

**I TE KOOTI WHENUA MĀORI O AOTEAROA  
I TE ROHE O TE TAIRĀWHITI***In the Māori Land Court of New Zealand  
Tairāwhiti District***AP-20250000006248****AP-20250000007250****WĀHANGA**  
*Under*Section 338, 215, 219 Te Ture Whenua Māori Act  
1993**MŌ TE TAKE**  
*In the matter of*

Paeroa 1E14 (Urupā) – Te Kopua Urupā

**I WAENGA I A**  
*Between***GLENN TOOTILL, ON BEHALF OF HAWKES  
BAY REGIONAL COUNCIL**  
Te Kaitono  
*Applicant***ME**  
*And***TE WHETU MARAMA ARI ARI MORRELL**  
Te Kaitono  
*Applicant***Nohoanga:** 17 July 2025,  
*Hearing* 7 August 2025 (Adjourned)**Whakataunga:** 25 August 2025  
*Judgment date*

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**TE WHAKATAUNGA Ā KAIWHAKAWĀ N R MILNER**  
*Judgment of Judge N R Milner*

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**Hei tīmatanga kōrero***Introduction*

[1] There are two applications before the Court in relation to Paeroa 1E14 (Urupā) – Te Kopua Urupā. Each application seeks a different management structure for the land. This decision addresses both applications.

[2] The first application filed (AP-20250000006248) seeks to have the land set aside as a Māori reservation for the purpose of an urupā, under s 338 of Te Ture Whenua Māori Act 1993 (the Act), and have the land vested in trustees. While the land has long served as an urupā, according to Court records it has never been formally set aside as a Māori reservation. This application was received by the Court on 23 May 2025. This application was heard in Wairoa on 17 July 2025.

[3] The second application filed (AP-20250000007250) seeks to constitute an ahu whenua trust in respect of the land, under s 215 of the Act, and have the land vested in trustees. This application was received by the Court on 5 June 2025. This application was heard in Wairoa on 7 August 2025.

[4] There is significant urgency to the present situation. Accordingly, both applications were heard as special sittings of the Court. The Hawke's Bay Regional Council is currently engaging with landowners and the community in Wairoa in relation to flood protection to prepare for future severe weather events. The Court was advised that the option currently under consideration involves seeking an easement over part of the land, which would operate as a spillway in the event of future flooding, and the construction of a stop bank on part of the land for flood protection purposes to better protect the urupā from flooding in the future. The appointment of trustees will provide legal representatives to speak on behalf of the land, its beneficiaries, and beneficial owners (if or when such are determined) on such matters.

[5] It is important to note that granting either of the applications before the Court, and the appointment of trustees, is not an endorsement of the Regional Council's proposals, nor does it compel any appointed trustees to consent or agree to such proposals.

**Whakataunga***Decision*

[6] For the reasons and on terms set out below, I grant the application to have the land set aside as a Māori reservation for the purpose of an urupā and vest the land in the proposed trustees, and I dismiss the application to constitute an ahu whenua trust in respect of the land.

**Kōrero whānui***Background*

[7] According to Court records, the legal title to this land, Paeroa 1E14 (Urupā), was created on the partition of Paeroa 1E on 25 February 1889 and, on 3 November 1894, the land, recorded under the name “Kopua Urupa”, was vested in four named individuals: Kauae, Piha Te Hinu, Te Koheriki and Te Pirihi Para.<sup>1</sup>

[8] These four individuals remain the registered proprietors or owners on the title to the present day. It is believed that the four registered owners passed away early in the twentieth century.<sup>2</sup> No successions in respect of this land have occurred.

[9] While a detailed history of the land and its customary ownership was not presented to the Court by either set of applicants, the land has clearly served as an urupā since at least 1889, and perhaps much longer. The land is unquestionably of special significance to the descendants and whānau of the four registered proprietors, as well as to the whānau of those interred in the urupā.

**AP-20250000007250: He whakatū i te Whānau Morera Ahu Whenua Trust me te kopou i ngā tarahitī me te tuku i ngā pānga whenua ki a rāto**

*Application to constitute the Te Whānau Morera Ahu Whenua Trust and appoint trustees and vest land in those trustees*

[10] While the application to constitute an ahu whenua trust was the second of the two applications filed, the primary hui relied on in support of this application occurred first. Therefore, this application is addressed first in this decision.

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<sup>1</sup> 8 Wairoa MB 309–311 (8 WR 309–311).

<sup>2</sup> See Memorandum of Counsel dated 7 April 2025 at [9] and footnote 2, recording that according to research one of the four owners, Te Pirihi Para, left a Will dated 5 May 1898. His daughter, Mere Hura, was awarded probate on 3 April 1903.

[11] A hui was convened on Saturday, 4 March 2025, at the residence of the applicant, Te Whetu Marama Ari Ari Morrell, at Wairoa. At the 7 August 2025 hearing, it was stated that other hui to discuss this issue had occurred prior to 4 March 2025. However, the Court has received no evidence of such hui, such as any notices, attendance records, or minutes.

[12] In terms of notice of this hui, a copy of a Facebook pānui (dated 2 March 2025) for the 4 March 2025 hui was filed in support of the application. The pānui acknowledges the short notice given for the hui. The notice period for this hui was approximately two days.

[13] The Facebook pānui was addressed to “Nga Uri o Jean Morel (alias Johnny Wiwi Morell)”. According to the evidence filed in support of this application, one of the four registered owners of the land, Piha Te Hinu, had no children of their own, but had siblings, including a sister Irihapeti Kino Ropoamo Tamahenua, who married Jean Joannes Morrell. On this basis, this pānui is specifically addressed to the whānau of only one of the four registered proprietors. At the 7 August 2025 hearing, it was stated that other efforts to give notice of the 4 March 2005 hui were made, however no records or supporting evidence have been provided.

[14] The Facebook pānui for the 4 March 2025 hui recorded that the purpose of the meeting was “to discuss and establish a whanau trust for Paeroa No. 1E No. 14, commonly known as Te Kopua Urupa in Wairoa.”

[15] A copy of the attendance register for the 4 March 2025 hui, titled “Te Whanau Morera Hui Register” was submitted in support of this application, and records 10 attendees.

[16] A copy of the attendance register for the 4 March 2025 hui, titled “Te Whanau Morera Hui Register” was submitted in support of this application, and records 10 attendees.

the name being Te Whanau Morera Ahu Whenua Trust

Te Whanau Morera Ahu Whenua Trust will reflect interests in Te Kopua Urupa 1E 14, with the potential of including further Maori land blocks

the interim officers are Te Whetu Marama Morrell as Chairperson, Teawhina Carmencita Morrell as Secretary/Treasurer and Marcus Wainohu and Matthew Morrell

[17] While the minutes record that these resolutions were supported by a majority, supporters of this application advised the Court during the 7 August 2025 hearing that these resolutions were supported unanimously at this hui, with no opposition or dissent to these resolutions.

[18] Signed consent forms have been filed in support of this application by the proposed trustees: Te Whetu Marama Morrell, Teawhina Carmencita Morrell, Marcus Wainohu, and Matthew Morrell. The latter two proposed trustees are not recorded on the attendance register for the 4 March 2025 hui.

[19] At the hearing on 7 August 2025, supporters of this application were given an opportunity to speak in support of their application. They set out their preference for an ahu whenua trust to administer this land, as opposed to a reservation or any other management structure, as well as their broader aspirations for land use and management and their whānau's wider interests. In addition, supporters of this application were given the opportunity to express their opposition to the application to set the land aside as a Māori reservation, or their preference for an ahu whenua trust instead, at the 17 July 2025 hearing at Wairoa.

## **Te Ture** *The Law*

[20] Section 215 of the Act governs ahu whenua trusts and provides:

### **215 Ahu whenua trusts**

- (1) The court may, in accordance with this section, constitute an ahu whenua trust in respect of any Maori land or General land owned by Maori.
- (2) An ahu whenua trust may be constituted where the court is satisfied that the constitution of the trust would promote and facilitate the use and administration of the land in the interests of the persons beneficially entitled to the land.
- (3) An application for the constitution of an ahu whenua trust under this section—
  - (a) shall be made in respect of all the beneficial interests in 1 block or in 2 or more blocks of land; and

- (b) may be made by or on behalf of any of the owners or the Registrar of the court.
- (4) The court shall not grant an application made under this section unless it is satisfied—
  - (a) **that the owners of the land to which the application relates have had sufficient notice of the application and sufficient opportunity to discuss and consider it; and**
  - (b) that there is no meritorious objection to the application among the owners, having regard to the nature and importance of the matter.
- (5) The land, money, and other assets of an ahu whenua trust shall be held in trust for the persons beneficially entitled to the land and, except for land vested in trustees by an order made under section 132(6), in proportion to their several interests in the land.
- (6) Notwithstanding anything in subsection (5), the court may, either on the constitution of an ahu whenua trust or on application at any time thereafter, empower the trustees to apply the whole or any part of any specified portion of the trust income for Maori community purposes or for such Maori community purposes as the court may specify, and, in such a case, the trustees may apply any part of such specified portion of the trust income in accordance with section 218.
- (7) In any case to which subsection (6) applies, the beneficiaries shall be the beneficial owners of the block or blocks of land vested or to be vested in the trustees for the purposes of the trust.
- (8) The constitution of an ahu whenua trust shall not affect any person's entitlement to succeed to any beneficial interest in any land vested in the trustees for the purposes of the trust.

[21] His Honour Judge Ambler has succinctly set out the Court’s approach to the constitution of ahu whenua trusts in *Far North District Council – Okahu 3B2B2*.<sup>3</sup>

[73] Section 215(4) sets out the mandatory criteria that must be satisfied before the Court can establish an ahu whenua trust: **the Court must be satisfied that the owners have “had sufficient notice of the application and sufficient opportunity to discuss and consider it”** and that there is “no meritorious objection ... having regard to the nature and importance of the matter.” As I have said, there is no express owner support threshold. Rather, the issue of owner support is expressed in the reverse: is there any meritorious objection?

[74] In addition to the express provisions of s 215 of the Act the Court must exercise its powers under the guiding kaupapa of the Act as reflected in the Preamble, s 2 and s 17 of the Act. The first two provisions speak to high-level principles and it is s 17 that deserves to be set out in full for present purposes:

#### 17 General objectives

- (1) In exercising its jurisdiction and powers under this Act, the primary objective of the Court shall be to promote and assist in—
  - (a) The retention of Māori land and General land owned by Māori in the hands of the owners; and
  - (b) The effective use, management, and development, by or on behalf of the owners, of Māori land and General land owned by Māori.
- (2) In applying subsection (1) of this section, the Court shall seek to achieve the following further objectives:
  - (a) To ascertain and give effect to the wishes of the owners of any land to which the proceedings relate:
  - (b) To provide a means whereby the owners may be kept informed of any proposals relating to any land, and a forum in which the owners might discuss any such proposal:
  - (c) To determine or facilitate the settlement of disputes and other matters among the owners of any land:
  - (d) To protect minority interests in any land against an oppressive majority, and to protect majority interests in the

<sup>3</sup> *Far North District Council – Okahu 3B2B2* (2014) 91 Taitokerau MB 284 (91 TTK 284) at [73]–[77] (emphasis added).

land against an unreasonable minority:

- (e) To ensure fairness in dealings with the owners of any land in multiple ownership:
- (f) To promote practical solutions to problems arising in the use or management of any land.

[75] Some of the further objectives in s 17(2) are particularly relevant to the present ahu whenua trust proposal, namely, ascertaining and giving effect to the wishes of the owners, promoting practical solutions, protecting minority interests against an oppressive majority, and protecting majority interests against an unreasonable minority.

[76] Importantly, while s 215(4) does not expressly refer to the need for owner support, the kaupapa of the Act and s 17(2) in particular are very much concerned with the owners' wishes for their land. In my view the Court cannot impose an ahu whenua trust unless there is *some* owner support. Furthermore, as a trust affects owners' interests in land the Court needs to assess the support or opposition not only in terms of the number of owners but also the size of shareholding. Shareholding is therefore relevant.

[77] Also, strictly speaking it is only the living owners or their representatives who can express a view; prospective successors do not have a say as of right (though for my part, where there are a large number of deceased owners I am inclined to take a pragmatic approach and at least note the views of any prospective successors).

## **Kōrerorero**

### *Discussion*

[22] The applicants seeking an ahu whenua trust for the land have unquestionably put considerable time and effort into their application. They have also argued passionately for their preferred management structure for the land.

[23] However, the mandatory requirements in s 215 to provide sufficient notice of the application to establish an ahu whenua trust, and sufficient opportunity to discuss, have not been satisfied.

[24] The 4 March 2025 Te Whanau Morera hui was attended by 10 people, a



relatively small attendance considering how substantial a number the uri and whānau of the four registered owners of the land, and those whose tīpuna are interred in the urupā, may constitute. Furthermore, the 4 March 2025 hui was the one and only opportunity where the ahu whenua trust option was discussed, despite this not being advertised as part of the agenda for this hui.

[25] For the aforementioned reasons, the application to establish an ahu whenua trust is dismissed.

**AP-20250000007250: He whakatū i te Whānau Morera Ahu Whenua Trust me te kopou i ngā tarahitī me te tuku i ngā pānga whenua ki a rātou**

*Application to constitute the Te Whānau Morera Ahu Whenua Trust and appoint trustees and vest land in those trustees*

-and:

**AP-20250000006248: He whakawehenga i te katoa o te poraka whenua o Paeroa 1E14 (Urupā) hei whenua rāhui Māori**

*Setting apart all of Paeroa 1E14 (Urupā) as a Māori reservation*

[26] Turning now to the application to set the land aside as a Māori reservation. Despite its name, and the fact there is a physical urupā of longstanding on the block, and one which is maintained and looked after by whānau who have loved ones buried in the urupā, the block has not previously been set aside as a Māori reservation for the purpose of an urupā.

[27] Prior to this application being filed, a judicial conference was convened, at the application of the Hawke's Bay Regional Council, on 27 February 2025 in Wairoa, before His Honour Judge Isaac. This judicial conference discussed the flood mitigation options that the Regional Council was developing and foreshadowed further engagement with landowners and whānau.

[28] A hui was convened on Saturday, 22 March 2025, at Kihitu Marae, to discuss the flood mitigation options, including as these may relate to this land.

[29] Following the Kihitu Marae hui, counsel provided an update to the Court, by

memorandum dated 7 April 2025, and sought directions regarding publicly advertising a further hui to discuss setting aside this land as a Māori reservation. Subsequently, His Honour Judge Isaac issued directions dated 16 April 2025 directing that a meeting be advertised and convened with whānau who have tīpuna buried in the urupā on Paeroa 1E14 (Urupā) to discuss establishing a Māori reservation over the block.

[30] A hui was convened on Saturday, 10 May 2025, at the Wairoa Community Centre, to discuss the Māori reservation application. This was approximately two months after the 4 March 2025 Te Whanau Morera hui discussed above.

[31] Filed in support of this application are copies of the public notices for the 10 May 2025 hui advertised in:

- (a) *Hawke's Bay Today* on 19 April and 3 May 2025;
- (b) *Gisborne Herald* on 19 April and 3 May 2025; and
- (c) *Wairoa Star* on 1 May 2025.

[32] The notice period for this hui was approximately 20 days. In addition to public notice of the hui, filed in support of this application are copies of e-mails sent to a number of interested whānau for whom e-mail addresses were held, including an e-mail dated 16 April 2025 advising of the forthcoming 10 May 2025 hui.

[33] The public notice is addressed to “the descendants of Owners and Whānau who have Tipuna buried in the Urupā on Paeroa No 1E No 14 (Urupā)”.

[34] The attendance register for the 10 May 2025 hui records approximately 42 people in attendance. Based on the names recorded on the respective attendance register, a number of those that attended the Te Whanau Morera Hui on 4 March 2025 also attended this 10 May 2025 hui.

[35] The minutes of the 10 May 2025 hui filed in support of this application record the following votes:

*That those in attendance at the meeting agree to establish a Māori reservation, over Paeroa No 1E No 14 (urupa).*

**MOVED:** Joanna White **SECOND:** Rose Russell Morrell

Vote completed by a show of hands

**Results:**           **14 voted Āe**

**11 voted Kāo**

**Opposed:** Te Awhina Carmensita Morrell, Peti Douglas, Anne Douglas, Te Whitu Marama Morrell, Mere Atkinson, Winray Douglas, Peter Douglas, Jew Douglas, Reginald Douglas, Taylor Munro and one other.

# **RESOLUTION PASSED**

*For the purpose of an urupā for the benefit of the descendants of Kauae, Piha Te Hinu, Te Koheriki and Te Pirihi Pata, to be known as Te Kopua Urupā*

**MOVED:** Alice Wairau **SECOND:** Beverley Priston / Morrell

# **PASSED UNANIMOUSLY**

[36] The section of the minutes titled “Election of trustees” includes the following:

## 2. Nominations:

| <b>NOMINEE:</b>                 | <b>NOMINATOR:</b>       |          |
|---------------------------------|-------------------------|----------|
| <b>Darryl Robinson</b>          | Joanna White            | Accepted |
| <b>Beverley Priston Morrell</b> | Rose Russell Morrell    | Accepted |
| Rose Russell Morrell            |                         | Declined |
| <b>Virgina Douglas</b>          | Areta Eparaima          | Accepted |
| <b>Kathy Skipper King</b>       | Karen Skipper           | Accepted |
| <b>William Marsh</b>            | James Morrell           | Accepted |
| <b>Matthew Morrell</b>          | Te Whitu Marama Morrell | Accepted |
| Jennifer Rickard                |                         | Declined |
| <b>Karen Skipper</b>            | Rose Russell Morrell    | Accepted |

3. Glenn read out all the names of the 7 people who accepted their nomination and confirmed.

*The following resolution was put to the meeting:*

*That Darryl Robinson, Beverley Priston Morrell, Virginia Douglas, Kathy Skipper King, William Marsh, Matthew Morrell and Karen Skipper are elected as the trustees for the Te Kopua Urupā.*

**PASSED UNANIMOUSLY**

[37] The minutes of the 10 May 2025 hui record that the resolution to establish a Māori reservation in respect of the land was passed by 14 votes to 11. The minutes record the names of those who voted in opposition to this resolution, which include at least four of the attendees at the earlier Te Whanau Morera hui held on 4 March 2025.

[38] The resolutions to specify that the urupā be for the benefit of the descendants of Kauae, Piha Te Hinu, Te Koheriki and Te Pirihi Pata, confirm that the urupā be known as Te Kopua Urupā, and elect the proposed trustees were passed unanimously. No dissenting votes for these resolutions are recorded in the minutes.

[39] The proposed trustees have all filed signed consents to be appointed trustees.

[40] At the 17 July 2025 hearing, it was argued, at least initially, by supporters of the ahu whenua trust proposal that the proposed trustees were not uri or whānau of the four registered owners. Each of the proposed trustees were then asked, in open court, if they were a descendant or whānau of one of the four registered owners. Each of the proposed trustees confirmed that they were a descendant or whānau of one of the four registered owners of the land. No opposition or disagreement to the proposed trustees' statements were raised.

[41] At the 17 July and 7 August 2025 hearings, Matthew Morrell, who is a proposed trustee for both applications, recorded his opposition to the application to set the land aside as a reservation.

[42] Section 338 of the Act sets out the Court's jurisdiction to set apart any Māori freehold land or General land as a Māori reservation. It stipulates:

**338 Maori reservations for communal purposes**

(1) The court may make an order to set apart as Maori reservation any Maori freehold land or any General land—

(a) for the purposes of a village site, marae, meeting place, recreation ground, sports ground, bathing place, church site, building site, burial ground, landing place, fishing ground, spring, well, timber reserve, catchment area or other source of water supply, or place of cultural, historical, or scenic interest, or for any other specified purpose; or

(b) that is a wahi tapu, being a place of special significance according to tikanga Maori.

(2) The court may make an order to declare any other Maori freehold land or General land to be included in any Maori reservation, and thereupon the land shall form part of that reservation accordingly.

(3) Except as provided in section 340, every Maori reservation under this section shall be held for the common use or benefit of the owners or of Maori of the class or classes specified in the order.

...

(11) While land is set apart as a Maori reservation—

(a) the land or an interest in the land cannot be alienated, or vested or acquired under an Act; but

(b) the beneficial ownership of the land may continue to change by succession or otherwise (but this does not change the persons for whose common use or benefit the reservation is held, unless it is held for the beneficial owners).

[43] The Māori Land Court has previously undertaken a review of decisions concerning Māori reservations, and has identified the following principles:<sup>4</sup>

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<sup>4</sup> *Grace – Ngarara West A25B2A* (2014) 317 Aotea MB 268 (317 AOT 268) at [58], citing *Marangairoa Trust – Section 4C1 Block II, Tuatini Township* (2002) 151 Gisborne MB 250 (151 GIS 250); *In Re Mount Tauhara Māori Reservation* (1977) 58 Taupō MB 168 (58 TPO 168); *In Re Waipahihi Māori Reservation* (1978) 59 Taupō MB 184 (59 TPO 184); *Pihema v Ngati Whatua of Orakei Māori Trust Board – Sections 722, 790, 792, 793 and 794 Town of Orakei Block IX Rangitoto Survey District (Orakei Marae)* (1990) 3 Taitokerau Appellate Court MB 44 (3 APWH 44); *Re Rahui a 13 Block* (1992) 32 Tairāwhiti Appellate MB 370 (32 APGS 370); and *In Re Ruawahia* (1992) 8 Waiariki Appellate MB 52 (8 AP 52).

(a) The provisions set out in s 439 of the Māori Affairs Act 1953 relating to Māori reservations were significant as they represented the only legislative acknowledgement of the tribal and communal basis of Māori land ownership and enabled that concept to be applied to areas of special tribal significance;

(b) In determining the appropriate beneficiaries of a Māori reservation, the Court has regard to Māori customary concepts relating to turangawaewae and ancestry. Māori reservations are generally held for the whānau, hapū or iwi traditionally associated with that land and very special circumstances must exist before a Māori reservation is set aside for the common use and benefit of others. It is important to maintain the customary distinction between hosts and guests, or owners and invitees;

**(c) It is important that the underlying beneficial ownership be maintained and successions completed, as while the legal estate vests in trustees, the beneficial estate remains with the original owners or their successors. All that is passed is a licence as to occupation, use and enjoyment of the land and the benefits accruing therefrom for as long as the reservation status persists. Conversely, the rights of the beneficial owners to the legal estate or exclusive use and enjoyment as beneficial owners are suspended;**

(d) Reservation trustees are governed by the same rules of trust as other types of trustees, and they are appointed by the Court. Elections are evidence of who those at a meeting support for nomination to the Court. The Court will take a broad range of factors into account in appointing trustees, including the people for whom the reservation was set aside, the characteristics of the proposed trustees, and if a proposed trustee is a body corporate, the nature of its structure, operation and business;

(e) On matters relating the administration of a reservation, the trustees should consult with the persons for whose use and benefit the reservation was created;

(f) To amend the purposes of a reservation, to redefine the beneficiaries or boundaries or to exclude or add land to the reservation, the trustees should consult with the underlying beneficial owners;

(g) Māori are entitled to have recognition of the fact that the land is a Māori reservation, that it may have some special tribal significance, that Māori usually control it, and that others use it only for as long as they accept and respect those facts;

(h) The total or partial cancellation of Māori reservation is appropriate only where circumstances have changed or where it is to enable some development consistent with the purpose reservation (for example pensioner housing on marae) or some commercial development on a peripheral part of the reservation in order to maintain the rest of the reservation. However, the Court's main concern is to ensure the area is not so changed so as to defeat the purposes for which the reservation was created, or allow some incompatible user. The Court has a duty to protect Māori reservations;

(i) Where a modern generation of beneficiaries propose the exclusion of some central or major part for some commercial reason inconsistent with the legislation and the reservation itself, then if the Court is minded to permit such development, it has to ask itself whether or not the reservation status should remain in respect of the whole land. The Court has to weigh not only the arguments and views of contemporary owners and beneficiaries, but the views of earlier generations, as documented in Court records, who supported the use of their land for some common purpose or the common good when the reservation was created. It may be that in proposing the reservation they sought some measure of retention in perpetuity of an area of tribal significance. The Court is concerned with protecting the values of a past generation from the exigent demands of some future generation with a more materialistic mind. The restrictions on leasing, for example, are consistent with the Court needing to take a strict approach and protect Māori reservations from development proposals requiring long term leases;

(j) In relation to appointment of trustees, when one considers the retention and utilisation principles underpinning the 1993 Act, an inclusive approach, taking into account the views of both the beneficial owners and persons for whom the reservation was set aside, is preferable.

### **Kōrerorero**

#### *Discussion*

[44] The 10 May 2025 hui was publicly and privately advertised in several newspapers throughout Tairāwhiti and with a reasonable period of notice. The public notice was addressed to the descendants of the owners, as well as those whānau with tīpuna buried in the urupā.

[45] The 10 May 2025 hui was well-attended. This hui was preceded by discussion at the 27 February 2025 judicial conference in Wairoa and the 22 March 2025 hui at Kihitu Marae at which the flood protection proposals, including this land, were discussed.<sup>5</sup>

[46] At the 10 May 2025 hui, the resolution to set the land aside as a Māori reservation was passed by a simple majority of those in attendance. The resolutions to specify the beneficiaries of the reservation (being, the descendants of Kauae, Piha Te Hinu, Te Koheriki, and Te Pirihī Pata), and the appointment of trustees, were passed unanimously.

[47] In *Māori Trustee – Waerenga-a-Hika Māori Cemetery*, the Court also considered a broadly similar application, to formally set aside land as a Māori reservation, when that land had long-served as an urupā. In that similar situation, the Court identified the key questions for determination as:<sup>6</sup>

- (a) Who should the urupā be set aside for?
- (b) Who should the trustees of the urupā be?

[48] In the present situation these questions have been answered unanimously and with no record of opposition or dissent at the 10 May 2025 hui.

[49] I have reviewed the signed consents of the proposed trustees, which record their respective background, skills and experience. Having done so, I consider that the requirements of s 222(2)(a) are satisfied. The unanimous support for the proposed trustees, expressed at the 10 May 2025 hui, confirms that the proposed trustees also satisfy the requirement for support in s 222(2)(b) of the Act.

[50] Formally setting aside or protecting this urupā as a Māori reservation is consistent with the approach taken for many urupā around the motu and provides significant and appropriate legal recognition to sites such as this. This includes the protection from alienation as provided for in s 338(11).

[51] I note that there were some members of the Morera Whānau who, at the 17 July 2025 hearing, expressed preference for an ahu whenua trust model for the land and opposed the

<sup>5</sup> 131 Tairāwhiti MB 107–150 (131 TRW 107–150) at 139–140.

<sup>6</sup> *Māori Trustee – Waerenga-a-Hika Māori Cemetery* (2017) 73 Tairāwhiti MB 16 (73 TRW 16) at [2].



setting aside of the land as a Māori reservation. At the 7 August 2024 hearing however, this opposition appeared more restrained and qualified. In addition, I consider their opposition mitigated to an extent by the following.

[52] The key resolutions at the 10 May 2025 hui – to specify the beneficiaries of the reservation (being, the descendants of Kauae, Piha Te Hinu, Te Koheriki, and Te Pirihi Pata), and the appointment of trustees – were passed unanimously, including by members of the Morera Whanau that were in attendance.

[53] In addition, one of the trustees proposed in the ahu whenua trust application, Matthew Morrell, has also been endorsed unanimously as a trustee for the Māori reservation. His appointment will ensure that the Morera Whānau will have representation at trustee-level. If, however, Mr Morrell does not wish to serve as a trustee, he may advise the Court accordingly and his appointment will not be finalised.

#### **Kupu Āpiti**

##### *Additional Comment*

[54] Given the significance of the Regional Council’s proposals, and the urgency of the current situation, it will be important for the trustees to maintain communications with the beneficiaries of the reservation, particularly in the short-to-medium term as discussions with the Regional Council unfold.

[55] The extract cited at [44] above, cited and endorsed on several occasions by the Court, records the importance of successions being completed to ensure that records of the underlying beneficial ownership be maintained. This is because, while the legal estate vests in trustees, the beneficial estate remains with the original owners and their successors. To date successions have not occurred in respect of this land. The trustees and the successors of the four registered proprietors are invited to liaise with the Court to progress these matters. As noted above, where important issues such as amending the purposes of a reservation, redefining the beneficiaries or boundaries or whether to exclude or add land to the reservation, the trustees should consult with the underlying beneficial owners.

**Ngā ōta**  
*Orders*

[56] Accordingly, I grant the application and make the following orders in relation to Paeroa 1E14 (Urupā) described in Computer Freehold Register (HBPRW3/15) comprising 2.0093ha:

- (a) **under s 338** setting this land apart as a Māori reservation for the purpose of an urupā for the benefit of the descendants of Kauae, Piha Te Hinu, Te Koheriki, and Te Pirihi Pata;
- (b) **under s 222** appointing Darryl John Robinson, Chris William Marsh, Beverley June Priston, Virginia Elizabeth Veronica Douglas, Kathryn Gwen Skipper-King, Mathew Christopher Morrell, and Karen Anne Skipper-Hawaikirangi as responsible trustees; and
- (c) **under s 338(7)** vesting the land in the responsible trustees.

I whakapuaki i te 4.30 pm i Te Whanganui a Tara, i te 25 o ngā rā o Here-turi-kōkā i te tau 2025.

Pronounced at 4.30pm in Wellington on 25<sup>th</sup> day of August 2025.

N R Milner  
**JUDGE**