

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

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

AP-20260000004096

WEHENG
Under

Section 240, Te Ture Whenua Māori Act 1993

MŌ TE TAKE
In the matter of

Waihaha 4

I WAENGA I A
Between

GLENN TOOTILL AS INDEPENDENT
TRUSTEE ON BEHALF OF THE HURAKIA
TRUST
Te kaitono
Applicant

ME
And

VANESSA HAKARAIA
Te kaiurupare
Respondent

Kōtitanga:
Hearing

27 March 2026, 530 Aotea MB 160-173
(Heard at Whanganui)
10 April 2026
(Heard at Hamilton)

Kanohi kitea:
Appearances

M Mahuika and T Hauraki for Applicant

Whakataunga:
Judgment date

13 April 2026

TE WHAKATAUNGA Ā-WAHA KAIWHAKAWĀ A H C WARREN
Oral Judgment of A H C Warren

Hei timatanga kōrero
Introduction

[1] This is an oral decision I delivered at the hearing on 10 April 2026 and because it's an oral decision I reserve the right to correct any basic errors or adjust the detail, but the substance of this decision will not change.

[2] Glenn Tootill in his capacity as the court appointed independent trustee and chairperson of the Hurakia Trust (the Trust) has applied to remove Vanessa Hakaraia as a trustee for cause. The Hurakia Trust is an ahu whenua trust that operates a considerable farming operation.

[3] He makes the application in circumstances where the court has actively supervised this Trust since late 2025 following a period of dysfunction. Dysfunction that has caused and continues to cause internal and external issues for the Trust.

[4] Following a court supervised election of trustees in November 2025 the beneficiaries elected Ms Hakaraia as a responsible trustee. That appointment was opposed by Hariata Cairns when the appointment application came before me in December 2025. As a result of a judicial settlement conference, Ms Cairns opposition was resolved and I proceeded to appoint Ms Hakaraia together with other related orders, including an indication that I would appoint an independent trustee per s 114 of the Trusts Act 2019.

[5] I formerly appointed Mr Tootill to that role by order dated 16 January 2026 setting out the basis of the role and my specific directions as to his powers.¹

[6] I convened a judicial conference on 2 March 2026 to address an application by Ms Hakaraia and other trustees to relieve Mr Tootill of his role on the basis that the Trust no longer needed this independent support. After hearing from Ms Hakaraia and other trustees, I disagreed, and Mr Tootill's role continued on the same terms.

[7] On 16 March 2026 Mr Tootill filed the removal application. Upon receipt of the application, I immediately set the matter down for a judicial conference on 27 March 2026²

¹ 525 Aotea MB 147-149 (525 AOT 147-149).

² 530 Aotea MB 160-173 (530 AOT 160-173).

(the JC) and invited Ms Hakaraia to respond to the application. Ms Hakaraia filed a formal response including an affidavit on 26 March 2026.

[8] At the JC Mr Tootill raised with me the need to seek directions in respect of important internal issues, on the basis that he was not getting timely replies from other trustees including Ms Hakaraia. I directed Mr Tootill to file a formal memorandum seeking directions, which he subsequently did. His request was opposed by Ms Hakaraia and other trustees. I issued a decision on Mr Tootill's request for directions on 2 April 2026.

[9] Further, at the JC the court raised the issue of Ms Hakaraia disclosing confidential legal advice, in documents filed with the court. I then directed that all legal advice and references to it in material filed in support of the s 240 application was to be made confidential.

[10] Finally, at the JC I set the s 240 application down for hearing in Hamilton today, together with directions for parties to file any further evidence. Some of that evidence was filed late, but I am satisfied that parties have had sufficient time to respond to that evidence, given the way we conducted this hearing. I confirmed this with Ms Hakaraia and Mr Mahuika today.

[11] Having now heard and considered the evidence and arguments from all parties the core issues for me to consider is firstly whether grounds exist per s 240(1)(b) of Te Ture Whenua Māori Act 1993 (the Act) to remove Ms Hakaraia based on three key allegations:

- (a) Was Ms Hakaraia's conduct in engaging with trust employees and her conduct more generally such that she should not be a trustee;
- (b) Did Ms Hakaraia file with the court a signed letter, knowing it was not signed or approved by the person whose name the letter was in; and/or
- (c) Did Ms Hakaraia breach court directions by engaging with third parties when the court directed that this was to be the role of Mr Tootill?

[12] If I find that there are grounds per s 240(1)(b) of the Act to remove her, I then need to decide whether Ms Hakaraia's removal is desirable for the proper execution of the Trust. That issue requires the court exercising its broad discretion.

[13] In exercising that discretion, I will take into account context and objectives of this Trust, the principles of the Act and importantly what is in the best interests of the beneficiaries.

[14] I acknowledge that removing a trustee for cause is a serious step and due care must be taken.

[15] I now turn to the determining the key factual disputes that underpin this application.

Te whanonga o Ms Hakaraia

Ms Hakaraia's behaviour

[16] I start with the behavioural allegations.

[17] Initially these allegations were from William Gilbert only, but more examples were provided in the reply evidence presented by Mr Tootill, Robert Gollan and Angela Wharekura. This evidence paints a consistent picture of Ms Hakaraia being a very combative person. There is usually little wrong with a robust trustee, but there is a line and having read the text messages from Ms Hakaraia as presented by Mr Gilbert together with some of the first-hand other examples provided, that line has been crossed.

[18] Ms Hakaraia does not deny sending those text messages to Mr Gilbert. The content of those communications alone, regardless of the other examples provided, is seriously disturbing, especially when Ms Hakaraia is communicating with an employee.

[19] Their disturbing nature is further aggravated by the fact that I am dealing with an ahu whenua trust that operates a substantial farming operation. This is not a whānau trust context whereby internal whānau dynamics can and do spill out from time to time. The context is more akin to a commercially run entity, which elevates the standard of a trustee's behaviour; why? Because; there are employment obligations, none more so, than the duty to act in good faith towards employees and the financial and reputational impacts on the Trust if this duty

is compromised. Further, given that trustees are jointly and severely liable, the actions of one trustee may impact on all trustees. The evidence suggests that Ms Hakaraia gives this little consideration when conducting trust business.

[20] I accept that not all the foul language in the communications between Ms Hakaraia and Mr Gilbert was one way traffic, but that does not justify the behaviour of a trustee/employer. Ms Hakaraia had a choice to not communicate in the manner she did. She made a poor choice in my view.

[21] If I add to the mix the evidence of the other witnesses and my own observations, including Ms Hakaraia departing an online judicial conference abruptly without my leave, I am left in little doubt that Ms Hakaraia's poor behaviour is more than a one-off occurrence, in fact, her behaviour has been normalised and allowed to continue unabated. It seems to me that when under pressure or if she does not get things her way, Ms Hakaraia only knows one way to react, very negatively and on occasions destructively.

[22] I am mindful that some of the examples given by the witnesses for the applicant is technically hearsay or second hand, including some of the examples given by Mr Gollan that I confirmed with him today, but they are at the very least consistent with the direct evidence given by Mr Gilbert.

[23] Ms Wharekura's examples were more direct and based on her own experiences with Ms Hakaraia. I have found Ms Wharekura helpful since her involvement last year, and she has always acted with the utmost professionalism. I therefore give considerable weight to her views that Ms Hakaraia's behaviour is placing the Trust in significant jeopardy.

[24] Mr Tootill also provides direct evidence of his experiences with Ms Hakaraia since he was appointed and they are consistent with the other evidence before the court.

[25] I have considered carefully the responses given by Ms Hakaraia, her father Stacey Hakaria, her partner Jamie Maxwell and fellow trustee Tukino Kingi and I understand why her father and partner view the alleged behaviour in a better light or seek to downplay it. Unfortunately, given the close familial relationship with Ms Hakaraia their evidence on the question of behaviour is naturally and understandably tainted and therefore must be afforded

the appropriate weight, especially when they all ignored specifically commenting (in their written evidence) on the content of the messages filed by Mr Gilbert.

[26] I find that the evidence presented by the applicants was more objective and balanced. None of them gave me any reason to doubt their accounts of Ms Hakaraia's conduct or the impact of that behaviour on the Trust. Their evidence was credible given it was consistent with the themes already accepted by Ms Hakaraia, i.e. the texts with Mr Gilbert. Acknowledging, that I have not accepted all examples given by the applicants.

[27] The text messages submitted by Mr Gilbert and emails attached to the evidence of Mr Tootill speak for themselves and support the negative behaviour each applicant witness has described. There is a consistency between the documentary and oral testimony as to that negative behaviour.

[28] From a trust law perspective Ms Hakaraia had a duty to act honestly and in good faith. That is a mandatory duty and one which is specifically codified in the Trust Order at clause 4.1(c). This duty covers how a trustee behaves or conducts themselves in the role of a trustee. I find that Ms Hakaraia's behaviour as described breaches that duty. No trustee should communicate with anybody in the manner Ms Hakaraia did through text messages, let alone an employee such as Mr Gilbert.

[29] Further Ms Hakaraia had a duty to always act prudently and to exercise the same diligence, care and prudence that would be expected of an ordinary and careful business person. I find that Ms Hakaraia has breached this standard of care, given that an ordinary and careful business person in Māori land, Māori Farming business context would not enter into such vulgar and highly charged communications with a Trust employee or any person for that matter, in the discharge of their role as a trustee.

[30] Without downplaying the vulgar nature of the text messages to Mr Gilbert, if that was the only incident at issue i.e. this was a one off, it may not justify a finding of a breach of trustee duties, but the evidence paints a clear pattern of negative behaviour, as described by witnesses who have engaged with Ms Hakaraia at different times and on different issues. This negative and combative behaviour is a common feature and an entrenched mode of communication for Ms Hakaraia.

[31] I am therefore satisfied that based on her conduct there are grounds to remove Ms Hakaraia as a trustee per s 240(1)(b)(iv) of the Act.

Te reta o Mr Gilbert

Mr Gilbert's Letter

[32] I now move to the issue of the letter filed concerning Mr Gilbert.

[33] Mr Gilbert alleges that Ms Hakaraia submitted a letter to the court in circumstances where he says he did not know about it, he did not sign it and did not approve of it being submitted in his name to the court.

[34] Ms Hakaraia rejects this as does Mr Hakaraia and Mr Maxwell who confirm in sworn affidavits that they witnessed Mr Gilbert signing the letter at their home. Ms Hakaraia confirmed today that she was also present when Mr Gilbert signed the letter. Given this fact, someone is lying.

[35] Ms Hakaraia did accept that she typed and formatted the letter and then submitted it to court, but did not sign it, and had no intention of misleading the Court.

[36] Given Mr Gilbert did not appear today on his allegations and the evidential threshold is that a finding of forgery and fraud requires clear and cogent evidence, I am not prepared to issue a finding based on an affidavit that could not be tested in Court today. I do, however, accept Mr Mahuika's submission that the letter is evidence of Ms Hakaraia engaging with staff in breach of my directions, without the knowledge of Mr Tootill.

Takahi i ngā kupu whakahau a te kōti

Breach of Court directions

[37] The final ground supporting removal is the claim that Ms Hakaraia consistently failed to adhere to my directions set out in the order appointing Mr Tootill. Specifically this relates to my direction that Mr Tootill is "the sole trustee who may engage with third parties on behalf of the Trust, save for any specified exceptions or where the chairperson approves the engagement....".

[38] The evidence is that Mr Tootill sent several communications to all trustees confirming this direction and also to employees. The examples are all set out in Mr Tootill's brief of evidence. There is no dispute that these communications were sent and received. The dispute seems to be is that Ms Hakaraia just did not like that direction and continued to ignore it, by engaging with third parties including Mr Gilbert, Ms Wharekura and legal representatives. A fair and prudent trustee would have documented their concerns and sought directions.

[39] I accept that Ms Hakaraia appropriately sought to have Mr Tootill removed on the basis that she and other trustees did not believe his role was necessary or was working well, partly because they could not engage with staff as they had done so to that point. I disagreed and my earlier directions as to the terms of Mr Tootill's role stood. That should have been the end of the matter.

[40] I also acknowledge some of her explanations for engaging [with employees] but my directions and Mr Tootill's communications could not have been clearer. I have little doubt that Ms Hakaraia has deliberately disobeyed my directions, and I find against her accordingly.

[41] I am therefore satisfied that there are grounds per s 240(1)(b) of the Act to remove Ms Hakaraia for cause. My specific findings are as follows:

- (a) Per s 240(1)(b)(i) of the Act, Ms Hakaraia repeatedly refused to act as a trustee by failing to comply with court directions; and
- (b) Per s 240(1)(b)(iv) of the Act, Ms Hakaraia's conduct is such that she is no longer suitable to hold office as a trustee.

He mea tika kia tangohia a Ms Hakaraia kia ū ai te whakahaere tika o te tarahiti?
Is it desirable to remove Ms Hakaraia for the proper execution of the Trust?

[42] I now turn to determining whether these grounds mean that I should remove Ms Hakaraia to enable the proper execution of the Trust.

[43] Ms Hakaraia and her witnesses, all say that she should remain a trustee. All others suggest she should not continue as her behaviour and actions place the Trust at serious financial and reputational risk.

[44] I place weight on the evidence of Mr Gollan as it relates to the impact of Ms Hakaraia's behaviour on the business of the Trust, even when I don't have direct evidence to prove all the examples he provided. The cumulative effects of her behaviour are too frequent to ignore. His evidence was balanced acknowledging that Ms Hakaraia does raise valid operational concerns, but how they are raised, he says are clearly not acceptable. I agree.

[45] I make no adverse findings about whether Ms Hakaraia is to blame for the employment disputes that are currently being managed by Mr Tootill and the trustees, as I would need to dive into confidential and sensitive information. Safe to say, that their existence adds to the dysfunctional context that pervades this Trust and a factor in the exercise of my discretion to remove Ms Hakaraia.

[46] All witnesses for the applicants applied a helpful objective lens focussing on the business health of the Trust. That is the lens the court is deeply interested in. For two reasons, if the business of the Trust is at risk, then so too might the land, that risk goes to heart of the Act - i.e. retaining land as a taonga tuku iho and secondly, if the business of the Trust fails, then the benefits to the beneficiaries are impacted, again a central pillar of the Act – for the development of the land to benefit the owners.

[47] Given the familial connections between Ms Hakaraia and those who have filed in support of her, I give less weight to their reasons why Ms Hakaraia should remain as a trustee.

[48] Mr Tootill has a role to play and I find that his role is being made far more challenging by having Ms Hakaraia as a trustee. I acknowledge that it might have been appropriate for Mr Tootill to raise allegations directly with Ms Hakaraia and the other trustees prior to raising the s 240 application, I can understand in the context why he did not.

[49] This is of course not the first-time people have questioned Ms Hakaraia's appropriateness to be a trustee. That is not determinative of the issue, but it is a factor and adds to the theme that her behaviour has had a negative impact across a range of people.

[50] This Trust has great potential. It is living through a period of serious dysfunction. I find that Ms Hakaraia has played a significant part in that dysfunction. If I stand back from the detail and look at the context and the evidence before me, Ms Hakaraia's name consistently comes up as being part of the dysfunction, this cannot be conducive to getting the Trust back on track and she should not be a trustee, if the Trust is to realise its potential.

[51] Taking into account my findings about Ms Hakaraia's conduct, the context as set out by Mr Mahuika, the objectives of this Trust, the principles of the Act and what is in the best interests of the beneficiaries, I find that it is desirable to remove Ms Hakaraia as a trustee to ensure the proper and safe execution of the Trust.

Te otā me ngā mahi kei mua i te aro

Order and next steps

[52] I make an order per s 240 of Te Ture Whenua Māori Act 1993 removing Ms Hakaraia Hakaraia as a trustee for cause. That order is for immediate release per rule 7.5(2)(b) of the Māori Land Court Rules 2011.

[53] I will hear Mr Mahuika on the issue of costs shortly.

[54] Finally, in light of what I have heard today, and across all of the processes the court has directed, I am considering what if anything I should now do with this Trust. I remain very concerned considering the positions presented by Mr Hakaraia and Mr Kingi today, whether further orders ought to be made to allow this Trust to get itself back on better footing. That is, do I remove all trustees except for Mr Tootill for a period or do I adjust his powers to avoid the constant requests for directions. The resource being provided by the court is considerable and it has its limits. But I am concerned for the beneficiaries, that is my focus.

[55] I will hear any preliminary views now, but I am flagging that I will be calling a judicial conference shortly to address the issue.

[56] To avoid doubt, the Trust remains under the active supervision of the court and Mr Tootill's role continues on the same terms as set out in the order of appointment.

Mauri ora

I whakapuaki i te 2:00 pm i Kirikiriroa, tekau ma toru o ngā ra o Paengawhāwhā i te tau 2026.

Pronounced at 2:00 pm in Hamilton on this 13th day of April 2026.

A H C Warren
KAIWHAKAWĀ
JUDGE