

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

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

AP-20240000011134

WĀHANGA <i>Under</i>	Māori Reservations Regulations 1994, reg 21
MŌ TE TAKE <i>In the matter of</i>	Ngongohau No. 6 & Others
I WAENGA I A <i>Between</i>	HONE TAMEHANA, PIPIANA ROWE, AND TAMAHAU ROWE AS TRUSTEES OF TE PAKU O TE RANGI MARAE CHARITABLE TRUST Ngā kaitono <i>Applicants</i>

Nohoanga: <i>Hearing</i>	5 December 2024, 495 Aotea MB 216-227 31 March 2025, 506 Aotea MB 144-231 1 April 2025, 507 Aotea MB 1-97 2 April 2025, 507 Aotea MB 165-206 (Heard at Whanganui)
Kanohi kitea: <i>Appearances</i>	S Sadd for Te Paku o Te Rangi Marae Charitable Trust T Wano for Ms Bailey and Ms Takarangi M McGhie for Tūmango Whānau
Whakataunga: <i>Judgment date</i>	23 July 2025

TE WHAKATAUNGA Ā KAIWHAKAWĀ A M THOMAS
Judgment of Judge A M Thomas

*Ka haere tonu ngā taipitopito kēhi i muri ake nei
Proceedings continue overleaf*

Ngā taipitopito kēhi e toe ana
Proceedings continued

AP-20250000000413

WĀHANGA
Under

Te Ture Whenua Māori Act 1993, s 240

MŌ TE TAKE
In the matter of

Ngongohau No. 6 & Others

NĀ
By

TANIA AROHA BAILEY AND CILLA PANGO
TAKARANGI
Ngā kaitono
Applicants

Kei ngā reo pāorooro o ngā pari kārangaranga puta noa i te rohe o Whanganui, tēnā koutou. Mātua rā, e tika ana kia mihia rātou kua whetūrangitia rā i roto i ngā marama kua hori, moe mai rā. Tauārai o te pō ki a rātou, tītoko o te ao marama ki a tātou, tihei mauri ora. Ko te aumihi nui tēnei e rere atu nei ki a koutou, ki te hunga e whai take nei ki tēnei tono, tēnā koutou katoa. Ā kāti, ki te kēhi.

He kupu whakataki

[1] I te rā 8 o Oketopa 2024, i tukuna rā e Tamahau Rowe rātou ko Pipiana Rowe, ko Hone Tamehana, hei tarahitī nō Te Paku o Te Rangi Māori Reservation, arā ko te Marae o Pūtiki (“te taratī Marae”), tētahi tono e ai ki waeture 21 o ngā Māori Reservation Regulations 1994 (“ngā Waeture”) kia aromātaihia ngā whakaritenga o te taratī Marae.

[2] I te rā 16 o Tīhema 2024, i tukuna rā e Tania Aroha Bailey rāua ko Cilla Pango Takarangi (“ngā kaitono whakakore”) tētahi tono e ai ki w 240 o Te Ture Whenua Māori Act 1993 (“te Ture”) e kimi ana kia whakakorehia Chris Shenton rātou ko Tamahau Rowe, ko Pipiana Rowe ko Hone Tamehana mai i ō rātou ake tūranga tarahitī i te taratī Marae.

[3] E hāngai ana tēnei whakataunga ki aua tono e rua.

Ko te hātepe ture o te tono

[4] I tōna tikanga, i tū mai te tono aromātai i te rā 4 o Tīhema 2024 ki te Kooti

Introduction

[1] On 8 October 2024, Tamahau Rowe, Pipiana Rowe and Hone Tamehana, as trustees of Te Paku o Te Rangi Māori Reservation, also known as Pūtiki Marae (“the Marae trust”) filed an application pursuant to reg 21 of the Māori Reservation Regulations 1994 (“the Regulations”) for an inquiry into the administration of the Marae trust.

[2] On 16 December 2024, Tania Aroha Bailey and Cilla Pango Takarangi (“the removal applicants”) filed an application pursuant to s 240 of Te Ture Whenua Māori Act 1993 (“the Act”) seeking removal of Chris Shenton, Tamahau Rowe, Pipiana Rowe and Hone Tamehana as trustees of the Marae trust.

[3] This decision relates to both applications.

Procedural history

[4] Initially, the inquiry application was set down to be heard on 4 December

Whenua Māori o Whanganui. Heoi anō, i te rā 22 o Noema 2024, i tukuna rā e Tania Aroha Bailey tētahi tono tāria ki te Kooti e whakahē nei i te tū mai a te tono ki taua kōtitanga, e whakahē anō hoki nei i te kimi i tētahi ōta tāria o te Kooti mō ētahi take i rārangitia ai e ia ki tāna tono.

[5] I te rā 5 o Tīhema 2024, i whakatūria ai e ahau tētahi hui ā-kaiwhakawā kia matapakina ngā huarahi hei whai mā ngā tono e toru, arā, ngā tono e hāngai ana ki te take kotahi, ki te marae o Pūtiki, Whai muri i te hui kaiwhakawā, i whakakorehia te tono tāria nā runga i te whakaae ngātahi o ngā hunga, nā, i tukuna rā ngā tono e rua e toe ana ki tētahi kōtitanga.

[6] I te rā 21 o Māehe 2025, i tukuna rā e te whānau Tūmango tētahi pānui e whakamōhio mai nei i te hiahia kia whakauru rātou hei hunga whai take. I tukua te whakaaetanga.

[7] I ngā rā 31 o Māehe – 2 o Āpereira 2025, i tū mai te kōtitanga. I whai rōia, i tuku taunakitanga anō hoki ngā hunga katoa, ka mutu, i tuku ētahi o ngā kaikōrero i ngā kōrero ā-waha ki te Kooti. Whai muri i te kōtitanga, i meinga atu ka tuku whakataunga tārewa ahau.

2024 at the Whanganui Māori Land Court. However, on 22 November 2024, the Court received an injunction application from Tania Aroha Bailey opposing the hearing of the application and seeking injunction orders from the Court on a number of matters she addressed in her application.

[5] On 5 December 2024, I convened a judicial conference to discuss pathways forward for all three applications that, essentially, relate to the same matter: Pūtiki Marae. Following the judicial conference, the injunction application was dismissed by consent and the two remaining applications were set down for hearing.

[6] On 21 March 2025, the Court received a notice of intention to appear as interested parties from the Tūmango whānau. This leave was granted.

[7] The hearing was held over three days from 31 March – 2 April 2025. All parties were represented by counsel and provided evidence prior to the hearing, and several witnesses gave oral evidence to the Court. Following the hearing, I reserved my decision.

Ko te horopaki

[8] Kei te tūtakitanga o te awa o Whanganui me ngā Rori Matua 3 rāua ko Rori Matua 4 ki Whanganui, te Marae o Pūtiki tū ai. I te rā 25 o Hune 1975, i whakatahangia te Marae kia noho hei Māori Reservation mō te take o tētahi wāhi hui kia hui ai te iwi o Āti hau-Whanganui ki te wāhi kotahi, kia whiwhi ai hoki rātou i ngā painga ka puta. I tōna tīmatanga, i kopoua ngā tarahitī e 49 kia whakahaerehia te reservation.

[9] Tau atu, tau atu, i tāpirihia ētahi atu poraka whenua ki te reservation. Ko ēnei e whai ake nei ngā poraka whenua Māori herekore o te wā nei kua tukuna rā ki te taratī Marae:

- (a) Ngongohau No 6 (te marae);
- (b) Ngongohau No 9A (te marae);
- (c) Lot 1-2 Deposited Plan 14667 and Parauiamata 11 (te kinikātene); ā,
- (d) Matahiwi (te kura).

[10] I te wā o te kōtītanga, i māraakerake te kite atu, kāhore i a te taratī Marae tētahi ōta taratī, tētahi tuhinga whakatau tikanga raini. Ko te tuhinga anahe i mōhio ai ngā kaikōrero me ō rātou rōia, ko te pānui

The background

[8] Pūtiki Marae is located on the Whanganui River at the junction of State Highways 3 and 4 in Whanganui. On 25 June 1970, the Marae was set aside as a Māori reservation for the purpose of a meeting place for the common use and benefit of the Āti hau-Whanganui tribe. Originally, 49 trustees were appointed to govern the reservation.

[9] Over the years, additional blocks were added to the reservation. The following Māori freehold land blocks are currently vested in the Marae trust:

- (a) Ngongohau No 6 (the marae);
- (b) Ngongohau No 9A (the marae);
- (c) Lot 1-2 Deposited Plan 14667 and Parauiamata 11 (the kindergarten); and,
- (d) Matahiwi (the school).

[10] During the course of the hearing, it became clear that the Marae trust does not have a current trust order or deed. The only document that could be provided by witnesses and their counsel was the

taketake mō te Māori Reservation i whakamanatia ai i te rā 1 o Hūrae 1971.

original Māori reservation gazette notice dated 1 July 1971.

[11] I te rā 17 o Tihema 1975, i whakakaporeihanatia ai e ngā tarahitī Te Paku o Te Rangi Charitable Trust (“te Taratī Ohaoha”) e ai ki ngā wāhanga o te Charitable Trusts Act 1975. I te rā 12 o Pēpuere 1980 ki 143 Whanganui MB 145, i kopoua e te Kooti te Taratī Ohaoha hei tarahitī anahe mō taratī Marae.¹ Koirā te tūranga kei te haere tonu ināianei.

[11] On 17 December 1975, the trustees incorporated the Te Paku o Te Rangi Marae Charitable Trust (“the Charitable Trust”) under the provisions of the Charitable Trusts Act 1975. On 12 February 1980, the Court appointed the Charitable Trust as sole trustee of the Marae trust.¹ That remains the status today.

[12] I te wā o te kōtitanga, ko Tamahau Rowe rāua ko Hone Tamehana ngā tarahitī e noho nei ki te Taratī Ohaoha.

[12] The trustees of the Charitable Trust, as of the date of the hearing, are Tamahau Rowe and Hone Tamehana.

[13] E tika ana kia whai māramatanga ki tētahi āhuatanga i puta i te kōtitanga me tāna whakararuraru i te hunga, arā ko te tū mai hoki o tētahi kōmiti Marae me te whakapae ake, te āhua nei, kua riro māna ngā mahi o ia rā, o ia rā a te taratī Marae. Kei a te kōmiti Marae tētahi Tuhinga Whakatau Tikanga i tuhia rā i te 25 o Hune 2013, nā, ko te nuinga o ngā kaikōrero i tū ki mua i a au, i waia ki taua tuhinga. I mea atu ētahi o ngā kaikōrero ko taua tuhinga rā ko “te kawenata o te Marae”. E mea ana ngā taunakitanga ki mua i tēnei Kooti, ko ēnei ngā mema o te kōmiti Marae: Cerise McMaster rātou ko Te Aroha Papworth, ko

[13] What is also important to understand – and something that has caused some confusion during the course of this hearing – is that a Marae committee has been tasked, it seems, with the day-to-day operations of the Marae trust. The Marae committee has a Deed of Constitution dated 25 June 2013, and most witnesses that appeared before me were familiar with that document. Several witnesses referred to the document as “the Marae charter”. Evidence before the Court have identified that the Marae committee members are Cerise McMaster, Te Aroha Papworth, Kataraina Shepherd, Tracey

¹ 143 Whanganui MB 145 (143 WG 145).

Kataraina Shepherd, ko Tracey Waitokia, ko Tracy Matthews, ko Lauren Tamehana, ko Mariana Waitai, ko Mitzi Madden.

Waitokia, Tracy Matthews, Lauren Tamehana, Mariana Waitai and Mitzi Madden.

[14] Hei whakamutu ake, kei reira hoki te Pūtiki Kaumātua Flats Trust (“te taratī whare Kaumātua”), i whakatūria rā i te 1 o Hūrae 1994 hei taratī ohaoha e whakahaere nei i ngā whare Kaumātua e tū rā ki 109 Pūtiki Drive. Kei a te taratī whare Kaumātua tā rātou ake Tuhinga Whakatau Tikanga, ka mutu, ko Hone Tamehana rātou ko Pipiana Rowe, ko Chris Shenton ngā mema o ināianei o te taratī whare Kaumātua. He whenua tianara ngā whenua e noho nei ki te mana whakahaere o te taratī whare Kaumātua. Nā konā kāhore i te whai wāhi mai ki te tono kia aromātaihia te Māori Reservation.

[14] Finally, there is also the Pūtiki Kaumātua Flats Trust (“Kaumātua Flats Trust”), which is a charitable trust established on 1 July 1994 that administers the kaumātua flats located at 109 Pūtiki Drive. The Kaumātua Flats Trust has its own trust deed, and the current members of the Kaumātua Flats Trust are Hone Tamehana, Pipiana Rowe and Chris Shenton. The lands administered by the Kaumātua Flats Trust are general land, and therefore do not form part of the application for an inquiry into the Māori reservation.

[15] I te tau 2024, hei wāhanga o tētahi arotakenga ake o ngā hinonga mana whakahaere me ngā hanganga o te marae o Pūtiki, i tonoa e te taratī Marae/te Taratī Ohaoha a Simon Karipa kia tukuna atu tētahi rīpoata mō ngā whakamahinga o ngā hinonga katoa. Nā kona, i te rā 30 o Ākuhata 2024, i whakaputaina ai e Mr Karipa he rīpoata (“te rīpoata Karipa”) me ētahi tūtuhunga o roto, ko tētahi o au tūtuhunga he tuku tono kia aromātaihia te Marae Reservation e te Kooti. I tuku hoki

[15] In 2024, as a part of an internal review of the governance entities and structures for Pūtiki Marae, the Marae trust/the Charitable Trust commissioned Simon Karipa to provide a report on the operation of these entities and structures. As a result, Mr Karipa issued a report dated 30 August 2024 (“the Karipa report”), which included a recommendation that the trustees apply to the Court for an inquiry into the Marae reservation. Mr Karipa provided two additional sworn affidavits to assist the Court.

a Mr Karipa ngā kōrero taurangi e rua hei āwhina i te Kooti.

[16] Ka whakaū ahau ki konei, ehara i te mea kua whakauru tūturu a Mr Karipa ki ēnei tono, kāhore hoki ngā hunga i tohe ki ngā kōrero nō roto i tāna rīpoata. Kāhore he take mō tāna tae ki te kōtitanga, tāna whakawātea hoki i a ia anō mō ngā uiui kōkirikiri. Nō reira, i tukuna ia e te Kooti kia noho ki waho atu i te kōtitanga. E mihi ana ahau ki a Mr Karipa me tāna tautoko i ēnei tono.

Ngā take

[17] E rua ngā take hei whai whakaaro māku:

- (a) āe rānei, ka whakamanatia te tono aromātai, ā, ki te whakaaetia, he aha te aronga; ā,
- (b) āe rānei, ka whakamanatia te tono kia whakakorehia ngā tarahitī.

Ko ngā take hei tautoko i te tono

[18] E mea nei a Waeture 21 of ngā Māori Reservation Regulations 1994:

[16] I note that Mr Karipa is not a party to the applications, and neither did parties take issue with the substance of his report. He was not required to present evidence or be available for cross-examination and, therefore, was excused by the Court from attending the hearing. I thank Mr Karipa for his assistance with these applications.

The issues

[17] There are two issues for me to consider:

- (a) whether the application for inquiry should be granted and, if so, on what basis; and,
- (b) whether the application for removal of trustees should be granted.

Inquiry into administration

[18] Regulation 21 of the Regulations provides:

21 Inquiry into administration of reservation

- (1) The court may at any time, upon application made to the court by any beneficiary or person whom the reservation is intended to benefit, conduct or order such inquiry into the administration by any trustee of a reservation, as the court thinks fit.
- (2) No inquiry shall be conducted by the court unless—
 - (a) the applicant for such inquiry has filed with the court a statement, signed by the applicant, containing the detailed grounds upon which the applicant requires the inquiry; and
 - (b) the applicant has given to each trustee a copy of the application made to the court under subclause (1); and
 - (c) either—
 - (i) the court received a written statement, in relation to the application, signed by or on behalf of the trustees; or
 - (ii) the court has dispensed with compliance with subparagraph (i).

[19] I te kēhi o *Hamilton – Tuahu 3X (Erepeti Marae)* i whakatauhia ai e te Kooti Pira Māori, he matarua tō te hātepe nō roto i tētahi aromātai i puta i a waeture 21 o ngā Māori Reservation Regulations 1994, Tuatahi ake, mā te Kooti e whakatau pena raini ka whakahaerehia tētahi aromātai. Tuarua ake, ki te whakaae te Kooti kia whakahaerehia tētahi aromātai, māna anō e whakatau te āhuatanga o taua aromātai nā runga anō i ngā whakaaro e tika ana ki a ia. Whai muri i te aromātai, kei a te Kooti te kōwhiringa ki te whakamahi i tana mana e ai ki w 237–245.²

[19] In *Hamilton – Tuahu 3X (Erepeti Marae)*, the Māori Appellate Court held that reg 21 contemplates a two-stage process. First, the Court must determine whether to conduct or order an inquiry pursuant to that regulation. Secondly, if the Court decides to undertake an inquiry, it then conducts or orders the inquiry in the manner it thinks fit. Following any such inquiry, the Court may invoke its various powers under ss 237–245 of the Act as it thinks fit.²

[20] I te kōtitanga matua, i tuku pātai ahau ki ngā hunga katoa kia kite ai pēnā

[20] At the hearing, I questioned all parties on whether anyone opposed the

² *Hamilton – Tuahu 3X (Erepeti Marae)* (2009) 34 Gisborne Appellate MB 230 (2009 APGS 230) at [8]. See also *Wynyard v Waata – Manawakore CI and Manawakore D (Pa Te Aroha Marae)* (2019) 205 Taitokerau MB 207 (205 TTK 207) at [15].

raini ka whakahē tētahi i taku whakaae atu ki tēnei tono aromātai. Kīhai ngā hunga katoa i whakahē; i whakaae ngā hunga katoa kia aromātaihia. I whakawhirinaki atu te taratī Marae ki ngā take me ngā tūtohunga i rārangitia ai ki te rīpoata Karipa me tā rātou kī ake, me whai te Kooti i aua take i a ia e whakahaere nei i tētahi aromātai o te taratī Marae. I ai ki ngā kaitono whakakore, me whai ngā take e ai ki te rīpoata o Karipa me ā rātou whakapae i rārangitia ai ki tā rātou tāpaetanga e mea ana kua takahia ngā kawenga tarahitī.

[21] Inā hoki e tautokona ana ngā take ki te rīpoata Karipa, e whakaaetia ana hoki tētahi aromātai, I matapaki atu mātou ko ngā rōia i te take nei, mēnā kei a te Kooti he herenga ki te tuku kitenga mō ngā whakapae i tukuna rā e ngā kaitono whakakore kia tuku ai hoki i tētahi kitenga mō te tono kia aromātaihia. I tāpae atu rā ngā rōia, inā hoki e whakaae ana ngā hunga katoa he take mō tētahi aromātai, e āhei ana te whakahaere i tētahi aromātai mā te whakaae tahi.

[22] E mārama ana te kite i ngā kupu o te Waeture.³

granting of the inquiry application. No one opposed; all parties agreed that an inquiry should be granted. The Marae trust submitted that the Court should conduct an inquiry into the Marae trust per the issues and recommendations outlined in the Karipa report. The removal applicants relied on the grounds set out in their submissions, which alleged several breaches of trust duties and raised issues identified in the Karipa report.

[21] Given there was agreement on the issues in the Karipa report and consent to inquire, I discussed with counsel whether the Court was required to make findings on the allegations made by the removal applicants in order to determine whether an inquiry should be granted. Counsel submitted that an inquiry could be granted by consent given that all parties agreed there were grounds for an inquiry.

[22] The wording of the Regulations is clear.³

³ Māori Reservations Regulations 1994, reg 21.

21 Inquiry into administration of reservation

- (1) The court may at any time, **upon application made to the court by any beneficiary** or person whom the reservation is intended to benefit, conduct or order such inquiry into the administration by any trustee of a reservation, as the court thinks fit.
- (2) **No inquiry shall be conducted by the court unless—**
 - (a) **the applicant for such inquiry has filed with the court a statement, signed by the applicant, containing the detailed grounds** upon which the applicant requires the inquiry; and
 - (b) **the applicant has given to each trustee a copy of the application** made to the court under subclause (1); and
 - (c) either—
 - (i) the court received a written statement, in relation to the application, signed by or on behalf of the trustees; or
 - (ii) the court has dispensed with compliance with subparagraph (i).

(emphasis added | kua whakakahangia ngā kupu matua).

[23] Nā ērā kupu i mōhio ai tātou, mō tētahi horopaki whakaae tahi, pēnā he kaiwhaipānga te kaitono, ka mutu, kua tutuki i a te kaitono ngā herenga tuku tuhinga, mā ngā kupu o ngā waeture e āhei ai te whakahaere i tētahi aromātai. E mea ana ahau ki konei, kua pērā te taratī Marae.

[24] Hei tāpiri ake, e whakaae ana ahau ki ngā rōia, ā, ka kite ahau, e tika ana ngā take nō roto i te rīpoata Karipa e āhei ai ahau kia whakatauhia kia whakahaerehia anō hoki tētahi aromātai. I tēnei wā, kāhore ōku take ki te tuku kitenga atu mō ērā atu take i rārangitia rā e ngā kaitono whakakore.

[25] Ko te wāhanga tuarua o te matarua o te hātepe nei kia whakaarohia ake, ko te

[23] The language of reg 21 allows for an inquiry to be granted in a situation where all parties agree, so long as the applicant is a beneficiary and has complied with the filing requirements. I find that the Marae trust meets these criteria.

[24] Furthermore, I agree with counsel and find that the grounds as set out in the Karipa report are sufficient for me to determine that an inquiry should be conducted. I need not make findings on the additional grounds set out by the removal applicants at this point.

[25] The second stage of the process is to consider the manner of the inquiry. The

āhuatanga o te aromātai. I tuku mai te taratī Marae i tētahi roherohenga aromātai hei whakaaro ake, e mea nei aua take rā:

- (a) arotakengia ngā Ōta Taratī/Tuhinga Tikanga/Kawenata Marae/kōmiti Marae o te wā, ā, whakaritea mai ngā tuhinga hou pena e tika ana;
- (b) arotakengia te hātepe pōtitanga me te hātepe kōpou i ngā tarahitī o te taratī Marae me te kōmiti Marae;
- (c) arotakengia ngā hanganga ā-ture o te wā mō te taratī Marae me ētahi o ōna whenua; ā,
- (d) arotakengia ētahi take ā-pūtea mō ngā hātepe o te whare pēke moni me te Charities Services Registration.

Marae trust has provided a proposed scope for the inquiry, which would include:

- (a) a review of the current Trust Order/Deed/Marae Charter/Marae committee Rules, and whether these documents require updating;
- (b) a review of the process of election and appointment of trustees of the Charitable Trust/the Marae trust and members of the Marae committee;
- (c) a review of the current legal structures for the Marae trust and associated lands; and,
- (d) a review of any issues concerning banking procedures and Charities Services Registration.

[26] I a rātou e whakautu nei i āku pātai, i whakaae te nuinga o ngā kaikōrero ka whakakapi tā te taratī Marae roherohenga i ngā take e hiahiatia nei e rātou kia aromātaihia. Ahakoa e whakaae ana ngā kaitono whakakore ki te roherohenga, I tāpae rātou me whakauru hoki tētahi

[26] When questioned by me, most witnesses agreed that the scope proposed by the Marae trust would cover the issues that they sought for inquiry. While the removal applicants also agreed to the scope, they submitted that the inquiry should also include a full financial review.

arotakenga ā-pūtea tūturu. E mea ana ahau ki konei, ko ngā taunakitanga i tae mai ki a au, kāhore i tohua me whakahaere arotakenga ā-pūtea tūturu. Ka kī ake, he whānui te roherohenga kia kapi ai ngā take katoa e tika ai te aromātai.

I find that the evidence presented to me simply did not show that a full financial review is necessary. I therefore consider the Marae trust's proposed scope to be expansive enough to cover all issues that require review.

[27] Hei te mutunga o tēnei whakataunga āku kupu whakahau tukuna atu ai. Ka tahuri ināianei ki te tono tuarua mō te whakakore i ngā tarahitī.

[27] I set out my directions for the inquiry at the end of this decision. I now turn to the second application concerning the removal of trustees.

Te Whakakore i ngā tarahitī

Removal of trustees

Te ture

The law

[28] E mea nei a w 240 o Te Ture:

[28] Section 240 of the Act 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.
- (2) A trustee has lost the capacity to perform the functions of a trustee, for example, if the trustee—
 - (a) is subject to an order appointing a manager under section 31 of the Protection of Personal and Property Rights Act 1988; or
 - (b) has a trustee corporation managing the trustee's property under section 32 or 33 of that Act.

(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.

[29] I te kēhi o <i>Henderson v Brooking</i> – <i>Wharekahika</i> A47, i tukua ai e te Kooti Pīra Māori tēnei kōrero e whai ake nei:⁴	[29] In <i>Henderson v Brooking</i> – <i>Wharekahika</i> A47, the Māori Appellate Court held that:⁴
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[35] To determine whether a trustee is no longer suitable to hold office, the Court must first identify the relevant trustee conduct or circumstances. Once those facts are identified, the Court must consider whether those facts render a trustee as no longer suitable to hold office. This is an exercise of discretion.

...

[37] It is clear that once one of the s 240(1)(b) grounds are engaged, the Court must then decide whether it is desirable to remove the relevant trustee for the proper execution of the trust. This too is an exercise of discretion.

[30] E mihi ana ki tā te Kooti Pīra whakatakoto i te huarahi hei whai mō tētahi tono kia whakakorehia he tarahitī:⁵	[30] Helpfully, the Appellate Court has summarised the approach to follow for a removal application:⁵
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- (a) First, one of the grounds in s 240(1)(b) must be met. If a trustee becomes an undischarged bankrupt, one of the grounds is satisfied simply by that fact. If a corporate trustee is subject to an insolvency event, one of the grounds is satisfied simply by that fact. The remaining two grounds in s 240(1)(b) require an assessment by the Court.
- (b) If the ground relied on is s 240(1)(b)(iv), the Court must assess the trustee's conduct or circumstances. Following that assessment, the Court must determine whether, based on that conduct or those circumstances, the trustee is no longer suitable to

⁴ *Henderson v Brooking* – *Wharekahika* A47, above n 4, at [35] & [37].

⁵ At [40].

hold office as trustee. Making this determination is an exercise of discretion. But it is not the end of the matter.

- (c) The examples in s 240(3) of when a person may no longer be suitable to hold office as a trustee do not limit s 240(1)(b)(iv), which remains wide in ambit and scope to “allow the Court to consider the range of conduct or circumstances that may result in a trustee being unsuitable to hold office.” This approach is consistent with how examples in legislation are to be interpreted, per s 23 of the Legislation Act 2019.
- (d) If one or more of the grounds in s 240(1)(b) are met, the Court must then assess what is desirable for the proper execution of the trust. What is “desirable” does not mean what is necessary, and whether removal is “desirable” requires taking into account the broader circumstances of the trust, the land, the owners, and the principles and kaupapa of the Act. Ultimately, removal of a trustee must be to the advantage, advisable, prudent or expedient for the proper execution of the trust and the beneficiaries as a whole.

[31] Nō reira, he wāhanga rua tō te whakamātautau. Tuatahi ake, me tuku te Kooti i te pātai pēnā raini kua tutuki tētahi o ngā take whakaū e ai ki w 240(1)(b). E tika ana me whakawā ngā mahi a te tarahitī. Ki te kite te Kooti i ētahi whanonga whakahaere kāhore e tika ana, me whakamahi te Kooti i tōna ake mana ki te whakatau pēnā raini kia whakakorehia te tarahitī.

Te tūranga o ngā kaitono whakakore

[32] E kimi ana ngā kaitono whakakore kia whakakorehia ngā tarahitī o te Taratī Ohaoa. Ko Hone Tamehana rāua ko Tamahau Rowe (“ngā tarahitī”) ngā tarahitī o te Taratī Ohaoa. E whakawhirinaki atu ana ngā kaitono whakakore ki a w 240(a)(b)(i) me (iv) o te Ture, ki tā rātou kī ake anō hoki he rite tonu

[31] The test is therefore two-staged. The Court must first consider whether one of the prescriptive grounds set out at s 240(1)(b) are met. An assessment of the trustee’s performance is necessary. If the Court finds that there has been unsatisfactory conduct, then the Court must exercise its discretion as to whether or not to remove the trustees.

Removal applicants’ position

[32] The removal applicants seek removal of the current trustee, being the Charitable Trust. As noted at [12] above, the current trustees of the Charitable Trust are Hone Tamehana and Tamahau Rowe (“the trustees”). The removal applicants rely on subss 240(a)(b)(i) and (iv) of the Act, submitting that the trustees repeatedly

tā ngā tarahitī mahi hē i te tūranga tarahitī. failed to act as trustees and are no longer
 Waihoki, nā ā rāua mahi hē, kāhore e tika suitable to hold office because of their
 ana kia noho tonu. Hei tā ngā kaitono: conduct. They say:

- (a) The trustees failed to uphold their legal obligations and responsibilities to beneficiaries as they failed to correct the absence of a formal charter or deed.⁶
- (b) There has been a failure to follow tikanga and trustee responsibilities; and mandatory or default duties.⁷
- (c) The trustees conducted elections without proper consultation with beneficiaries or the Court, which undermined the principles of transparency and accountability essential for effective trust administration.⁸
- (d) The trustees improperly delegated powers to the Marae committee.⁹
- (e) The trustees have excluded beneficiaries and/or key Pūtiki whānau from decision-making activities and governance positions, essentially eliminating succession lines.¹⁰
- (f) The trustees are acting in their best interests, rather than those of the legal beneficiaries.¹¹
- (g) There has been poor treatment of kāumatua.¹²
- (h) The trustees have ignored requests and concerns regarding taonga.¹³

[33] Mō ngā take [32](a) me (b) o runga, [33] With respect to [32](a) and (b)
 e mea mai ana te rōia o ngā kaitono above, counsel for the removal applicants
 whakakore:¹⁴ submits that:¹⁴

⁶ Closing Submissions for the Applicant (Tania Aroha Bailey and Cilla Pango Takarangi), Troy Wano, 9 April 2025 at [42].

⁷ Submissions for the 31 March 2025 Hearing, Tony Wano, 28 March 2025 hearing at [39.2].

⁸ Closing Submissions for the Applicant (Tania Aroha Bailey and Cilla Pango Takarangi), above n 8, at [62].

⁹ At [34].

¹⁰ Submissions for the 31 March 2025 Hearing, above n 9, at [39.3].

¹¹ At [39.4].

¹² At [39.1].

¹³ At [39.5].

¹⁴ Closing Submissions for the Applicant (Tania Aroha Bailey and Cilla Pango Takarangi), above n 8, at [42].

The lack of such a document contributed significantly to widespread confusion and a breach of trustee duties, as it created uncertainty regarding the trustees roles and responsibilities.

[34] Me te kī ake:¹⁵

[34] And further:¹⁵

In this case, the trustees' failure to correct the absence of a formal charter or deed demonstrates a lack of proactive governance and a disregard for their fiduciary duties. By not addressing this gap, the trustees allowed ambiguity to persist, which has led to confusion, and possible mismanagement, further justifying concerns over their failure to uphold their responsibilities effectively.

Te tūranga o te taratī Marae

The Marae trust's position

[35] E mea ana te taratī Marae, kāhore e tika ana kia whakakorehia ngā tarahitī. E whakahē ana rātou ki ngā whakapae e hāmene nei i ngā tarahitī. Ahakoa tā rātou whakaae i puta ētahi rangiruatanga mō ngā hinonga o te Marae o Pūtiki, i tāpae rātou kāhore ngā mahi a ngā tarahitī i tae ki tētahi taumata ā-ture e mea ana me whakakore. Ka mutu, ko ngā mahi whakatika tōmua a ngā tarahitī kia tirohia taua rangiruatanga, arā ko te tono atu i a Mr Karipa me te tuku tono ki te Kooti, he taunakitanga e whakaatu nei i tā ngā tarahitī tahuri ki ō rāua kawenga, ki ō rāua takohanga anō hoki kia tika ai ngā hē o mua.

[35] The Marae trust's position is that the trustees should not be removed from office. They dispute the allegations made against the trustees. While they agree that there has been confusion around the Pūtiki Marae entities, they submit that the actions of the trustees do not meet the legal threshold for removal. Furthermore, the trustee's proactive steps towards addressing this confusion – by commissioning Mr Karipa and filing the inquiry application with the Court – is evidence of the trustees upholding their duties and obligations by ensuring that failures of the past are corrected.

[36] E mea ana rātou:¹⁶

[36] They say:¹⁶

While there may be personality conflicts, it is well-established that friction or hostility between trustees and its beneficiaries is not of itself a reason for the removal of trustees.

¹⁵ At [42].

¹⁶ Closing Submissions for Te Paku o Te Rangi Māori Marae Trust, Sade Sadd, 9 April 2025 at [4.12](g).

[37] Me te kī ake:¹⁷

[37] They submit that:¹⁷

The trustees have not acted in a manner that warrants their removal and, in any event, the wholesale removal of these trustees would cause significant prejudice to the Marae.

[38] I mea atu te rōia o te taratī Marae, kia kaua te Kooti e wareware ki a waeture 3 o ngā Waeture e mea ana, ki te whakakorehia tētahi i tāna tūranga tarahitī nā tētahi ōta o te Kooti, kore rawa ia e āhei ki te tū anō ki taua tūranga. E mea ana rātou:¹⁸

[38] Counsel for the Marae trust reminded the Court of reg 3 of the Regulations, which makes it clear that when a trustee is removed from office by order of the Court, they will not be eligible for reappointment. They say that:¹⁸

Given the mana and Pūtikitanga based knowledge of the existing trustees, this decision is important and requires careful consideration of the Court noting the significant consequences it may have.

He kōrerorero

Discussion

[39] Me whai tēnei tonono i tētahi whakawātanga mō te take tuatahi e ai ki w 240(1)(b)(i), me te take whakamutunga e ai ki w 240(1)(b)(iv). Mō te take tuatahi, e tika ana kia whakawāngia ngā mahi a te tarahitī kia kite ai pēnā raini i hē ia i āna mahi tarahitī. Ka hāngai te take whakamutunga ki te pātai e tika ana kia noho tonu ia ki tāna tūranga nā tāna mahi, nā te horopaki rānei.

[39] This application requires an assessment of the first ground set out in s 240(1)(b)(i), and the last ground set out in s 240(1)(b)(iv). The first ground requires an assessment of the trustee's conduct, and whether they have failed to act as a trustee. The last ground is where the trustee is no longer suitable to hold office because of their conduct or circumstances.

¹⁷ At [5.1].

¹⁸ At [4.5].

Āe raini, kua hē ngā mahi a Hone rāua ko Tamahau i ō rāua tūranga tarahitī?

[40] He hirahira te mōhio ake ki te tuatahi, ehara i te mea e kī ana ngā taunakitanga i tae ki mua i a au, kāhore ngā tarahitī i te mahi i ā rātou mahi, i te kaupare raini i ō rātou kawenga. E mārāma ana ki a au, he kanohi kitea a Hone rāua ko Tamahau ki ngā mahi whānui a te marae o Pūtiki. I ētahi taima, i kite au i te āheinga o ngā take i tukuna rā e ngā kaitono whakakore ki te noho ki ngā take kia whakawātia e ai ki w 240(1)(b)(i) me w 240(1)(b)(iv). Kīhai te rōia o ngā kaitono whakakore i whakamōhio mai i te rerekētanga. Māku e kōrero, ko te nuinga o ngā take mō te whakakore me whakawā e ai ki w 240(1)(b)(iv). Heoi anō, ka noho mai ki tēnei wāhanga, ko ngā take e rua ki [32](a) – (b) o runga, e hāngai ana ki ngā mahi hē a ngā tarahitī.

[41] Kei te ngako o tēnei tono, ko nga raruraru me te rangiruatanga i puta i ngā hinonga me ngā hanganga o te marae o Pūtiki. Hei toai noa i tāku o runga, i whakaae ngā tāngata katoa ki te kōtitanga, horekau he tuhinga whakatau tikanga, horekau he ōta raini mō te taratī Marae. He 30 tau koni atu te roa o tā Hone noho hei tarahitī, hei ko tāna, ko Graham Takarangi (te heamana me te tarahitī o mua mō ngā

Have Hone and Tamahau failed to act as trustees?

[40] It is important to note at the outset that the evidence presented to me does not allege that the trustees are inactive or absent from their trust duties. It is clear that both Hone and Tamahau are actively involved in the operations of Pūtiki Marae generally. I have observed that the grounds provided to the Court by the removal applicants can, at times, fall into both the assessments for s 240(1)(b)(i) and s 240(1)(b)(iv) matters. Counsel for the removal applicants did not provide a distinction. I consider that the majority of the grounds for removal should be assessed for the purposes of s 240(1)(b)(iv). However, I deal with the first two grounds set out at [32](a) – (b) above, which concern trustee failures, in this section.

[41] At the heart of this application is the uncertainty and confusion regarding the Pūtiki Marae entities and structures. As noted at the beginning of this decision, all parties agreed at the hearing that there is no trust deed or order for the Marae trust. Hone has been a trustee for over 30 years and spoke to his understanding that Graham Takarangi (the former Chair and trustee of the Marae trust for over 35 years,

tau 35 koni atu, kua mate atu), te tarahitī i kawē ai i ngā haepapa mō ngā tuhinga mana whakahaere me te whai i ngā hātepe ā-ture. I te tau 2014, i kopoua ai a Tamahau, he ōrite tāna kōrero taunaki. I pōhēhē ngā tarahitī katoa i tika tā Mr Takarangi whai i ēnei take nei, nā runga i ō Mr Takarangi wheako ā-ture me tāna takahi huarahi ture anō hoki.

[42] I tuku kōrero taunaki a Tamahau rāua ko Pipiana Rowe (tētahi tarahitī o mua, kua rīhaina), whai muri i ā rāua kopoutanga, i kite ngā tarahitī i ētahi take me titiro, nā ko ētahi ko te hanganga o ngā hinonga o Pūtiki me ngā tuhinga mana whakahaere. I te tau 2018, i tonoa rā a Tuia Group Limited e ngā tarahitī kia āwhinatia rātou. I taua tau tonu, i mate atu a Mr Takarangi, nā konā i mate ngā tarahitī ki te tino ruku ki ngā mahi mana whakahaere o te taratī Marae. Kāhore i te tino mārāma he aha te take o te takaroa mai i te noho tahi ki a Tuia Group. Heoi anō, i te tau 2024 i tonoa rā a Mr Karipa kia whakaritea tāna rīpoata, ā, nā wai rā i tukua atu tēnei tono kia aromātaihia.

[43] Hei whakamahara noa ki konei, kei a ngā tarahitī katoa te kawenga kia mōhio pū rātou, kia whai hoki rātou i ngā tikanga whakatau o te taratī. Kāhore e tika ana te

now deceased) was the trustee responsible for governance instruments and ensuring legal processes had been followed. Tamahau was appointed in 2014 and his evidence was the same. All trustees assumed that these matters were dealt with correctly by Mr Takarangi given his legal experience and background.

[42] Tamahau and Pipiana Rowe (former trustee, now resigned) gave evidence that following their appointment, the trustees found several matters that required addressing, including the structure of the Pūtiki Marae entities and governance documents. In 2018, the trustees sought assistance from Tuia Group Limited. I note that Mr Takarangi also passed away in 2018, which therefore required the trustees to take a more active role in the governance operations of the Marae trust. It is unclear why there was a delay in progressing matters after the Tuia Group engagement. However, in 2024, the trustees commissioned Mr Karipa, which led to his report and the filing of the inquiry application.

[43] I remind trustees that there is a duty on all of them to acquaint themselves with and carry out the terms of the trust. Relying on one trustee to fulfil these obligations is

whakawhirinaki atu ki tētahi tarahitī anahe nei. I ā rāua kopoutanga, ā, kāore e kore i te matenga atu a Mr Takarangi ake, ka mahue tā ngā tarahitī whai i te kimi māramatanga mō ngā tikanga whakatau o te taratī, ka mutu, i tā rāua kite horekau āna tuhinga tūturu, ka mahue tā rātou whakatika ake i taua wā tonu.

[44] Ka kī ake ahau ki konei, hei tā ngā mātāpono whānui mō te whakakore i ngā tarahitī, ehara i te mea me tae atu ngā takahitanga taratī ā-ture me ngā takahitanga tuhinga whakahaere raini ki tētahi whakakoretanga. Ka tae kē te takahitanga mēnā kua whakamōreareatia ngā rironga o te taratī, kua rongo raini i tētahi hinganga, i tētahi takakino.

[45] E mea ana ahau i konei, whai muri i te matenga atu a Mr Takarangi, ka mahue ā ngā tarahitī whakamahi hohoro ake kia tika ai ngā tuhinga mana whakahaere me ngā whakaritenga o te taratī. Heoi anō, kei reira tonu te kawenata o te Marae e tino mātauria rā e ngā tarahitī rātou ko ngā kaiwhaipānga o Pūtiki. Kāhore ahau e whakaae ana kua whakamōreareatia ngā rironga o te taratī nā te hē o ngā tarahitī ki te whakarite mai i tētahi ōta taratī tūturu, kāhore hoki i puta tētahi hinganga, tētahi takakino raini, nā, e whai ana ngā tarahitī

simply not good enough. On appointment, and certainly upon the passing of Mr Takarangi, all trustees should have – at the very least – sought to become familiar with the terms of the trust and, upon finding that there were no clear terms, sought to rectify this.

[44] I note at this point that, according to general principles concerning removal of trustees, 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.

[45] I find that the trustees should have acted with more haste to ensure governance documents and operations of the trust were in order upon the passing of Mr Takarangi. However, there is still a Marae charter that is clearly understood and applied by the trustees and beneficiaries of Pūtiki Marae. I do not consider that the trust assets have been put at risk because of the failure to ensure there is a formal trust order, nor do I consider there to have been serious loss or malfeasance. Further, the trustees have

kia murua atu ēnei hara mā te tuku i te tono aromātai.

[46] Mō te whakapae kāhore i whāia te tikanga, kāhore e kite ana ahau i ētahi taunakitanga hei tautoko i taua hāmene. Ka mutu, i tāpae mai te rōia o ngā kaitono whakakore, he “tikanga heavy” ngā mahi a ngā tarahitī. Kāhore tēnei take e angitu.

[47] Kua whai whakaaro ahau ki ngā mahi whakahaere a Hone rāua Tamahau hei tarahitī, kua whakaaro hoki ahau ki te kaupapa me ngā mātāpono o te Ture, ka kī ake ahau ki konei, kāhore rāua i hē i ā rāua mahi hei tarahitī.

Āe raini, e tika ana kia noho tonu a Hone rāua ko Tamahau ki ngā tūranga tarahitī?

[48] Mātua rā ka tahuri ahau ki ngā take i rārangitia rā ki [32](e) – (h). Kāhore au e whakaae ana kei a au ngā taunakitanga e āhei ai ahau ki te whakaū i ēnei whakapae. Kāhore au i kite i tētahi wā i aukatihia ai e ngā tarahitī te aheinga o ētahi hekenga whānau ki te tū hei tarahitī, ki te noho raini ki ngā whakahaerenga o te taratī. Waihoki, i ā rātou whakautu ki āku pātai, i whakaūngia e ngā kaikōrero mō ngā kaitono whakakore kīhai rātou i whai i tētahi kopoutanga kia noho ki te taratī. Ka mutu, nā nga taunakitanga i whakaatu mai

taken active steps to address these issues by way of the inquiry application.

[46] With respect to the allegation of failure to follow tikanga, I do not consider there to be evidence before me to support this allegation. In fact, counsel for the removal applicants made submissions that the trustees were “tikanga heavy”. This ground must fail.

[47] I have considered both the conduct of Hone and Tamahau as trustees and, together with my consideration of the kaupapa and principles of the Act, I find that they have not failed to act as trustees.

Are Hone and Tamahau no longer suitable to hold office as Trustee?

[48] I now deal with the grounds set out at [32](e) – (h) above. I do not consider there to be sufficient evidence before me to make a finding confirming these allegations. At no point have the trustees excluded certain whānau lines from becoming trustees or participating in the operation of the trust. In fact, in response to my questions, all removal applicant witnesses agreed that they had not sought appointment to the trust. Furthermore, the evidence provided to me showed the Marae trust to be active in their convening of hui

te āhua o tā te taratī Marae whakatū i ngā hui, me te kite atu, te hanga nei kua nui ngā tāngata i haere. Kāhore i a au ētahi taunakitanga e whakaatu nei i tā ngā tarahitī whiwhi painga mai i ngā mahi a te taratī Marae. Waihoki, kāhore te whakapae mō te mahi tūkino ki ngā kaumātua i whai hua. Kāhore ēnei take e angitu.

[49] Nā Lisa Reweti i tuku kōrero taunaki hei tautoko i ngā whakapae mō ngā taonga, i tāku uiui i a ia, i whakaū ia ehara i a ngā tarahitī te haepapa ki te tiaki taonga, engari nō te kaitiaki o ngā taonga kē i kōwhiritia ai e te hapū. Mā te kaitiaki ngā inoi me ngā āwangawanga e whakatau, kua mā te tarahitī o te marae. Nā konā, kāhore tēnei take e angitu.

[50] Ka tahuri ahau ki ngā take e rua e toe ana e hāngai ana ki ngā pōtitanga me te tuku i ngā mana.

Te korenga i whai i te whiriwhirikōreromō ngā pōtitanga

[51] I mea atu ngā kaitono whakakore, kīhai ngā tarahitī i whakarite i te whiriwhiri kōrero ki te taha o ngā kaiwhaipānga, o te Kooti raini, i tā rātou i whakarite i ngā pōtitanga. I tā rātou

and these seem to be well attended. There is no evidence before me that shows the trustees benefiting personally from Marae trust business. Similarly, the allegations of ill-treatment towards kaumātua have not been proved. These grounds must fail.

[49] In my questioning of Lisa Reweti who provided the evidence to support the taonga allegations, she confirmed that it was not the duty of the trustees to look after taonga, but rather the hapū appointed kaitiaki of the taonga. Any relevant requests or concerns arising are matters for the kaitiaki, not the trustees. This ground, therefore, must fail.

[50] I turn to the remaining grounds concerning elections and delegation of power.

Elections without proper consultation

[51] The removal applicants say the trustees conducted elections without proper consultation with beneficiaries or the Court. In their closing submissions, the removal applicants say:¹⁹

¹⁹ Closing Submissions for the Applicant (Tania Aroha Bailey and Cilla Pango Takarangi), above n 8, at [62].

tāpaetanga whakakapi, i kī rā ngā kaitono whakakore:¹⁹

Counsel also cautions the Court against the Trust's evidence that its election processes were correct from a tikanga perspective. The point here is not necessarily whether that was correct, or not, but more importantly, whether that process was in fact well established and well known to the beneficiaries, and followed in practice to the extent that the Trust explained through the course of the hearing.

[52] Kāhore anō te taratī Marae kia kopou i ētahi anō kopoutanga tarahitī hou me ngā pōtitanga mai i te tau 2014, te tau o Tamahau rāua ko Pipiana. Hei toai i ngā a te rōia i tana tāpaetanga whakakapi, ehara i te mea ko te whiriwhiri kōrero te āwangawanga matua, engari ko te mōhio ake horekau he tuhinga whakatau tikanga tūturu, nā kona kāhore pea ngā kaiwhaipānga i mōhio he aha rā te hātepe pōtitanga, he aha hoki ā ngā kaiwhaipānga mahi hei whai kia kopoutia ki te taratī.

[53] Ahakoa e mārama ana ahau ehara i te mea he tino pai tā te taratī Marae whakahaere i ā rātou mahi e pēnei ana te roa me te kore i whai tuhinga whakatau tikanga tūturu e rārangi nei i te hātepe pōtitanga, i kitea te māramatanga mō te hātepe pōtitanga i ngā kōrero taunaki i puta i ngā kaikōrero katoa. Māku e kōrero, kua puta taua āhuatanga i tētahi hanumitanga o te kawenata Marae me te tuhinga tikanga a te Taratī Ohaoha me ngā kōrero kua roa e ora nei ki roto i ngā whānau.

[52] The Marae trust has not had any new trustee appointments or elections since Tamahau and Pipiana in 2014. As counsel has pointed out in his closing submissions, the concern does not seem to be consultation but rather, in the absence of a formal trust deed, whether or not the beneficiaries understood what the election process is and what would be required of a beneficiary seeking to be appointed to the trust.

[53] While I acknowledge it is not ideal for the Marae trust to be operating for so long without a formal trust deed that sets out the election process, it was clear from the evidence provided by all witnesses that, in any event, they understood what the election process was. I believe this has come from a mixture of the Marae charter, the Charitable Trust Deed and long established kōrero amongst whānau.

[54] I mōhio ngā kaikōrero katoa ki te whakamōhio mai he aha te hātepe hei whai ki te hiahia rātou kia tū hei tarahitī ki te taratī, arā, ko te whakatū mai i tētahi hui ā-whānau, ka whakaū ai i te kopoutanga me te tautoko o te whānau o te tangata ake, whai muri, ka whakaū te taratī i taua kopoutanga i te hui ā-tau o te taratī kei te tū mai. Koia rā te hātepe i whāia rā e Tamahau rāua ko Pipiana i te tau 2014. Koia rā hoki te hātepe i whakaūngia ai e ngā kaikōrero katoa, mai i ngā taha e rua.

[55] Nō reira, kāhore au i te whakaae e rehurehu ana, e rangirua ana ngā whakaaro mō te hātepe pōtitanga. E mārama ana te kite kua whānuimōhiotanga me te māramatanga o ngā kaiwhaipānga ki tēnei. Ka waiho mā te aromātai e tahuri ki te take o te korenga o ngā tāngata i whai i taua hātepe pōtitanga mai i te tau 2014.

[56] Kāhore au e kite ana i ngā taunakitanga e whakaatu mai nei i ngā mahi a ngā tarahitī e pēnā ana te hē, kia kī ai au kāhore e tika ana kia noho tonu rāua hei tarahitī. Kāhore tēnei take e angitu.

Te tuku pokanoa i ngā mana

[57] I te tau 2013, i whakatūria ai te kōmiti Marae, i tukua hoki ai ētahi mana ki a ia. I kopoua a Hone hei hea o te kōmiti ki

[54] All witnesses were able to tell the Court the process they must follow if they wished to be a trustee on the trust – that is, a hui ā-whanau is to be held, confirmation of nomination and support by the nominee trustee’s whānau, and confirmation of the appointment of that person as trustee at the next Trust annual general meeting (AGM). This was the process followed by both Tamahau and Pipiana in 2014. This was also the process confirmed by all witnesses on both sides.

[55] I therefore do not consider there to be any ambiguity or confusion as to the election process. It is clearly widely known and understood amongst beneficiaries. The fact that no one has taken up that election process since 2014 is a matter that will be addressed in the inquiry.

[56] I do not accept that the evidence before me is such that the trustees’ conduct renders them no longer suitable to hold office. This ground must fail.

Improper delegation of power

[57] In 2013, the Marae trust established the Marae committee and delegated powers to it. Hone was appointed as Chair

te taha o ētahi atu o ngā mema e waru. E ai ki te rīpoata Karipa, ko ngā mea i whakarangirua ai i ngā whakaaro, ko te whakaingoa i taua kōmiti hei Te Paku o Te Rangi Marae, me te tāna rēhita hei hinonga ohaoha. Ko ngā āpiha tuatahi i kitea rā ki te Charities Commission, ko Hone Tamehana rātou ko Graham Takarangi, ko William Alan. Kei te tuhinga whakatau tikanga (i ētahi wā e tohua ana te iwi hei te kawenata Marae) ngā mana, ngā kawenga me ngā takohanga o te kōmiti.

[58] E ai ki te rīpoata Karipa, ko ngā āpiha o inaiānei mō te kōmiti Marae kua rēhitatia, ko Te Aroha Papworth rātou ko Pipiana Rowe, ko Tamahau Rowe. Hei toai noa i āku kōrero o runga, he rerekē tēnei i ngā taunakitanga i tukua rā ki te Kooti. Heoi anō, e tino mārama ana i ngā taunakitanga, ahakoa tērā ka noho mai ko tētahi o ngā tarahitī o te taratī Marae ki te kōmiti, te nuinga o te taima ko ia te Hea. Kātahi anō te āhuatanga ka panoni, i te hekenga o Tamahau rāua ko Pipiana mai te kōmiti Marae i te tau kua hipa nei.

[59] Kei a te kōmiti Marae tētahi pūkete pūtea, kei a ia hoki te haepapa ki te whakahaere i ngā take moni mō te marae. Kāhore i a te taratī Marae, hei hinonga, tētahi pūkete pūtea, ka mutu, i te

of the committee alongside eight other committee members. As noted in the Karipa report, what has caused confusion is the naming of the Marae committee – Te Paku o Te Rangi Marae – and the registering of the committee as a charitable entity. The initial officers noted with the Charities Commission were Hone Tamehana, Graham Takarangi and William Alan. The committee’s powers, duties and obligations are set out in the constitution of the committee (which, as previously stated, is often referred to as the Marae charter).

[58] As noted in the Karipa report, the current officers for the registered Marae committee are Te Aroha Papworth, Pipiana Rowe and Tamahau Rowe. This is different to the evidence that was provided to the Court, as I have mentioned above. However, what is clear from the evidence is that there has always been a trustee from the Marae trust sitting on the Marae committee, who is often the Chair. This has only just changed with Tamahau and Pipiana stepping down from the Marae committee last year.

[59] The Marae committee has a bank account and is responsible for managing the financial matters for the marae. The Marae trust, as an entity, does not have a bank account and has relied on the Marae

whakawhirinakihia ki te pūkete pūtea o te kōmiti mō ngā take moni. I whakaatū mai ngā taunakitanga i te tūranga o te nuinga o ngā kaikōrero, kāhore i mōhio he motuhake te taratī Marae i te kōmiti Marae mō te take o ngā kaupapa whare pūtea.

committee's bank account for financial matters. The evidence showed that the majority of witnesses were not aware that the Marae trust and Marae committee were separate for the purposes of banking matters.

[60] E mea ana ngā kaitono whakakore:²⁰

[60] The removal applicants say that:²⁰

... instances where the Marae Committee is given control over trust funds without adequate oversight or authority, and where the Marae Committee is allowed to make key decisions about the reservation's management without trustee involvement or approval, is an improper delegation of power and can result in governance failures and potential harm.

[61] E mārama ana ahau ehara i te mea he tino pai te whakahaere tahi a te taratī Marae me te kōmiti Marae i tētahi pūkete pūtea kotahi, anō nei ko rāua rāua, nā konā kua puta ētahi āno rangiruatanga mō te taha o ngā haepapa me ngā mana. Kāti, ka nui ake pēnā ko te ingoa o te pūkete pūtea, ko Te Paku o Te Rangi Marae.

[61] I acknowledge that it is not ideal that both the Marae trust and Marae committee have been operating a bank account under a notion that they are one and the same. This has led to more confusion with respect to responsibilities and powers, exacerbated by the fact that the name of the bank account is Te Paku o Te Rangi Marae.

[62] E whakaae ana ahau ki tā ngā kaitono whakakore kawē mai i tēnei āwangawanga hei take, inā hoki ko te hanga nei kua tukuna e te taratī Marae te nuinga o ō rātou haepapatanga ki te kōmiti Marae kia whakahaerehia ngā mahi mō ia rā o te marae. He mārama kehoheho ngā waeture me ngā ture ā-kēhi, ko ngā tarahitī

[62] In my view, the removal applicants are correct in raising this issue as a concern as it seems that the Marae trust has delegated almost all their responsibilities to the Marae committee to manage the day-to-day operation of the marae. The regulations and case law are clear that the trustees are in charge and completely

²⁰ Closing Submissions for the Applicant (Tania Aroha Bailey and Cilla Pango Takarangi), above n 8, at [34].

ngā kaihautu o te taratī, kei a rātou hoki te katoa o te haepapa ki te whakarite, ki te whakahaere hoki i ngā whenua me ngā rironga o te taratī. Heoi anō, e mea ana ahau ki konei, i whai wāhi tētahi o ngā tarahitī ki ngā nekenekahanga katoa o te kōmiti Marae, kāhore e tika ana te kī ake, kāhore e whai wāhi atu ana ngā tarahitī ki ngā whakataunga take.

[63] Hei toai noa ahau i konei, kāhore e whakaae ana ahau kua whakamōreareatia ngā rironga o te taratī, kāhore hoki i puta tētahi hinganga, tētahi takakino raini, nā, e whai ana ngā tarahitī kia whakatikahia ngā take whare pēke moni me ngā take o te tuku mana, mā te tono aromātai.

[64] Kua whai whakaaro ahau ki ngā mahi whakahaere a Hone rāua Tamahau hei tarahitī, kua whakaaro hoki ahau ki te kaupapa me ngā mātāpono o te Ture, ka kī ake ahau ki konei, kāhore rāua i mahi i tētahi mahi e kīa nei kāhore e tika ana ā rāua noho tonu ki ngā tūranga tarahitī.

[65] Nō reira, e mea ana ahau ki konei, kāhore i tutuki ngā take whakaū i rārangitia ai ki w 240(1)(b) o te Ture. Nā konā, horekau ōku take ki te tahuri ki te wāhanga tuarua o te whakamātautau, ā, kāhore te ihu o tēnei tono i puta.

responsible for the administration and management of the trust land and assets. However, I also note that there has always been trustee involvement at the Marae committee level, and it cannot be said that decisions are being made without trustee involvement.

[63] I reiterate that I do not consider the trust assets have been put at risk, nor has there been any loss or malfeasance. Further, the trustees have taken active steps to address the banking issue and the delegation of powers by way of the inquiry application.

[64] Upon considering the conduct of Hone and Tamahau as trustees together with the kaupapa and principles of the Act, I find that they have not conducted themselves in a way that would mean they are no longer suitable to hold office.

[65] Therefore, I have found that the prescriptive grounds at set out at s 240(1)(b) of the Act, have not been met. I am therefore not required to consider the second stage of the test and the application must fail.

[66] E mārama ana ahau ki ngā āwangawanga o Ms Bailey mō te taratī Marae me te marae whānui o Pūtiki, me tāna kī ake.²¹

[66] I note Ms Bailey’s concerns regarding the Marae trust and Pūtiki Marae generally, when she says:²¹

It is essential to provide context about the culture of bullying that has permeated our marae and has been role-modelled by this group for over a decade. It is characterised by intimidation, abusive kōrero, outright gaslighting, smear campaigns, and misleading whānau. I have been sworn at, insulted, and assaulted. My whānau has been trespassed from our marae; another contradiction of the group’s ‘tikanga’ stance.

[67] Wairuatoa, kua rongō tēnei Kooti i ngā taunakitanga, tōna ōrite nei te kōrero me ngā wheako, mai i ngā taha e rua o tēnei tono. E māraakerake ana te kite atu me whai te iwi i tētahi ara kia whakatauhia ēnei take hei pāinga mō te marae o Pūtiki.

[67] Unfortunately, this Court has heard evidence from both sides of this application with similar kōrero and experiences. There is a clear need for issues to be addressed for the betterment of Pūtiki Marae.

[68] E whakaae ana ahau ki tā te rōia o te taratī Marae me tāna kī ake, ko te hanga nei ka tahuri te aromātai kua whakaaetia e au ki ngā āwangawanga ā-whakariterite, ā-whakahaere hoki i puta rā i ngā kaitono whakakore (i rārangitia rā hoki ki [32](a) – (e) o runga). E āki ana ahau kia mahi tahi ngā tāngata katoa ki tēnei aromātai.

[68] I agree with counsel for the Marae trust, in that any issues raised by the removal applicants as to administrative and governance concerns (as set out at [32](a) – (e) above) can be addressed by the inquiry that I have granted. I encourage all parties to work collectively during this inquiry.

[69] Hei whakakapi ake, mō te tono panaia me ngā tāpaetanga a te taratī Marae kia iti ake te tūranga o ā te whānau Tūmango taunakitanga, horekau he tino take ki te tahuri tika atu ki tēnei take inā hoki, i te kōtitanga i mea mai tō rātou rōia

[69] Finally, with respect to the Marae trust strike out application and submissions regarding the weight to be given to the Tūmango whānau evidence, I do not consider these matters need to be addressed in detail given their counsel advised at the

²¹ Affidavit of Tania Aroha Bailey, 6 March 2025 at [42].

he hunga whai take rātou ki te tono aromātai anahe. Kāhore rātou i te tautoko i te tono kia whakakorehia ngā tarahitī. Nā konā, kīhai au i tahuri ki ngā taunakitanga a Tūmango mō te whakataunga w 240.

Te whakataunga

[70] E whakaaetia ana te tono kia aromātaihia ngā whakaritenga o Te Paku o Te Rangi Māori Reservation. E mea nei āku kupu whakahau, e whai ake nei:

- (a) Mā te Rēhita e kōrero tahi ki ngā hunga kia kimi ai (t)ētahi kaiwhakahaere ki te whakahaere i te aromātai.
- (b) Kei Āpitianga A o ngā tāpaetanga a te taratī Marae ngā take mō te aromātai.
- (c) Mā te/ngā kaiwhakahaere e tuku tētahi rīpoata ki te Kooti, ka tukuna atu ai pea ētahi anō kupu whakahau, ētahi ōta raini.
- (d) Mā te Tahua Awhina Motuhake a te Kooti Whenua Māori e utu tēnei tūranga mahi.

hearing that they were interested parties to the inquiry application only. They did not support the removal application. I have therefore given no weight to the Tūmango evidence in the s 240 decision.

Decision

[70] The application for an inquiry into the administration of the Te Paku o Te Rangi Māori Reservation is granted. I make the following directions:

- (a) The Registrar is to work with parties to engage and appoint a suitable facilitator (or suitable facilitators) to undertake the inquiry.
- (b) The issues for inquiry are set out in Schedule A of the Marae trust's closing submissions.
- (c) The facilitator(s) must provide a report back to the Court, at which point further directions and/or orders will be issued.
- (d) The costs of the appointment will be met by the Special Aid Fund.

[71] Kua whakakāhoretia te tono ki te
whakakore i ngā tarahitī.

[71] The application for removal of
trustees is dismissed.

I whakapuakihia i te 11.00am, i Wellington, i te rā 23 o te marama o Hūrae i te tau 2025.

Pronounced at 11.00am in Wellington on this 23rd day of July 2025.

A M Thomas
KAIWHAKAWĀ
JUDGE