

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

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

AP-20250000001853

WĀHANGA Sections 239 and 338(7), Te Ture Whenua Māori
Under Act 1993

MŌ TE TAKE Ihupuku G block
In the matter of

NĀ JENIVEVE POARI-BROUGHTON
By Te kaitono
 Applicant

Nohoanga: 4 August 2025, 514 Aotea MB 57-79
Hearing (Heard at Whanganui)

Whakataunga: 13 October 2025
Judgment date

TE WHAKATAUNGA A KAIWHAKAWĀ A H C WARREN
Judgment of Judge A H C Warren

*Mā te mahi ka kitea ai te tika***Hei tīmatanga kōrero***Introduction*

[1] Jeniveve Poari-Broughton filed an application pursuant to ss 239 and 338(7) of Te Ture Whenua Māori Act 1993 (the Act) to replace trustees of the Ihupuku G (Ihupuku Pa) Māori Reservation (the Trust). The application was filed following an annual general meeting of Te Ihupuku Marae held on 8 September 2024 (AGM). At the AGM, two individuals were elected, namely Anahera Millar-Potaka and Michan Fukushima.

[2] I heard what seemed like a straightforward appointment of trustee application on 4 August 2025. At that hearing, current trustee and beneficiary Zacky Sullivan opposed the appointment of Anahera on the basis that, in his view, she did not whakapapa to the marae, and that the process for electing trustees as set out in Te Ihupuku Marae Charter (the Marae Charter) was not followed in respect of her election. There is no opposition to the appointment of Michan Fukushima as a trustee.

[3] For the reasons that follow, I am prepared to appoint Michan, but not Anahera at this time.

Ngā take*The issues*

[4] The sole issue that I need to determine is whether I am able to appoint Anahera as a trustee of Te Ihupuku Marae. This issue requires me to consider two matters: the opposition expressed by Zacky, and the process followed in electing Anahera.

[5] First, the opposition expressed by Zacky is not premised on whether Anahera is suitable to be a trustee of Te Ihupuku Marae in terms of her skill and ability, but rather that she does not qualify, given his view that she does not whakapapa to the marae, which is a requirement under the Marae Charter.

[6] Further, there is a process issue given that the beneficiaries were not advised that there would be more than one trustee available to be elected at the AGM. There is no dispute that the idea of appointing Anahera arose at the AGM as opposed to an on-notice approach,

as required by the Marae Charter. The process question, therefore, is whether there is any basis to appoint her as a trustee if the process adopted was contrary to the Marae Charter.

Does Anahera Millar-Potaka whakapapa to Te Ihupuku Marae?

[7] The Marae Charter confirms that the beneficiaries of Te Ihupuku Marae are:¹

5.0 Beneficiaries

5.1 Hapuu members of Ngaati Hinewaiata together with all their descendants shall be recognized as the beneficiaries of the Papakainga/Marae.

[8] Clause 10 of the Marae Charter confirms that the trustees must whakapapa to Te Ihupuku Marae.

[9] In short, I do not accept the position adopted by Zacky that Anahera does not whakapapa to Te Ihupuku Marae. In fact, Zacky's evidence was that he did not know Anahera's whakapapa and was appearing in Court asking for it to be confirmed. That is fair, but I believe that the way in which this was done was not tika. Matters of whakapapa should be addressed outside of the Court first and foremost, and it is only after those attempts fail that the issues should be challenged and determined in Court.

[10] I have no reason to doubt the evidence of Anahera herself, and the evidence given by her father, Hayden Potaka, confirming their connection to the Ihupuku G block and Te Ihupuku Marae. I also give considerable weight to the evidence of Rauru Broughton, who filed an email after the hearing confirming the connection of the Potaka whānau to this area. Mr Broughton is a well-respected person knowledgeable in tikanga and whakapapa.²

[11] On this basis, I confirm that Anahera is a beneficiary of Te Ihupuku Marae and is therefore eligible to be a trustee on that basis.

¹ Clause 5 of Te Ihupuku Marae Charter dated 25 July 2021.

² Email from Rauru Broughton dated 6 August 2025.

Was the proper process adopted in electing Anahera Millar-Potaka as per clause 10.1 of the marae charter?

[12] The starting point is that the Court needs to ensure that proper process is being followed, particularly in respect of the important issue of appointing trustees. It is clear to me that the proper process was not followed in respect of the election of Anahera as a trustee. The obvious process issue is the fact that no beneficiary had notice that there was going to be a further appointment, and more specifically, Anahera did not follow the nomination process by expressing an interest 14 days prior to the AGM as set out in cl 10.1 of the Marae Charter. In the absence of a provision in the Charter or a principle of law, beneficiaries/trustees cannot change the rules by a side wind because they would like a promising candidate to be elected. What should have happened is for a further process to be conducted for the beneficiaries to be properly notified, if those present wanted to appoint another individual to the position of trustee. Even though the Charter is not a terms of trust, it is clear in this context, that this marae seeks to follow its Charter when electing trustees.

[13] I appreciate that there may not have been significant objection to this approach and the appointment of Anahera at the AGM itself, despite what Zacky said to me at the hearing. However, the lack of opposition does not automatically cure a failure to follow the very processes that have been sanctioned by the beneficiaries. The key point is that beneficiaries who did not attend may have attended if they had of known that there was going to be additional trustee seats available on the day of the AGM.

[14] On that basis, I find that the election of Anahera was contrary to the Charter and proper process, and there is no basis for me to appoint her. That said, it is clear to me that several beneficiaries want Anahera to be a trustee. Therefore, I am prepared to consider the current trustees suggesting a bespoke process to seek the beneficiary views on Anahera as a trustee.

Ngā ōta *Orders*

[15] I therefore invite the trustees to submit a proposal for me to consider within 14 days of the date of this decision. At minimum, I would expect there to be one hui (ideally in person) available to beneficiaries and a pānui sent confirming the sole purpose of the hui. If that is received, I will then issue a direction confirming the process. I will not dismiss the

current application at this time. By adopting this approach, I am trying to be pragmatic and give effect to the wishes of the beneficiaries per s 17 of the Act.

[16] I am nonetheless prepared to make an order appointing Michan Fukushima as a trustee of Te Ihupuku Marae per 338(7) of the Act. I do not need to make an order per s 239 of the Act. The order is for immediate release per r 7.5(2)(b) of the Māori Land Court Rules 2011.

[17] The current application stands adjourned until further direction of the Court.

Mauri ora

I whakapuaki i te 3:00pm i Kirikiriroa, tekau ma toru o ngā rā o Whiringa-ā-nuku i te tau 2025

Pronounced at 3:00pm in Hamilton on the 13th day of October 2025.

A H C Warren
KAIWHAKAWĀ
JUDGE