

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

A20180005544

UNDER Sections 67 and 231 of Te Ture Whenua Māori
Act 1993

IN THE MATTER OF Rakato B Residue Trust

BETWEEN SHELLY MARIE PUOHOTAU
Applicant

AND RETIHAMATIKEI CRIBB, MORRIE
PUOHOTAU, KIM RANGINUI, TERESA
RANGINUI, CECELIA TETERENGA
WHANARERE AS TRUSTEES OF RAKATO
B RESIDUE TRUST
Respondents

Hearings: 16 October 2018, 392 Aotea MB 153-156
18 December 2018, 394 Aotea MB 1-3
(Heard at Whanganui)

Judgment: 11 July 2019

JUDGMENT OF JUDGE L R HARVEY

Introduction

[1] Shelly Puohotau is an owner is Rakato B and now seeks a review of the Rakato B Residue Trust. She says the trustees have failed to properly respond to her request to build on and occupy trust land and have delayed holding meetings of owners to discuss her request.

[2] Ms Puohotau also claimed that the trustees have shared information about her request with non-owners and that they have been tardy in providing her with trust information. Overall, she argued that the trustees' performance has been sufficiently wanting to require their removal and for an election of trustees to be held to nominate suitable replacement trustees.

[3] The trustees confirmed that they have taken all steps required of them under the trust order to consider Ms Puohotaua's request to build on and occupy the land, and to facilitate the necessary meetings of owners. They also asserted that they have complied with their responsibilities as trustees by holding the meeting of owners as requested. Despite this, they do not contest that Ms Puohotaua met the test under the trust order to bring the current application.

Background

[4] According to Court records, the trust was established by an order under s 438 of the Māori Affairs Act 1953 on 22 August 1991.¹ At the same time, further parcels of land were recommended to be vested as a Māori reservation for use as an urupā, marae and to create access from a neighbouring block.² The trust assets were initially vested in Ripeka Green, Retihiamatikei Cribb, Howard Rozon, Teresa Ranginui, Peggy Pokiha, Cecelia Whanarere and Gary Puohotaua as responsible trustees.

[5] There are 54 shares in the land held by over 600 owners. The current trustees are Clinton Baker, Retihiamatikei Cribb, Reuben Pohika, Morrie Puohotaua, Kim Ranginui, Teresa Ranginui and Cecelia Whanarere.

[6] Under cl 3(xi) of the trust order, the trustees may permit any owner to personally occupy a specified portion of Rakato B Residue, having regard to their individual shareholding. Under cl 6, where any owner disagrees with a decision made by the trustees, and has the support of at least six other owners, the trust is required to hold a meeting of owners to consider their concerns.

[7] On 25 June 2018 Ms Puohotaua filed a request with the trustees to build on and occupy the land. She wished to put up a small bach with an attached carport that she and her immediate whānau could use at weekends and holidays. She noted her belief that the bach met the requirements for exemption from a council permit being very small in size and with no permanent cooking fixtures. As she does not intend to occupy the bach permanently she stated she did not need a lease or licence.

¹ 20 Aotea MB 193-194 (20 AOT 193-194). Section 438 trusts are recognised under the current legislation as ahu whenua trusts.

² Ibid

[8] Ms Puohotaua met with the trustees on 25 June 2018 and presented them with a plan for this proposed occupation. The trustees noted that they would need to discuss the matter further before giving a response and that they had concerns about services that would be required on the block to facilitate the occupation, such as sewerage and water.

[9] Dissatisfied with that outcome, Ms Puohotaua sent a letter to the trustees on 28 June 2018 invoking cl 6 of the trust order, requiring them to call a meeting of owners to consider her proposal again. This letter was accompanied by signatures of support from six other owners in the land.

[10] On 25 July 2018, not being satisfied with the response that she had received from the trustees, Ms Puohotaua filed an application for review of the trust with the Court. On 27 July 2018 I directed the application be amended to a judicial conference under s 67 of the Te Ture Whenua Māori Act 1993.

[11] The conference was held on 16 October 2018. It was attended by the applicant and those trustees who were not required at a tangi held at the same time. At the conference it was agreed that Ms Puohotaua had met the test in terms of cl 6 of the trust order for a meeting of owners to be held.³ When questioned, the trustees stated the meeting could be held in early December and I adjourned the case to 18 December 2018.⁴

[12] The meeting of owners was duly advertised and held by the trustees as directed, and the minutes served on the applicant and filed with the Court. The minutes show that there were five owners in attendance at the meeting (four of whom are also trustees), along with 18 descendants of current owners.

[13] The judicial conference reconvened on 18 December 2018. While submissions were filed by the trustees ahead of this conference, it emerged that they had not been received by Ms Puohotaua, and I accordingly gave her a month to consider these submissions and file a written response with the Court, at which point I would issue my decision on her application.

[14] Ms Puohotaua's written submissions were received on 23 January 2018. In them she reiterated her concerns with the actions of the trustees in responding to her request to occupy

³ 392 Aotea MB 153-156 (392 AOT 153-156)

⁴ Ibid

the land and submitted that the Court should remove all of the current trustees and direct an election be held to replace them.

Issues

[15] There are three issues for determination:

- (a) Have the trustees properly considered the applicant's request to build on the land?
- (b) Have the trustees breached their duties in any other way?
- (c) Should the trustees be removed?

The Law

[16] Section 231 of the Act states:

231 Review of trusts

- (1) The trustees or a beneficiary of a trust (other than a kai tiaki trust) constituted under this Part may apply to the court to review the terms, operation, or other aspect of the trust.
- (2) There can be no more than 1 review of a trust within a period of 24 consecutive months.
- (3) The court may, on any review,—
 - (a) confirm the trust order for the trust without variation; or
 - (b) exercise its powers under section 244; or
 - (c) terminate the trust if the court is satisfied that there is a sufficient degree of support for termination among the beneficiaries.

[17] It is settled law that the Court has extensive power to review a trust.⁵ The Court will usually concentrate on matters of policy as opposed to the day-to-day operations of the trust.⁶ That said, if certain actions are likely to put the trust at risk, the Court will depart from this pathway and take a more analytical approach if it considers that is necessary.⁷

[18] Regarding the removal of trustees, s 240 of the Act states:

240 Removal of trustee

⁵ *Proprietors of Mangakino Township v Māori Land Court* CA65/99, 16 June 1999

⁶ *Pullar – Aperahama Sullivan Whānau Trust* (2017) 61 Tākitimu MB 45 (61 TKT 45) at [33]

⁷ *Tupe Snr v Everton – Manunui No 1 4th Residue Ahu Whenua Trust* (2015) 334 Aotea MB 227 (334 AOT 227) at 233

The court may at any time, in respect of any trustee of a trust to which this Part applies, make an order for the removal of the trustee, if it is satisfied—

- (a) that the trustee has failed to carry out the duties of a trustee satisfactorily; or
- (b) because of lack of competence or prolonged absence, the trustee is or will be incapable of carrying out those duties satisfactorily.

[19] The approach regarding removal was considered by the Court of Appeal in *Rameka v Hall* where that court confirmed.⁸

[30] The settled approach in the Maori Appellate Court in applying s 240 is to make an assessment of these standard duties together with what the Court has described as:

... the broader approach having regard to the special nature of Maori land trusts and the provisions of [the Act]. Thus the prerequisite for removal of a trustee was not a simple failure or neglect of duties, but a failure to perform them satisfactorily. Accordingly an assessment of the trustee's performance was essential when applying s 240. We endorse this approach as part of the first stage inquiry.

[31] This was the test Judge Harvey set out as applicable to his decision. As to what is encompassed by the term "satisfactory" in the context of s 240, Judge Harvey also discussed *Bramley v Hiruharama Ponui Inc – Committee of Management – Hiruharama Ponui Inc*. In *Bramley* the Maori Appellate Court rejected the appellant's argument that all members of the committee be removed, stressing the importance of measuring unsatisfactory conduct against the principles of the Act as found in the Preamble and s 2. The key principles for these purposes are that the Court should encourage retention of Maori land in its owners' hands, the use and development of that land, and control of the land by the owners, through their representatives.

[20] I adopt the reasoning set out in these judgments.

Have the trustees properly considered the applicant's request to build on the land?

Applicant's submissions

[21] The applicant sought to review the trust due to what she sees as deficiencies in their response to her application to build. She initially contacted a number of the trustees personally to request a meeting be organised and found their response slow. The applicant reached out via social media on 7 May 2018 but a meeting with the trustees was not arranged until 25 June 2018. At that meeting, no final decision was made. Ms Puohotau submits that there was then an unreasonable delay by the trustees in arranging a meeting of owners to consider her request.

⁸ [2013] NZCA 203

[22] Regarding the meeting held on 8 December 2018, the applicant submitted that she did not receive the minutes until 8 January 2019, one month later. These minutes were also posted to her when, she submitted, it would have been more efficient for them to have been emailed. At other times, information such as financial reports, has not been provided when she requested. This was particularly frustrating as she had not been able to attend meetings due to work commitments.

[23] Ms Puohotaua contended that the owners support her application and claims that the only opposition to it is from the trustees. She is unhappy that information regarding the land and her application has been shared with people who are not currently owners (being either descendants or whānau of current owners) at the meeting of owners and via the trust's Facebook page. She submitted that the trustees are acting in breach of trust by not keeping up-to-date records of owners and that owners have a right to access trust information in a timely manner.

[24] Ms Puohotaua argued that she has not requested a lease from the trustees, only to occupy the land on occasion. Her proposal is to build a sleep out and she has provided what she believes to be all the required documentation. The applicant does not accept the trustees' request that she supply a written report detailing her proposed occupation as necessary when she has already stated that she can provide her own water tank and toilet facilities and will take any waste away with her. She notes that another landowner owns a homestead on the land and that this building has the support of other landowners.

Respondent's submission

[25] The trustees submitted that no one present at the December meeting of owners was opposed to any owner building on or occupying the land. The beneficiaries told the trustees that more planning should go into granting occupation to owners on the land, given a previous issue of a non-consented building. On this basis, the trustees were encouraged to seek an impact report from Ms Puohotaua for the location of her building and plans for her water and waste in terms of council consent. Those present at the meeting considered that residential rates should be the responsibility of the home owner and any liability to the trustees for wastewater and access needed to be properly managed.

[26] The trustees submitted that, following the direction of the Court on 16 October 2018, a meeting of general owners was set for 8 December 2018.⁹ That meeting was advertised twice in the *Whanganui Chronicle*, on 10 November and 17 November, and was also broadcast on the local iwi radio, Awa FM. The meeting details were also posted to the trust's Facebook page on 18 November 2018.

[27] Only five owners out of 612 attended the meeting and the trustees submit that the hui was therefore not properly constituted under cl 7(iii) of the trust order. It was also submitted that the meeting continued regardless as this was the highest number of owners who had attended a trust meeting in some time. The trustees stated that it is difficult for them to discuss matters with Ms Puohotaua when she does not attend trust meetings and has been sending her correspondence directly to the Māori Land Court, without including them as trustees.

Discussion

[28] Clause 3(xi) of the trust order gives the trustees power to “permit occupation and enjoyment by the owners”:¹⁰

At their discretion to reserve in any lease or licence or otherwise provide for any one or more of the beneficial owners to personally occupy or use or enjoy such defined part or parts of the land as the Trustees shall determine having regard to the comparative shareholdings and if any such right is reserved licensed or otherwise provided for but to one or some only of the beneficial owners then the Trustees will determine the extent to which participation in rentals and profits are to abate for the purposes of receiving the benefit of such reservations licenses or provisions or otherwise adjusted.

[29] Sub-clause (xii) is also relevant:¹¹

To make other special provisions for beneficiaries

At their discretion to alienate by way of lease or licence to any beneficial owner or to any blood relative of a beneficial owner at a reduced rent or otherwise upon terms more favourable to the lessee than those obtainable on the open market for so long as that person or his executor or administrator remains in possession of the land PROVIDED THAT such proposal has first been approved by the resolution of a meeting of beneficial owners called by the trustees.

[30] When a trust is established, and trustees are appointed, the land is vested in them to administer and manage as the legal owners on behalf of the beneficial owners or trust beneficiaries. They hold the property rights and are bound by the restrictions of their trust

⁹ 392 Aotea MB 153-156 (392 AOT 153-156)

¹⁰ 75 Aotea MB 223 (75 AOT 223)

¹¹ Ibid

order and the Act when allowing others to use or occupy the land. As set out above, cl 3(xi) gives the power to determine who can occupy land to the trustees.

[31] That said, trustees are bound by the duties of that role. They must take sufficient care of trust assets and they cannot be seen to favour certain beneficiaries unduly over others; any decision they make in favour of one beneficiary must take into account the effects on other beneficiaries. In the present case the trustees were therefore acting correctly when they sought further information from Ms Puohotaua. It is uncontested that the trustees have previously encountered problems with owners' actions on the land and so it was reasonable that they adopted a cautious approach. In light of this, their request for further information from the applicant was not unreasonable. A sketch plan is a common requirement for an application to occupy.

[32] It should also be noted that any breach of council regulation may result in liability for the trustees, something they would wish to avoid. Once again, they cannot be criticised for seeking more information on how Ms Puohotaua was to manage waste and drinking water. They may wish to consider further whether the building will fall within the criteria for exemption from a permit.

[33] In terms of delay, there appears to be some responsibility on both sides. It could be said that the trustees were not as prompt as they might have been to organise a meeting with the applicant and to communicate with her generally. The evidence suggests that Ms Puohotaua attempted to contact each trustee individually and struggled to receive a timely response from them. Given the number of beneficiaries, the size of the land and the trustees' plans for the future, the trust would benefit from improved administrative management and a single point of contact.

[34] On the other hand, the applicant may have found it helpful to seek advice from the Māori Land Court on how to progress her request to occupy. The Court staff are experienced and would have been able to discuss the requirements under the trust order and the Act and how they affect Ms Puohotaua.

[35] On balance, I find that although the trustees were slow to respond to the request and their means of communication could be improved, their intention was to uphold their duty to manage the trust assets responsibly and to preserve the land for all their beneficiaries. Their actions do not amount to a breach of trust – certainly not actions that would warrant the extreme step of removal.

Have the trustees breached their duties in any other way?*Applicant's submissions*

[36] Ms Puohotaua submitted that the way trust meetings are currently held on Rakato B is inefficient and makes attending more difficult for owners. She stated that previous meetings have been held at trustee's homes in Whanganui and she considered this a more sensible approach for owners rather than holding hui on the land, especially during periods of adverse weather. The applicant contended that engagement with the trust could be improved by holding meetings using online video conferencing. This would enable more owners to attend with less cost and would mean that matters could be dealt with promptly.

[37] The applicant took issue with the way the trustees are prioritising use of trust money. Although she supports the purchase of waka, she says that the trustees should have spent the money on improving and maintaining the land. Ms Puohotaua also noted her concerns with the building erected by the trustees on the land for a kohanga reo. She questioned why it is not being used for whānau accommodation and whether it was properly consented.

[38] Although she is generally agreeable to the use of trust funds to support beneficiaries with medical needs, Ms Puohotaua questioned how those funds are distributed and how the trust determines who will benefit. She considered that trust funds should be invested back into the land, particularly its maintenance and improvement, which she submits has been overlooked. In addition, Ms Puohotaua remained concerned over the inclusion of whānau members who have not yet succeeded to land interests being involved in trust matters.

Respondent's submission

[39] The trustees submitted that the trust was established to see to overdue rates and improve the land and that they have successfully completed both these obligations. This was achieved by personal commitments from beneficiaries towards the rates bill and by putting the land out to a grazing lease, all while dealing with other complicating matters. The trustees contended that they have had to deal with illegal behaviour from some owners, non-consented homes being built, and metal being taken from a pit on the land in accordance with a "gentlemen's agreement" made before the trust was established.

[40] In addition, the trustees confirmed that they had developed a plan to eventually build a marae on the land. Unfortunately, funding is unavailable, but the plan remains, and owners

still have enthusiasm for the idea. The trustees submitted that the work they have done to promote hapū initiatives and whānau activities has helped to create increased interest in the younger generation who will eventually benefit from the land. Engagement with these activities, such as the use of the waka, has increased and the relationship between the older and younger generations is strengthening. The trust has maintained ahi kaa on the land, keeping it in whānau hands and ensuring bills are paid. This means the land will exist for the future benefit of the owners and their descendants.

[41] The trustees also confirmed that during the December meeting, those owners present walked the trust lands. Three working groups were established during the hui to undertake tasks for the improvement of the land and to upskill future owners. The trustees further confirmed that these groups will consider options for the effective use of trust land, the relationship between the ahu whenua trust and reservation trust and the relationship between these two trusts and the owners, and how to improve their overall communication.

[42] The trustees acknowledge that the majority of the members of the working groups are not owners but descendants of owners and pointed out that all owners are invited to participate. The groups will report back at normal trustee meetings and the information will be used to create a strategic plan to present to the beneficial owners at the next hui-a-tau.

Discussion

[43] Ms Puohotaua brings her claim under cl 6 of the trust order:¹²

6 Protection of Minorities

In any case where any Trustee or beneficial owner feels aggrieved by any direction determination or resolution of a meeting of the Trustees or of any act or omission of Trustees he may:

- (i) Give to the Trustees notice of his intention to have the matter complained of referred to the beneficial owners and then PROVIDED THAT within 14 days thereafter he is able to file a requisition supporting that notice executed by not fewer than 6 beneficial owners then the Trustees shall fix a time and place and convene a general meeting accordingly in manner hereinafter provided; PROVIDED FURTHER that if the Trustees fail to convene a general meeting within a reasonable time or he is dissatisfied with the resolution of this matter by the general meeting he may:
- (ii) Give to the Trustees notice of intention to have the matter complained of referred to the Māori Land Court PROVIDED THAT he shall within 14 days thereafter file an application pursuant to section 30(1)(e) of the Māori Affairs Act 1953 and section 68 of the Trustee Act 1956 requesting the Court review any such act or omission of the Trustees and/or give directions as to any

¹² 75 Aotea MB 233 (75 AOT 233)

contemplated act or omission of the Trustees arising from the resolution of the general meeting of beneficial owners or any other reason...

[44] Ms Puohotaua has a right to bring forward her concerns under cl 6 of the trust order. She has filed evidence of the support of six other owners as is needed to requisition a meeting and the order allows for such a response to any act of a trustee. This requisition was brought by the applicant on 28 June 2018 and a meeting of owners was not held until 8 December 2018. Indeed, it was not until the proceedings came before me that the trustees agreed to hold the meeting.

[45] Five months wait and a court direction do not seem to be reasonable steps for a meeting of owners. Ms Puohotaua stated that she was unhappy with the trustees' response to her application for occupation and this was the basis for application under cl 6. Knowing that and with the knowledge that the next step would be court action, the trustees still did not hold a meeting of owners. While they may argue the expense was high or the timing was poor, the applicant is correct that these meetings do not need to be held on the land and this would mitigate these issues.

[46] On direction from me, the trustees did eventually hold a meeting of owners. This was well-advertised in a number of fora in order to reach as many owners as possible. That attendance was poor is not a fault of the trustees.

[47] The trust order sets out at cl 7 that the trustees must have meetings from time to time and at least every year. That clause also restates the power of beneficiaries to require that a meeting be held. A requisition by the beneficiaries is intended as an extra meeting due to a pressing issue additional to the expected annual meeting. Delays of months defeat the purpose of any such meeting and put a potentially time-sensitive matter at risk. The delay in these circumstances was inconvenient to the applicant but on the available evidence does not appear malicious in nature. Again, it seems a lack of trustee organisation and communication may be responsible. Given that the trustees are not meeting the trust order requirements for dealing with beneficiary concerns, the criticism surrounding delay is not unreasonable.

[48] On the matter of the working groups, the trustees are empowered under cl 10 of the trust order to establish a Council of Whānau representatives to give their view on how the trust spends money on a wide range of matters. That list is expansive enough to reasonably encompass the kaupapa of the working groups. While the trustees are encouraged to promote owner engagement with the land and the trust, they cannot delegate their powers or

decision making, to other trustees or anyone else. All decision are theirs to make and the responsibility is their burden.

[49] Although the trustees have generated enthusiasm for the land in the next generation by holding meetings and events there, the applicant may be right that attendance could be increased by moving meetings into Whanganui. There is no fault with trustees' advertisement of hui, this was thorough and was in all places where owners of any age might reasonably expect to encounter it. However, a convenient location may increase attendance, as would allowance for proxies. This is something the trustees might consider on their next review of the trust order as a means of increasing owner involvement and participation.

[50] On balance, while I have some concerns with the delay by the trustees in meeting and communicating with the applicant, none of these issues amount to a serious breach of trust sufficient to warrant their removal.

Should the trustees be removed?

Applicant's submissions

[51] The applicant argued that the actions of the trustees in relation to the trust property and her request to occupy the land have been inadequate to the point that she seeks their removal. Ms Puohotaua submits she has no confidence in the trustees and seeks an election.

Respondent's submission

[52] The trustees accepted that there is room to improve their approach to their work and that the trust would benefit from trustees with new skills. To that end they have undertaken to involve their younger generation and encourage them to spend more time on the land.

[53] The trustees submitted that despite their best efforts, it has been difficult for them to encourage more beneficiaries to attend trust meetings. They have made strong efforts to hold owners' meetings and paid for advertising and notices, but attendance was usually low.

Discussion

[54] As foreshadowed, there have been compliance issues with the trust order, but the principal problem appears to be less than best practice administration from the trustees.

Trust administration at every level could be improved by better communication between trustees and more regular meetings. The way in which meetings are held should be adapted to suit the trustees and the beneficiaries, wherever they may be located. This may involve changes to the current trust order.

[55] On the issue of removal, it is well settled that the Court may remove trustees pursuant to s 240 of the Act where it finds that the trustee has failed to carry out the duties of a trustee satisfactorily. The Court of Appeal in *Rameka v Hall* has previously commented on removal of Māori land trustees:¹³

[90] We agree that there is a need for caution before a trustee is removed. The issue of removal cannot be determined by viewing each relevant factor in isolation from others. The Maori Land Court must consider the bigger picture which may involve examining the history of the trust as well as each trustee's performance.

[56] The Court of Appeal has also cited with approval the Māori Appellate Court's comment on the high bar that must be met for the removal of a trustee:¹⁴

[9] Whether governance performance has been satisfactory or not must depend then on whether there is a clear and present apprehension of risk to the incorporation asset or to the wider interests of the incorporation shareholders as a result of action or inaction of the committee. It is not every unsatisfactory act or omission which should lead to removal, but those that go to the principles of the Act. To adopt any other approach, would lead to removal being the primary remedy available for any technical breach of the Act. We do not think that wholesale removal of Maori governance members is consistent with the principles of the Act or the intentions of the legislature.

[57] The trustees have not responded to a beneficiary enquiry as promptly as might have been reasonable and they have been slow in their general responses, but their actions have caused no risk to the trust or to beneficiary interests. Indeed, they appear to have those interests in mind in undertaking their duties. They have offered a way forward for Ms Puohotaua that will allow her to progress her desire to build on the land without compromising their duties to other beneficiaries.

[58] The trustees are required under cl 9 to retire after a three-year term and then may seek re-election. The last appointment of trustees was in 2014.¹⁵ The trustees are two years late to hold elections and the records show that only one previous trustee appointment had been brought to the Court and that was because trustees had passed away and needed to be replaced. The trustees are directed to hold elections in accordance with the trust order at

¹³ [2013] NZCA 203

¹⁴ *Bramley v Hiruharama Ponui Incorporation* (2006) 11 Waiariki Appellate MB 144 (11 AP 144); cited in *Naera v Fenwick* [2013] NZCA 353

¹⁵ 331 Aotea MB 105-107 (331 AOT 105-107)

their next annual meeting and to bring the results of that election to Court for trustee appointment. That hui should be held within six months.

[59] One final point. The applicant claimed she believed that a staff member of the Aotea office of the Māori Land Court has been helping the trustees with this matter which the applicant considers a conflict of interest. She noted particularly a document titled “Information about Response to Shelly” which is a response to her submissions. Ms Puohotaua submitted an image of the document’s background information which shows that it was authored and last modified by a staff member of the Aotea office of the Court. While that staff member is not currently an owner in the land, members of her whānau are owners.

[60] Ms Puohotaua alleged that this is evidence that the trustees have shared a matter which is confidential between her and them with a person who is not an owner. She further alleged that it is possible none of the trustees’ submissions were written by them in person. She sees this as a breach of trust to be taken into account in her request to remove the trustees.

[61] Unless Ms Puohotaua is alleging the staff member used her position to affect any decision made regarding the current application, I see no issue with a whānau member supporting another in proceedings by ensuring they have access to correct information, if this has indeed occurred. It is also sensible for the trustees to obtain advice, as they would from their solicitor or accountant, before responding to an important request from an owner that might have implications for the trustees and the rest of the owners. Seeking advice and information will always be a sensible approach before decisions are taken.

Decision

[62] The review is confirmed in accordance with s 231 of the Act.

[63] The application to remove the trustees is dismissed.

[64] The trustees are directed to hold elections in the next 6 months at a properly advertised meeting of owners. In accordance with the trust order, one-third of the trustees must retire and may seek re-election.

[65] There is no order as to costs.

Pronounced at 2.15pm in Rotorua on Thursday this 11th day of July 2019

L R Harvey
JUDGE