013).

land tenure and the relationships between hapū, it is also accepted that the Court did make errors, left groups and individuals out or simply applied foreign tenure concepts completely alien to Māori.

[22] The result has been, arguably, an over reliance on official records where it suits agendas and outcomes or the total recanting and dismissal of those records when it does not. Invariably, the realities can be found somewhere in the middle of those diametrically opposed positions and where close whānau can sometimes turn obdurately away one from the other. The short point is that while the records of the Native Land Court can be very helpful in identification of hapū interest and customary tenure, they cannot always be relied on as the absolute last word on what constitutes the appropriate and relevant customary tenure for the particular tribe and land.

[23] So, any partition decisions that have been cited in submissions need to be assessed in the context of those cautionary observations. While there is much to be said for the Court record surrounding this marae and its hapū, as Chief Judge Durie (as he then was) would emphasise in his Waitangi Tribunal reports, in customary terms, the focus should be on the whakapapa that connects tribes and hapū, not the lines that divide.[11] No doubt the ongoing dialogue as to hapū identity and affiliation will continue in the days yet to come. The proper venue for those conversations is the marae, not the Court.

[24] In short, it is not the function of the Court to determine the identity of hapū and their members. While s 30 of the Act deals with mandate representation issues, this is not a case that properly falls within those provisions. A comparable situation arose in an earlier decision of this Court *The Trustees of Lake Horowhenua Trust - Horowhenua Block 11*.[12] In that case, the trust beneficiaries to be eligible to vote in trustee elections had to satisfy two criteria. First, they needed to be owners in Horowhenua 11. Second, they had to be members of the Muaūpoko tribe. The distinction was important because individuals from iwi not Muaūpoko had been included in the ownership list for Lake Horowhenua 11 and the proper definition of trust beneficiaries had been determined by earlier judicial and legislative determinations.

[25] In the *Horowhenua Block 11* decision this Court was of the view that a verification process was necessary where the interests of other *iwi* were relevant. In that case,

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11 For example, see Waitangi Tribunal *The Ngati Awa Raupatu Report* (1999) Legislation Direct, Wellington at 131-134.

12 (2012) 285 Aotea MB 135 (285 AOT 135).

Muaūpoko are the mana whenua but individuals from other tribes, and from completely different waka, had also been included in their land. Then there was the often deleterious effects of the Native Land Court that also had a significant impact on customary tenure. The result was that, in an identical procedural step, voters had to confirm both their ownership in Horowhenua 11 *and* their whakapapa to Muaupoko iwi. The reason for this was, as foreshadowed, the Native Appellate Court in 1896 had determined that, to be a beneficiary of the Lake Horowhenua Reserve Trust, both criteria had to be fulfilled. It was therefore necessary for this Court to adopt the same procedure:[13]

> *Challenges to whakapapa*
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> [12] That there may be challenges to the legitimacy of beneficiaries is acknowledged. To assist in the assessment of beneficiary validity, I have directed the Deputy Registrar to prepare a voting form in the manner of a statutory declaration that requires confirmation of two facts by individual voters. Firstly, they must declare that they are an owner, which means a current owner and not someone who is a successor or a beneficiary of a whānau trust, in the land. Secondly, they must also declare that they are a member of the Muaūpoko tribe. Those forms will then be arranged into schedules by the Deputy Registrar so that if there are any challenges to either ownership or membership of the tribe, there will be some evidential basis to assist with that process.
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> …
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> [**17] The reason for this rather cumbersome process involving a statutory declaration is because certain individuals continue to challenge the whakapapa of others and consequently their right to participate in the business of the trust and at general meetings. While it would be expected that the relevant parties would resolve such challenges themselves according to tikanga Māori it would appear that this has not been possible. That is not difficult to understand. A challenge to one's genealogy by another individual who may not be possessed of the relevant knowledge would understandably be interpreted as offensive. It is generally understood that people will know their own whakapapa and for that to be subject to challenge by another will require very careful and extensive knowledge of whakapapa. In a previous judgment I have underscored that determinations of affiliation are matters for the individuals involved and the kaumatua of their marae, which unless there are exceptional circumstances, would be evidence that the Court would be reluctant to ignore.**
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> [18] Put another way, if a kaumatua of a marae confirms that a particular individual is a beneficiary of that marae and therefore of the hapū and by extension to tribe it is not for the Court to go behind that expertise unless there are exceptional circumstances and equally compelling alternative evidence. To date there have only been assertions one way or the other by the challengers and the challenged. It would also be easy to understand the reluctance of individuals to, in effect, have to prove their tribal identity to the satisfaction of another. Indeed, in another time such conduct would be extremely rare if not unheard of in this context and might have provoked a more direct response.
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> [19] However, the challenges continue to be made, and in order to protect the integrity as far as possible of the election process, some procedure and mechanism to deal with challenges will have to be considered. A crucial element of that procedure will be the requirement that individual beneficiaries complete either at the meeting or subsequently a statutory declaration. The alternative would be to require all voters to attend Court and affirm on oath

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13 Ibid.

> their affiliation and to make themselves available to cross-examination. I consider such a procedure would be both cumbersome and understandably offensive to those subject to challenge.
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> (Emphasis added)

[26] Contrast the above example with the present case where the gazette notice states that the beneficiaries of Poukura Marae are the members of Ngāti Parekawa. Section 338 (3) of the Act states: "Except as provided in s340, every Maori reservation under this section shall be held for the common use or benefit of the owners *or of Maori of the class or classes specified in the notice*" (Emphasis added). There is no mention of the requirement of ownership in Hauhungaroa 1A3 or any distinction between Ngāti Parekaawa and Ngāti Parekaawa o Poukura, unlike the situation with Lake Horowhenua.

[27] The gazette notice for Poukura Marae simply does not say that a beneficiary of the marae must be both a member of Ngāti Parekaawa *and* an owner in Hauhungaroa 1A2. If it did, then the issue that appears to vex some members of this community would not exist or retain any relevance. There is a process for changing a gazette notice under s338 (5)(d) of the Act where it is possible to "redefine the persons or class of persons for whose use or benefit the reservation is made." The beneficiaries are free to avail themselves of those procedures at any time. Any such attempt at redefinition of the class of beneficiaries would naturally require a meeting of "Ngāti Parekaawa" for that purpose.

[28] More to the point, even during the title investigations of the Native Land Court in the late nineteenth century, the Court would often adjourn to allow the parties the opportunity to decide for themselves the lists of owners that were invariably determined according to hapū affiliations.[14] Contrast that process, however, with twentieth century partitions that may or may not have been ordered according to hapū areas of interest of affiliation. In other words, a title investigation and subsequent partition would not necessarily capture all the members of a hapū who may have been included in accordance with tikanga maori. The late nineteenth century is riddled with instances of where the Court and those appearing before it would either deliberately or inadvertently excludes individuals from lists of owners and that exclusion was carried over into the twentieth century. That would not necessarily mean however that the list of owners was an accurate reflection of

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[14] See for example, the partition hearings over the Matahina block in the Bay of Plenty in 36, 39 and 41 Judge Scannell MBs and 22 Otorohanga MB. The original title determination decision was issued in 1881 followed by a rehearing in 1884. The partition hearings then took place over 1892-1894 where lists of owners were scrutinized and confirmed according to hapū affiliation.

who was entitled, in accordance with tikanga, to be regarded as a member of the hapū associated with the land.

[29] In summary, the determination of membership of hapū is a matter for the hapū itself to decide, not the Court. It is also acknowledged that there will be varying customs and traditions as to how hapū membership is defined. Unsurprisingly, given the complexities and overlays of whakapapa, membership of hapū has changed over time. Marriage alliances, the extinction of whakapapa lines where there is no issue, and the effect of amalgamation of other hapū to form new entities are among the examples that readily populate Māori traditional history. On occasion, however, those issues do fall for consideration by courts and tribunals from time to time and rarely with a durable outcome.

[30] For example, in the section 30 mandate and representation proceedings before this Court and the Māori Appellate Court concerning the Ngāti Paoa tribe of Hauraki and Waikato, one of the issues that arose was the identification of members of the tribe and whether they descended from an older or younger wife. Ultimately, this Court held that the descendants of Paoa the ancestor who could rightly claim affiliation to the iwi were *his* descendants, regardless of the identity of his spouse. In other words, whakapapa from Paoa was what mattered since he was the founding tipuna of that tribe, not his spouses.[15] That the issue of the mandate of the tribe is still before the courts, over twenty years later, is doubtless disappointing and frustrating for that iwi.[16]

Was the election conducted appropriately?

[31] Turning to the concern over the meeting procedure, on my review of the Court file, I can find nothing that irretrievably taints the election outcome. While it is acknowledged that more voting papers would have been preferable, as everyone who attended the last Court sitting acknowledged, it was not an unreasonable approach for the staff to have taken 120 forms to be used at the election. When I posed the question to the many individuals present in Court at Tūrangi, there was a consensus that the approach of the staff was not unreasonable.[17] No one present could confirm that they had ever attended an election of marae trustees where there were more than 120 beneficiaries present.

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15 *Ngāti Paoa Whānau Trust v Hauraki Māori Trust Board* (1995) 96A Hauraki MB 155 (96A H 155).

16 *Ngāti Pāoa* (2009) 141 Waikato MB 271 (141 W 271); *Ngāti Pāoa Iwi Trust v Ngāti Pāoa Iwi Trust Board* (2018) 173 Waikato Maniapoto MB 51 (173 WMN 51).

17 (2019) 401 Aotea MB 47 (401 AOT 47)

[32] That there may have been other procedural issues around the fringes of the process is also acknowledged. For example, the announcing of the outcomes at the meeting and before staff had had a proper opportunity to cross-reference, verify and double check the results, could have been dealt with more appropriately by deferring the announcement until the following week when Court staff were not under as much pressure to then enable them to further scrutinise the results. While that may have been contrary to the marae charter, on reflection, it may have been preferable. Even so, I am satisfied that the ultimate outcome would not have been affected to any serious degree that would call the results into such question as to require a further election.

[33] In future however, it may be useful for the trustees to consider reviewing their charter to include more prescriptive detail around elections and dispute resolution. For example, to avoid some of the challenges that have occurred to date, it may be useful to amend the charter to include a provision for the calling of nominations within a defined period and for the use of postal ballots as well as voting in person at an election at the marae. The charter could also include provisions to enable candidates to make themselves available to answer questions by the beneficiaries in person or in writing as to their knowledge and experience of the role and their commitment to the marae and its beneficiaries. In any event, this will be a matter for the successful appointees to consider in due course.

[34] Reference was also made in several of the submissions as to the involvement and influence of Tā Tumu Te Heuheu, surprisingly, in an adverse context. As I stated at the last hearing, it was appropriate that Tā Tumu be acknowledged in accordance with tikanga Māori. Moreover, evidence given at the penultimate hearing appeared to confirm that it was Tā Tumu who had been the subject of less than decorous behaviour by participants at an earlier meeting at the marae. However, to avoid doubt, I reject the claims that Tā Tumu's appearance at an earlier sitting and his nomination as a trustee was somehow inappropriate or had an undue influence of some kind on the proceedings and the eventual outcome.

[35] Regarding the claim of bias, no assertion was made formally either during any of the hearings including the last. The recent correspondence makes such a claim but in vague terms devoid of detail. Anyone dissatisfied with my earlier judgment had two months to file an appeal with the Māori Appellate Court or, within 28 days from the decision, to seek a rehearing per s43 of the Act. While there is no guarantee either application would have been successful, it was always open to any party to take such steps if they considered that appropriate. To avoid doubt, I reject any suggestion of bias or predetermination.

Should the successful nominees be appointed trustees?

[36] I am satisfied that the meeting was properly notified and that in general terms, overall, it was conducted in accordance with appropriate decorum and procedural propriety. That there were difficulties over the process is acknowledged. I am also satisfied that the beneficiaries of the marae had sufficient opportunity to discuss and consider the nominees and to cast their votes accordingly. I also take account of the attendance at the last sitting and the expressions of support for the process and the nominees while noting the concerns that continue to be expressed. My conclusion is that the nominees endorsed at the hui held on 31 March 2019 have been duly elected and should now be appointed responsible trustees.

[37] I have also considered the allegations made against Neil Edwards. I note that there has been little by way of evidence other than several unsubstantiated assertions. If those opposed to Mr Edwards appointment are to continue with their claims, they will need to file evidence and be available for cross examination. Mr Edwards would then be entitled to provide evidence in rebuttal. To avoid doubt, Mr Edwards will be appointed but if those making allegations against him are prepared to file affidavit evidence or attend court to give sworn evidence and be available for cross examination, then that option is open to them. In making these comments I refer the parties to the recent decision of the Māori Appellate Court concerning the removal of trustees *Smith v Smith - Nuki o Te Hapū Tahawai ki Rataroa Whānau Trust*.[18]

Decision

[38] Manuel Edward Iria Kahura, Morehu Hare Te Tomo, Jason Karauria Michael Fa'uhiva, Awatea Rikki Gayla Johnson, Nyra Yvette Marshall, Poriwira Kahura, Carmen Gage also known as Carmen Te Rerehau Hansen, Patience Simeon also known as Patience Alexandria Rangi Simeon and Neil Joseph Ngakuru Edwards are appointed responsible trustees by way of replacement for the current responsible trustees for a term of three years in accordance with the charter of Poukura Marae.

[39] The trustees should file an amended charter following a review and after consultation with the beneficiaries within 12 months from the date of this judgment.

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[18] [2019] Māori Appellate Court MB 110 (2019 APPEAL 110)

[40] For the avoidance of doubt, as the advisory trustees term of appointment has concluded, the Court record will be amended to remove the names of those former advisory trustees.

[41] Leave is reserved for any party to apply for further directions at any time.

[42] There is no order as to costs.

These orders are to be issued immediately per r 7.5 Māori Land Court Rules 2011.

Pronounced in open Court in New Plymouth at 4.45pm on Thursday this 20th day of June 2019

L R Harvey
JUDGE