

**I TE KOOTI WHENUA MĀORI O AOTEAROA
I TE ROHE O TE TAITOKERAU**

*In the Māori Land Court of New Zealand
Taitokerau District*

AP-20260000001962

WEHENG
Under

Section 240, Te Ture Whenua Māori Act 1993

MŌ TE TAKE
In the matter of

Te Konoti B4A3B2B

I WAENGA I A
Between

TAUKIRI DUDLEY PETERSEN ON BEHALF
OF HERSELF AND BELLA SAMUELS
BRUMBY AND ALLAN SAMUELS AS
TRUSTEES OF TE KONOTI B4A3B2B AHU
WHENUA TRUST

Ngā kaitono
Applicants

ME
And

ROSE DUDLEY
Te kaiurupare
Respondent

Kōtitanga:
Hearing

23 February 2026, 308 Taitokerau MB 139-131
20 March 2026, 312 Taitokerau MB 193-242
(Heard at Whangarei)

Kanohi kitea:
Appearances

R Park for Te Konoti B4A3B2B Ahu Whenua Trust

Whakataunga:
Judgment date

5 May 2026

TE WHAKATAUNGA A KAIWHAKAWĀ T K T A R WILLIAMS

Judgment of Judge T K T A R Williams

*(Ka haere tonu ngā taipitopito kēhi ki te whārangi kei raro)
(Proceedings continued overleaf)*

(Ngā taipitopito kēhi e toe ana)
(Proceedings continued)

AP-20260000001371

AP-20260000005451

WEHENGĀ

And

Section 19, Te Ture Whenua Māori Act 1993

MŌ TE TAKE

In the matter of

Te Konoti B4A3B2B

WAENGĀ

And between

ROSE DUDLEY

Te kaitono

Applicant

ME

And

TAUKIRI DUDLEY PETERSEN ON BEHALF
OF HERSELF AND BELLA SAMUELS
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TRUSTEES OF TE KONOTI B4A3B2B AHU
WHENUA TRUST

Ngā kaiurupare

Respondent

Hei tīmatanga kōrero*Introduction*

[1] This decision deals with two applications. One seeking the removal of trustee. This was heard alongside several other applications that were dismissed by the Court. I reserved my decision on this application, which was filed by the trustees seeking to remove Rose Dudley as a trustee of the Te Konoti B4A3B2B Ahu Whenua Trust (the trust). The second is a costs application filed by the trustees against Ms Dudley for her unsuccessful injunction application. Therefore this decision addresses both applications.

[2] In terms of the removal application the trustees submit that Ms Dudley is no longer suitable to hold office as a trustee. The trustees say that Ms Dudley's removal is necessary for the proper execution of the trust, as it will enable the trustees to resolve issues, provide a better ability to engage with the access the land issue and will allow them to progress the trust's papakainga housing development project.

[3] They say that Ms Dudley:

- (a) has failed to act in the best interest of the trust and the other beneficial owners of Te Konoti B4A3B2B block;
- (b) is unable to work with the other trustees constructively;
- (c) continues to work unilaterally without the consent or knowledge of the other trustees;
- (d) is obstructive to the proper performance of the trustees functions; and
- (e) has not been accountable for her actions in relation to the trust and its property.

[4] They also say that despite being suspended as a trustee she has continued to act as if she is an operative trustee, which is in contempt of the Court's orders.

Kōrero whānui*Background*

[5] Applications have previously been filed by Ms Dudley on behalf of the trust seeking to create an easement for a roadway across neighbouring land held by European landowners of general land. Informal access had been agreed to by the neighbouring general landowners allowing Ms Dudley, who has a house on the Te Konoti block, to exercise access across their land, through a fence (which is a joint fence) to gain access to her house.

[6] Negotiations to confirm an easement through neighbouring lands had been successful but previous applications before the Court had remained unresolved. Therefore, an application pursuant to s 315 of Te Ture Whenua Māori Act 1993 (the Act) was filed asking the Court to create an easement in favour of the trust.

[7] Issues had also arisen in the administration of the trust, which resulted in Ms Dudley filing an application seeking the removal of Taukiri Dudley, Matthew Dudley, Bella Samuels and Flo Samuels as responsible trustees of the trust. That application is still at large.¹

[8] In an attempt to assist the trust, the Court had suggested that they obtain legal counsel to advise them on the pathway forward. They were unsuccessful in retaining counsel and therefore the Court appointed Ms Roslyn Park to represent the trustees on the applications for an easement and to remove trustees. An application was also filed by Ms Dudley seeking an injunction against the neighbouring landowners. The Court dismissed this application.

[9] After two months Ms Dudley then filed an application seeking to remove Ms Park as counsel appointed for the trust. Her application was not supported by the other trustees of the trust.

[10] In response, Ms Park confirmed she had instructions asking her to continue to act for the trust and filed an application seeking orders suspending Ms Dudley's powers to act as trustee until the s 315 application was determined or an application for Ms Dudley's removal is heard.

¹ AP-20250000006830.

[11] At a hearing held in October 2025, I granted orders suspending the powers of Ms Dudley to act as a trustee or make decisions in respect of the trust until further notice of the Court. I also appointed Ms Savanna Lauder as an advisory trustee to the trust and dismissed the application seeking the removal of Ms Park as counsel.²

[12] Ms Dudley has now filed an appeal against the orders made suspending her as a trustee and filed an application seeking a stay of the orders suspending her. The application for stay was referred to me, and has also been declined.³ The appeal remains to be dealt with by the Māori Appellate Court.⁴

[13] Ms Dudley then filed applications seeking my recusal, seeking an interim injunction against the trustees of the trust and counsel for the trust, Ms Park. She also filed an application to join the s 315 application in a personal capacity.

[14] The trust and Ms Park oppose the applications for stay, recusal, injunction, and the application for joinder. As a result, the trust filed the current removal application.

[15] I have dismissed all of Ms Dudley's applications.

Ngā Taunakitanga a Taukiri Dudley Petersen mō te tono tangohia

Evidence of Taukiri Dudley Petersen for the removal application

[16] The allegations raised by Ms Dudley Petersen in her affidavit dated 18 February 2026 focus on the proposition that Ms Dudley has lost the ability to perform her functions as a trustee objectively and is acting in her own interests.

[17] It is alleged that Ms Dudley disregards the views of the other trustees or decisions that are made collectively by the trust and is fixed in her views that have been to the detrimental to the trust.

[18] She says that Ms Dudley refuses to consider any other options for a proposed easement accessway, other than that which presently exists on an informal basis granted by the neighbouring general land owner.

² 304 Taitokerau MB 170-186 (304 TTK 170).

³ 312 Taitokerau MB 193-242 (312 TTK 193).

⁴ AP-20260000000576.

[19] She says that Ms Dudley has blocked attempts to obtain a survey report to consider whether there are other options available for easement access to the land despite the other trustees passing resolutions approving this. Ms Dudley Peterson stated that when surveyors were contracted to undertake the work requested by the trustees, Ms Dudley contacted the surveyor to ask for a survey of the current accessway she preferred. As a result, the trust incurred a cost that was not approved by the rest of the trustees. Despite the trustees' resolutions to widen the scope of the survey, Ms Dudley continues to push her application for the sole access route that she considers appropriate.

[20] In the meantime, the trustees are reliant upon the good will of the neighbouring landowners to continue to allow access across their land. Despite this Ms Dudley has disregarded the neighbouring landowners' instructions to secure the gates, putting that access at risk. She has also threatened to stop one of the other trustees from utilising that same accessway to get to her home, which is behind Ms Dudley's house.

[21] In addition, Ms Dudley Petersen says that Ms Dudley is disrespectful of the other trustees in their meetings and has no respect for their views or resolutions that they pass. She says that Ms Dudley speaks to them in a demeaning way, and they feel bullied by her even though she has been suspended. Further, it was submitted that she is uncompromising in refusing to take into account others' views about what is required for the trust to operate appropriately.

[22] Importantly, it is said that Ms Dudley continues to act in a unilateral manner, repeatedly issuing instructions that the other trustees do not agree to or consent to. This includes engaging with funders (Te Pouahi o Te Taitokerau and Ministry of Housing and Development) without the trustees knowing, and incurring costs payable by the trust without talking to the trustees about those proposals. It is also submitted that she does not provide accounting information to the trustees detailing what trust money has been spent on.

[23] Further it is alleged that Ms Dudley has granted leases for the use of the block without the other trustees' knowledge or consent. She continues to issue proceedings against or in relation to the trust without the trustees' consent including the application seeking to remove the Court appointed lawyer.

[24] Despite several requests by the trustees for Ms Dudley to provide evidence of decisions that have been made that were supported by trustee consent, she does not do so.

[25] Ms Dudley Peterson also says that despite being suspended, as directed by the Court, Ms Dudley has continued to engage in external communications with third parties in relation to the trust's affairs. Evidence of this was submitted via an email communication between Ms Dudley and Te Pouahi o Te Taitokerau advising them of purported unlawful executive actions being taken by the recently appointed advisory trustee, a failure by the trust to perform mandatory administrative duties, suggestions that the trust has acted illegally and without a quorum and that all resolutions of the trust are a nullity. There was also an indication that she has requested that the trustees cease all governance action until her appeal application has been heard. This email was sent on 10 December 2025, which was after the Court issued orders suspending her role as trustee in October.

[26] Therefore, in the trust's view Ms Dudley has failed to fulfil her obligations as a trustee and should be removed.

Te whakautu a Rose Dudley ki te tono tangohia

Rose Dudley's response to the Removal Application

[27] In an affidavit dated 13 March 2026, Ms Dudley asserts that she has acted in the best interests of the trust since 2017. She says that in September 2025 she contacted a surveyor and engineering firm seeking estimates for surveying the existing access route across the neighbouring landowners' properties and says those estimates were obtained following discussions with each firm.

[28] She then says she forwarded these to counsel for the trust in October 2025 and asked that counsel support an application for Special Aid in relation to that access application. She does not respond to the suggestion that she sought those quotes without a resolution of the trustees or a formal discussion prior. Nor does she address the issue that she has been in contact with external third parties after having been suspended by the Court.

[29] In relation to the allegation that she is unable to work constructively with other trustees, this is denied. She says that as chairperson she has convened trustee meetings, prepared agendas and invited trustees to unite in discussions. She says she has undertaken

administrative and governance work necessary for the trust to function and to preserve the development direction that had previously been discussed.

[30] She denies that she acts in a unilateral capacity or that she has inappropriately engaged with third parties.

[31] She then suggests that her applications filed with the Māori Land Court were filed in her capacity as a beneficial owner exercising her rights under the Act. She says that she is entitled to make these applications and says that the trustees' reliance on minutes of a meeting held on the 11th of November 2025 do not support or record formal motions passed authorising surveys for the trust.

[32] She also denies any allegation of misuse of trust funds.

[33] In relation to the allegation that her conduct has negatively impacted the trust she says that her actions as a chairperson, historically, have been directed towards progressing the papakainga development in resolving the longstanding access issue affecting the land. She says development feasibility funding has been obtained because of her work but is dependent upon resolving the legal access issue.

[34] Ms Dudley has also continuously alleged that the trust are acting illegally and that they do not have a quorum, therefore trustee decisions and resolutions are invalid and that the trustees are acting in breach of the trust order. This is despite counsel for the trust advising Ms Dudley and the trust to the contrary. Ms Dudley does not accept the advice of counsel and that resulted in her application seeking to remove Ms Park as counsel for the trust.

[35] Finally, she says that the allegations made against her are not supported by documentation and that her removal is a serious step, which the evidence does not support.

He whakakore i ngā tarahitī *Removal of trustees*

The law

[36] Section 240 of the Act empowers the Court to remove trustees for cause. It provides:

240 Removal of trustee

(1) 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 that—

- (a) the trustee has lost the capacity to perform the functions of a trustee; or
- (b) **the removal is desirable for the proper execution of the trust, and 1 or more of the following grounds for removal are met:**
 - (i) **the trustee repeatedly refuses or fails to act as trustee:**
 - (ii) the trustee becomes an undischarged bankrupt;
 - (iii) the trustee is a corporate trustee that is subject to an insolvency event;
 - (iv) **the trustee is no longer suitable to hold office as trustee because of the trustee's conduct or circumstances.**

...

- (3) A person may no longer be suitable to hold office as trustee, for example, because of the following conduct or circumstances:
 - (a) the trustee is convicted of an offence involving dishonesty;
 - (b) it is not known where the trustee is and the trustee cannot be contacted;
 - (c) the trustee is prohibited from being a director or promoter of, or being concerned or taking part in the management of,—
 - (i) a company under the Companies Act 1993; or
 - (ii) an incorporated or unincorporated body under the Financial Markets Conduct Act 2013 or the Takeovers Act 1993.

(emphasis added)

[37] The current application engages ss 240(1)(b)(i) and 240(1)(b)(vi) of the Act.

[38] The Court of Appeal in *Henderson v Brooking* confirmed that the test for removal under s 240(1)(b) involves two steps:⁵

⁵ *Henderson v Brooking* [2025] NZCA 368 at [94], citing *Wynyard v Waata – Manawakore CI and D* (2022) 247 Taitokerau MB 4 (247 TTK 4) at [19] and *Gray v Paikea – Otara 5D2* (2022) 252 Taitokerau MB 210 (252 TTK 210) at [21].

- (a) First, the Court must be satisfied that one of the prescriptive grounds under s 240(1)(b) are met.
- (b) Secondly, the Court must determine whether removal is “desirable for the proper execution of the trust”.

[39] Despite amendments to s 240 in 2020, earlier principles concerning the removal of trustees continue to apply, including:⁶

- (a) removal is a serious step and is not undertaken lightly;
- (b) the trustee(s) at risk must be properly notified in advance;
- (c) technical breaches of trust and governance instruments may not lead to removal unless the trust assets have been put at risk or there has been serious loss or malfeasance; and
- (d) generally, the Court must be satisfied that there is evidence of real abuse, failure or malfeasance and the absence of any tenable defence.

Kōrerorero *Discussion*

[40] At the hearing convened to address all these applications on 20 March 2026, Ms Dudley chose not to expand upon the issues raised in her affidavit except to say that response to the allegation that she has communicated with third parties after being suspended, that she did so as a beneficiary and not as a trustee.

[41] Ms Park similarly simply relied upon the affidavit of Ms Dudley Petersen and her submissions. Therefore, I proceed on that basis.

[42] In order to establish whether or not Ms Dudley should be removed I must assess whether or not her conduct or the circumstances warrant her removal.

⁶ *Henderson v Brooking – Wharekahika A47* [2023] Māori Appellate Court MB 17 (2023 APPEAL 17) at [28], affirmed by the Court of Appeal in *Henderson v Brooking*, above n 6 at [99].

[43] The conduct of Ms Dudley has been concerning. This stems from the very first hearing conducted by the Court where it was very clear that Ms Dudley had very little comprehension of what her role as a trustee is and should be, the fact that she could not act unilaterally, and that her assertions that the other trustees were acting in a position of conflict were plainly flawed and incorrect. Despite direction by the Court, Ms Dudley remained of the view that her actions were appropriate when they were not.

[44] Ms Dudley has then continued to act inappropriately. This led to the applications for Ms Dudley's suspension, as it was shown that she was incapable of acting in a collective manner, refused to follow legal advice, refused to follow or adhere to advice from the advisory trustee and importantly refused to follow the collective decisions made by the trustees.

[45] Ms Dudley's conduct shows that she continues to believe that her view is the only relevant view and that the advice of counsel, the advisory trustee and other trustees should be set to one side. That is a considerably flawed position to take.

[46] This is illustrated by her position on the s 315 application, which she contends should be confined to the existing access she enjoys. The application is necessarily broad because options other than the existing accessway, which has been provided on an informal basis by the general land neighbouring owners, may be preferable. The consideration of alternatives is important, particularly as there is some opposition by the neighbouring landowners to formalising that existing access by way of easement.

[47] It is appropriate for the existing trustees to obtain an independent survey from appropriately qualified surveyors to consider all options that might be available to the trust to gain access to the land, which may or may not include the existing informal access provided across the neighbouring landowners' general land.

[48] Ms Dudley's actions in seeking to force an easement across the existing informal accessway and insisting that it is the only viable option is not conducive to good working relations with the other trustees and does not take a fully informed approach to the issue and problem that the trust needs to resolve for the benefit of the beneficiaries.

[49] Most concerningly for the Court is that when suspended, Ms Dudley continues to engage in communication with third parties who are important funders to the trust. This is despite clear direction from the Court that she was not to do so. The fact that she has filed an appeal does not change that position.

[50] Quite aside from the fact that she is acting in contempt of Court orders, the impact of those communications could have caused those funders to withdraw their funding, which would have a detrimental effect on the trust. The actions of the independent advisory trustee to contact those funders to reassure them about those governance issues will have provided some comfort to the funders that the project will continue, but that would not have been necessary if not for the actions of Ms Dudley.

[51] I am confident that her email to Te Pouahi was designed to cause confusion. It undermined the trust, and even though she has tried to suggest that she contacted those funders as a beneficiary of the trust it serves as a stark illustration of her poor conduct. The relationship is between the funders and the trust, not beneficiaries of the trust, and she is not entitled to contact those funders in any capacity other than if she was a trustee of the trust. Given her suspension she cannot and should not be doing that. I reiterated that to her at Court. I should not have had to do so and yet it was necessary.

[52] The applicants have filed copies of email communications between counsel and the independent trustee with Ms Dudley. The communications all show that she has been seeking to undermine the trust and refuses to follow appropriate advice. In addition, Ms Dudley has filed email correspondence from herself to counsel for the trust, directing her to file applications for Special Aid for engineers' reports, survey reports, and payment of invoices already incurred without the support of the other trustees and directing that her email is not provided to the other trustees.

[53] The impact of Ms Dudley's actions has resulted in the collective trustee decision-making process being undermined, acts that are in contempt of the Court's directions and attempts to cause confusion with external third parties, in particular stakeholders, regarding the authority and activities of the trust. That confusion could result in delays when progressing both the easement and the papakainga development on the land.

[54] Therefore, I am satisfied that there is evidence of real abuse, real failure and malfeasance by Ms Dudley in her trustee role and there is no tenable defence to an application seeking to remove her as a trustee based on her conduct.

[55] I must also consider whether it is desirable to remove Ms Dudley as a trustee of the trust. In doing so, I must consider whether the appropriate course of action is advisable, prudent, and expedient for the proper execution of the trust and the beneficiaries as a whole.

[56] Given her actions and conduct I see no other option and consider that it is desirable that Ms Dudley be removed immediately. She is no longer acting in the best interest of the trust. Therefore, I am satisfied that her removal is not only necessary but desirable.

Te tono mō ngā utu

Costs application

[57] Ms Dudley has recently sought to file several applications to this court, none of which have been successful. The trust has filed an application seeking costs against Ms Dudley for the failed injunction application

[58] Ms Dudley filed an injunction application seeking to restrain the trustees, its agents, advisors and representatives from passing any resolutions or implementing any decisions. It also sought to preserve the existing access and restrain the trust from taking any actions that might vary from that access. In essence she sought to maintain a status quo where her current physical access is preserved, and the legal and operational status of the trust is restrained.

[59] As mentioned previously, I dismissed this application. There was no reasonable or arguable cause of action and no justification to restrain the trustees from performing their lawful obligations as trustees.

[60] Ms Park seeks costs on the failed injunction application.⁷ The trust have been successful in defending the application and in the normal course would be entitled to seek costs.

⁷ AP-20260000001371.

[61] The trust is in receipt of Special Aid for Ms Park's services. Ms Park has indicated in her memorandum that the costs incurred in defending the application amounted to \$1,282.78. That said, she is seeking a reasonable contribution to those costs and suggests that an 80% contribution (\$1,026.22) to those costs is reasonable given Ms Dudley's application was without merit, founded on misunderstandings and sought to restrain the trustees from doing that which they are lawfully entitled to do.

[62] Ms Dudley has responded to the application for costs. She understandably opposes the application for costs and refutes the suggestion that her applications have been vexatious, without merit or a misuse of the courts processes.

[63] She submits that her applications were as a result of her concerns that proper process has not been followed. She says her concerns were genuine and expresses concern about the instructions that counsel has to act for the trust on the applications filed.

[64] That said, she submits that the 80% contribution to costs sought is excessive, and that she is unemployed and a caregiver for her two-year-old mokopuna. As such any costs order would cause significant financial hardship. Therefore, she submits costs should not be awarded or alternatively reduced to a nominal amount.

Kōrerorero

Discussion

[65] Ms Dudley's injunction application was dismissed. The trust was successful in defending the application and as the successful party, they would normally be entitled to costs. I see no reason to depart from that.

[66] The trust is also in receipt of Special Aid. As has been determined in *Riddiford v Te Whaiti*, the granting of Special Aid is no bar to costs being awarded against unsuccessful litigants. It was also established that a reasonable contribution may range between 10% and a contribution as large as 80% to 90% but less than the total. In *Riddiford v Te Whaiti* his conduct (which included the lack of substance to the argument and the lack of realism about his legal situation) justified the court awarding 80% of the total incurred.⁸

⁸ *Riddiford v Te Whaiti* (2001) 13 Takitimu Appellate MB 184 (13 ACTK 184).

[67] Understandably, counsel here has argued the same should apply to Ms Dudley. In addition, counsel has yet to be paid by special aid for those attendances and therefore the issue identified in *Appleton v Krissansen*⁹ about being awarded and paid costs when counsel has already been paid by special aid does not apply here. I add that Ms Park also submits that should costs be awarded that they should be used to reimburse the special aid fund rather than being paid to the respondents or counsel for the respondents.

[68] I consider that given Ms Dudley filed an application that had no prospect of success, which was based on her misunderstanding that she was entitled to act in a manner contrary to the court's direction and ignorant of what the trustees' legal responsibilities are, that costs should be awarded against Ms Dudley.

[69] I have taken into account the fact that Ms Dudley is unemployed and a caregiver for her two-year-old mokopuna.

[70] As such, the extent of contribution I determine is 25% of the costs incurred (\$320.70) which is considerably less than the 80% sought. This is to be paid to the Court in reimbursement of the Special Aid fund.

[71] I also determine that the Court will not accept any further applications from Ms Dudley involving the Te Konoti block until this sum is paid to the Court.

Kupu whakatau *Decision*

[72] Pursuant to s 240 of Te Ture Whenua Māori Act 1993 the application to remove Rose Dudley is granted.

⁹ *Appleton v Krissansen – Whangamata 4D1C1B* (2019) 176 Waikato Maniapoto MB 115 (176 WMN 115) at [13].

[73] Application seeking costs against Rose Dudley is granted in the amount of \$320.70.

I whakapuakina i te 8:00am i Whangārei, i te tuarima o ngā rā o Haratua i te tau 2026.
Pronounced at 8:00am in Whangarei, this 5th day of May 2026.

T K T A R Williams
JUDGE