

**IN THE MĀORI LAND COURT OF NEW ZEALAND  
WAIARIKI DISTRICT**

**A20130011063  
91 Waiariki MB 279  
(91 WAR 279)**

UNDER	Section 269(6) of Te Ture Whenua Māori Act 1993
IN THE MATTER OF	An application for an investigation into the conduct of the election of a committee member of The Proprietors of Mangaroa & Other Blocks Incorporated
BETWEEN	CARL NGAMOKI-CAMERON Applicant
AND	ERUETI KOOPU Respondent

Hearing: 89 Waiariki MB 245 dated 8 January 2014  
(Heard at Opotiki)

Appearances: C Ngamoki-Cameron in person  
E Koopu in person

Judgment: 12 March 2014

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**RESERVED JUDGMENT OF JUDGE L R HARVEY**

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**Introduction**

[1] Carl Ngamoki-Cameron filed an application on 17 December 2013 per s269 (6) of Te Ture Whenua Māori Act 1993 expressing concerns over the election process of committee members to the Proprietors of Mangaroa & Other Blocks Incorporation. The applicant is a current member of the committee of management and seeks an investigation into the election. In his application Mr Ngamoki-Cameron states:

The outcome of the elections was dependent on the then chairman certify (pursuant to rule 19(1) of the constitution) the reasons for not accepting certain proxies and votes. A number of shareholders have complained that they had their proxies and votes wrongly invalidated. Also, receipt of proxies closed on Wednesday 30 October 2013 at 4.30 pm and not Friday 1 November 2013 at 10 am (48 hours prior to the AGM).

[2] As the application was only referred to me on 24 December 2013 after midday it was very difficult to attempt to make arrangements for a hearing early in the new year. I acknowledged the assistance of the parties and court staff in attending to the logistics of arranging a hearing at very

short notice and in the middle of the holiday period. In any event by direction dated 24 December 2013 a judicial conference was set down for 8 January 2014 at Opotiki. The purpose of the conference is set out below:<sup>1</sup>

[7] At first blush, the issues raised in the application appear to warrant efforts by the committee of management itself to attempt to resolve any outstanding points regarding the election and related matters. It may be inappropriate for the Court to intervene at this juncture without the committee of management confirming that it has attempted to resolve the issues raised and has been unable to achieve a resolution.

[8] The purpose of a judicial conference earlier in the New Year is to explore with the parties any possible pathway to uncovering a solution that does not involve the direct intervention of the Court. Instead, in such circumstances as these, it is far preferable for the Court to simply attempt to play a facilitative role, informal for formal, so that those persons mandated by the shareholders to act as governors of their lands and resource are able to fulfil those obligations according to their own constitution and customs.

[9] Therefore, the judicial conference will proceed, in the absence of any further direction to the contrary, at 11.00am on Wednesday 8 January 2014. If however, the committee and the applicant are able to resolve the points raised by Mr Ngamoki-Cameron before then, or have an alternative, then they are free to write to the Court to advise that the conference need not proceed. I urge the committee members at the risk of belabouring the point to attempt a resolution at their earliest convenience.

[3] Unfortunately, despite my exhortations to the Committee, that they should attempt a settlement of the points that were in contention, a resolution was not possible and so a sitting of the Court was then held on 8 January 2014 at Opotiki to consider the application. After a lengthy presentation of submissions, a brief adjournment and further submissions from the parties, it was agreed that an independent expert would be commissioned to undertake a review of the election. The reviewer would liaise with Tuihana Pook, who I understand is the current interim chairperson of the Incorporation, and Karamea Insley, another committee member, over the issues raised in the application.

[4] A report would then be circulated to the parties and the Court would reconvene to receive the report and for the reviewer to be made available to answer any questions. I understand that the report has been completed by Miharo Armstrong, solicitor of Rotorua, and circulated to the parties for their comments, which I further understand are due on Friday. Following receipt of any comments and finalisation of the report the case manager will then arrange a fixture. For the avoidance of doubt the comments of the parties will be taken into account by Mr Armstrong but understandably the completion of the report and its contents does not require their approval. He is after all an independent reviewer of the election process.

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<sup>1</sup> 89 Waiariki MB 143 (89 WAR 143)

[5] During the course of the proceedings the issue of the resignation of Erueti Koopu (the then chairman of the Incorporation) and his subsequent withdrawal of that resignation was raised, along with his request to attend the December meeting of the Committee by telephone. After hearing from the parties on this point I adjourned the proceedings and confirmed that a written decision would issue in due course concerning the validity of Mr Koopu's resignation and the issues arising from that event.

[6] The relevance, it was argued, as to the effectiveness or otherwise of Mr Koopu's resignation concerns the operation of the Committee and its day to day functioning as the governance and management entity of the Incorporation. In short, it was acknowledged that the Committee is divided and without Mr Koopu the Committee membership stands at six. The draft minutes of the Committee hui held on 7 December 2013 make this plain. As a result decision making can be deadlocked by an equality of votes cast on any given issue.

[7] As I explained at the hearing, this assumption, that an even number of committee members can result in a deadlocked vote, is incorrect. The Māori Incorporation Constitution Regulations 1994 make provision for the chairperson to exercise a casting vote. That point will be examined further in this decision, along with the process to be followed when a casual vacancy arises, which was also raised at the hearing.

[8] For completeness I record that at the commencement of the proceedings I disclosed to the parties two points that might have caused concern as to perceptions of conflict of interest. First, I confirmed that my great great grandfather, Hira Kīngi Kanawa and his siblings, were amongst the original grantees of Te Karaka No 1 block. However as he had left a will before he died in 1933 and by that will had given his shares in that block to a grandson, Te Kooti Wahapango Kīngi, my immediate whānau are not and have never been owners in the land that now forms part of the corpus of the Incorporation. No objection was taken to this connection by any of the parties.

[9] Second, I also confirmed that one of the committee members, Mrs Pook, was recently appointed to the Council of Te Whare Wānanga o Awanuiārangi, by the Minister of Education. I serve as Deputy Chairperson of that institution. I noted that Mrs Pook had thus far attended two Council meetings and outside of that, apart from a brief appearance during another proceeding in Ruatoria concerning Potaka Marae, I had had no other cause to meet with or speak to her on any subject. Once again, no objection was taken by any party to this relationship. I understand that Mr Ngamoki –Cameron is a solicitor and as foreshadowed he, like the other parties, accepted that my connection to Mrs Pook was tenuous at best in the context of the present proceedings.

## Issues

[10] The issues for determination are firstly, whether the steps taken by Mr Koopu to resign were adequate to effect his resignation. Second, if those steps are found to be adequate, can Mr Koopu withdraw his resignation? Third, can a committee member attend meetings by telephone? Fourth, does the chairperson of an incorporation committee of management have a casting vote? Fifth, what is the procedure to be followed when a causal vacancy arises?

## Background

[11] According to the Court's records Mangaroa & Other Blocks Incorporated was established as an incorporation on 27 September 1923, with Mangaroa, Ohotu No.2B, Te Karaka No.1 and Te Karaka No.2 blocks constituting the corpus lands. At the time of the filing of the application, the current members of the Committee were Carl Ngamoki-Cameron, Karamea Insley, Erueti Koopu, Tuihana Pook, Katarina Powell, Bridget Rika and Mate Webb. Erueti Koopu sent in a letter on 4 December 2013 resigning from the committee, effective from 8 December.

## The Law

[12] Māori Incorporations are governed by Part 13 of the Act and by the Māori Incorporation Constitution Regulations 1994.

[13] Section 268 of the Act states:

### **268 Maori incorporations to have constitution**

- (1) Every Maori incorporation shall have a constitution governing its internal management.
- (2) Subject to subsection (3) of this section and to section [253A](#) of this Act, the constitution of every Maori incorporation shall be that prescribed by regulations made under this Act.
- (3) A Maori incorporation may, by special resolution of the shareholders, alter, add to, or replace its constitution in any way that is not inconsistent with any provision of this Act or any regulations made under this Act.

...

[14] I am advised by Court staff that, following a review of the records at this registry, it appears that the Incorporation does not have its own individual constitution. In accordance with s 268(2) of the Act the Incorporation's internal management is therefore governed by the constitution prescribed in the Regulations. There are no specific provisions in the Act or the Regulations which

define how the resignation of committee members is to occur or when it is deemed to take effect. It would also appear that the Incorporation does not have any policy on this issue, or the equally important point of the procedure to be followed when a casual vacancy arises.

## Discussion

*Were the steps taken by Mr Koopu to resign adequate to effect his resignation?*

[15] In the absence of any relevant provisions in the Act or the Regulations, the general law can often provide a useful guide. Section 157(2) of the Companies Act 1993 provides as follows:

### 157 Director ceasing to hold office

- (1) The office of director of a company is vacated if the person holding that office—
  - (a) Resigns in accordance with subsection (2) of this section; or
  - (b) Is removed from office in accordance with this Act or the constitution of the company; or
  - (c) Becomes disqualified from being a director pursuant to section 151 of this Act; or
  - (d) Dies; or
  - (e) Otherwise vacates office in accordance with the constitution of the company.
- (2) A director of a company may resign office by signing a written notice of resignation and delivering it to the address for service of the company. The notice is effective when it is received at that address or at a later time specified in the notice.
- (3) Notwithstanding the vacation of office, a person who held office as a director remains liable under the provisions of this Act that impose liabilities on directors in relation to acts and omissions and decisions made while that person was a director.

[16] In *Vance v Smith* the High Court confirmed the process of resignation of a company director and when that event takes effect:<sup>2</sup>

A director can cease to hold office in a number of ways. The one that is relevant for present purposes is a resignation made in accordance with s 157(2). That section requires a director to sign a written notice of resignation and to deliver that notice to the address for service of the company. It also provides that the notice is effective when it is received at the address for service of the company or at a later time specified in the notice.

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<sup>2</sup> HC Wellington CIV 2005-485-24, 5 June 2008 at [12]

[17] Another relevant authority in this context is *Hunter Grain Ltd v Price* which also confirms that a resignation is effective from the date recorded on the resignation instrument.<sup>3</sup>

Mr Price signed a notice of resignation of his directorship on 23 January 2008. The notice purports to take effect as from 10 January 2008, but it is common ground that by virtue of s 157(2) of the Companies Act 1993, the resignation took effect from the date upon which it was delivered to the address for service of Hunter Grain.

[18] Mr Koopu confirmed before me that following the Incorporation's annual general meeting on 3 November 2013 he indicated that he would be resigning from the Committee. He then prepared a written resignation dated 4 December 2013 which recorded his effective date of resignation as 8 December 2013. This was to be, he said, the day after the Committee meeting set for 7 December 2013. While it is unclear as to the exact date on which the resignation was delivered to the Committee, it is undisputed that the letter was with the Committee at its hui on 7 December 2013.

[19] Although there is some debate between the parties as to whether the resolution to accept Mr Koopu's resignation was required, I find that is irrelevant to the validity of the resignation. Doubtless, out of an abundance of caution, and to confirm once again that a resignation had in fact been received, it is sensible that there be some evidence of this fact in the official record of the Committee, the minutes of its meetings.

[20] In the absence of applicable provisions in the Act and the Regulations, and having regard to s 157(2) of the Companies Act 1993, although the date of delivery is estimated between 4 December 2013 and 7 December 2013, Mr Koopu's resignation would be considered effective from 8 December 2013, being the later date specified in his letter. My conclusion is that Mr Koopu's resignation was valid and effective from 8 December 2013.

*Can Mr Koopu withdraw his resignation?*

[21] At the Committee hui held on 7 December 2013 it was noted that Mr Koopu's letter had been received and a resolution was carried to accept his resignation. As foreshadowed, Mr Koopu now wishes to withdraw that resignation. He sought to do so by e-mail to the Committee members on 13 December 2013:

Tena koutou e hoa ma, I have had time to reflect on my decision to resign from Mangaroa and Other Blocks Incorporated committee. I now rescind my decision to resign.

Kia ora ra Erueti Koopu

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<sup>3</sup> HC Tauranga CIV-2008-470-192, 25 July 2008 at [25]

[22] A complicating factor is the point raised by Mr Koopu that, due to extraordinary circumstances, he could not attend the meeting of the Committee in person but instead sought to participate by telephone. It is common ground that, for whatever reasons, Mr Koopu did not participate in the discussion. This point will be considered further in this judgment.

[23] The question of rescinding a resignation was considered in *Glossop v Glossop* in relation to company directors:<sup>4</sup>

I have no doubt that a director is entitled to relinquish his office at any time he pleases by proper notice to the company, and that his resignation depends upon his notice and is not dependent upon any acceptance by the company, because I do not think they are in a position to refuse acceptance. Consequently, it appears to me that a director, once having given in the proper quarter notice of his resignation of his office, is not entitled to withdraw that notice, but, if it is withdrawn, it must be by the consent of the company...

[24] In a different context I note that the Employment Relations Authority has also considered the issue of a purported rescinding or withdrawal of a resignation:<sup>5</sup>

In her statement of problem, Ms Narbey complained that her resignation was neither questioned nor commented on by the Respondent and in her brief of evidence (24) spoke of being prepared to “rescind my resignation”. All of that demonstrates a misunderstanding on her part of the process of resignation.

There is a mistaken concept, held by some, concerning what they call “acceptance of a resignation.” Resignation, like dismissal, is a unilateral act. There is no requirement or obligation for the recipient of the act to “accept” anything. The deliverer of the unilateral decision (be it dismissal or resignation) is simply telling the recipient what is going to happen. Yes, sometimes an employer will endeavour to dissuade an employee from going through with a resignation but it is incorrect to describe such a response as “not accepting the resignation.”

[25] A resignation is construed as a unilateral act and one which does not require acceptance. In the absence of any detailed procedural agreement between the parties, a resignation can only, it would appear, be withdrawn with the consent of the recipient. In the present case although the Committee moved to accept the resignation of Mr Koopu this was an unnecessary act. By virtue of Mr Koopu delivering his letter to the Committee it became effective on the date specified in his resignation, regardless of any acceptance, and once effective it could only be withdrawn with the consent of the Committee.

[26] I find that Mr Koopu’s attempt to withdraw his resignation on 13 December 2013 was ineffective. Once his resignation became valid he needed the consent of the Committee to

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<sup>4</sup> [1907] 2 Ch 370 at p374, see also Morison’s Company Law (NZ) (online ed, LexisNexis) at [23.24]

<sup>5</sup> *Narbey v Pavlovich Coachlines Ltd* ERA Auckland AA205/01, 3 December 2001 at p5

successfully withdraw that resignation. Given the present divisions in the Committee, that prospect seems remote.

*Can members of the Committee attend meetings by telephone?*

[27] Clause 26 of the constitution set out in Schedule 1 of the Regulations states:

**Teleconference meeting of committee**

- (1) The contemporaneous linking together by telephone or other means of instantaneous audio (or audio and visual) communication of a number of the members of the committee of management not less than the quorum, whether or not any 1 or more of the members is out of New Zealand, shall be deemed to constitute a meeting of the committee and all the provisions in this constitution as to meetings of the committee shall apply to such meetings so long as the following conditions are met:
  - (a) all the members for the time being entitled to receive notice of a meeting of the committee shall be entitled to notice of a meeting by telephone or other means of communication and to be linked by telephone or such other means for the purposes of such meeting:
  - (b) each of the members taking part in the meeting by telephone or other means of communication, and the secretary, must throughout the meeting be able to hear each of the other members taking part.
- (2) A member may not leave a meeting conducted pursuant to this rule by disconnecting his or her telephone or other means of communication unless he or she has previously obtained the express consent of the chairperson of the meeting and a member shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone or other means of communication unless he or she has previously obtained the express consent of the chairperson of the meeting to leave the meeting as aforesaid.
- (3) A minute of the proceedings at such a meeting by telephone or other means of communication shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by the chairperson of the meeting or by the secretary.

[28] This provision makes it plain that meetings can be held by telephone and members can attend by that mode of communication. I am not aware of what reasons were given or if the actual request to join reached the whole Committee in time for the meeting. At the hearing Mr Koopu gave evidence that he phoned the Committee twice during the hui on 7 December 2013, when he realised he would not be able to attend the hui in time. He requested that he be allowed to cast his vote by telephone. He says that some of the Committee would not entertain this option and consequently he was not able to participate by way of telephone.

[29] In contrast, Committee members at the hearing indicated that the option of Mr Koopu participating by way of telephone was not communicated to all Committee members at the time.



Evidence suggests that the option of Mr Koopu's wife acting as a proxy was tabled but that the option of attendance by telephone was not made clear. I note that the draft minutes of that meeting have now been filed and they appear to make little if any reference to a request to attend the hui by telephone. That is not to say that Mr Koopu did not make such a request, merely that the draft minutes make no mention of this. Those minutes should be sent by the case manager to the parties without delay.

[30] In any event Mr Koopu was entitled to attend the hui by telephone. He might have withdrawn his resignation at that time since it was not effective until 8 December 2013. As he appears to have been either prevented from attending by telephone or he did not communicate his request to any Committee members in time, what might have occurred is speculation. For the avoidance of doubt any Committee member is entitled to attend meetings by telephone.

*Does the chairperson of an incorporation committee of management have a casting vote?*

[31] It is said that at common law a chairperson does not have a casting vote. Where there is no majority then a motion will be lost:<sup>6</sup>

When, as the result of the chairman's giving his vote, the numbers on either side become exactly equal, the common law appears to have provided no way out of the difficulty. The institution of a second or casting vote, as it is called, is the creature of the statute law introduced for the purpose of avoiding the deadlock, which would otherwise ensue.

[32] Clause 5(2) of the Third Schedule to the Companies Act 1993 also stipulates that in the case of a company the chairperson of the board of directors does not have a casting vote. However, in *R v Bradford Metropolitan Council, Ex. P Wilson* it was stated:<sup>7</sup>

A person who has a second or casting vote is clearly under a duty to exercise it honestly and in accordance with what he believes to be the best interests of those who may be affected by the vote. Subject to this, however, it seems to me that the person presiding at a meeting is fully entitled to use his vote as he thinks fit.

[33] This second view has also been acknowledged by the learned authors of *Shackleton on the Law and Practice of Meetings*<sup>8</sup> and in *Horsley's Meetings: Procedure, Law and Practice*.<sup>9</sup> They posit that, while there have been earlier pronouncements on the point, more recent authority appears to question whether or not the convention remains relevant and applicable.

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<sup>6</sup> *Nell v Longbottom* [1894] 1 QB 767 at 771

<sup>7</sup> [1989] 3 All ER 140

<sup>8</sup> Madeline Cordes and others 12<sup>th</sup> ed, Sweet & Maxwell, London, 2011 at 83

<sup>9</sup> A D Lang, 6<sup>th</sup> ed, LexisNexis, Sydney, 2010 at 199

[34] Turning then to incorporations, cl 25 of the constitution set out in Schedule 1 of the Regulations states:

**Meetings of committee of management**

- 25 Procedure and meetings of committee of management
- (1) Subject to the provisions of the Act and subject to any conditions imposed by resolution passed at a general meeting of shareholders, the members of the committee may meet together for the dispatch of business, adjourn, and otherwise regulate their procedures as they think fit.
  - (2) A quorum at such meetings shall be a majority of the members for the time being in office, but not less than 3 members.
  - (3) A committee shall, as required by section 273 of the Act, elect a chairperson of the committee, appoint a secretary of the incorporation, and appoint some place to be the registered office of the incorporation, and from time to time thereafter shall in the same manner fill any vacancy in the office of chairperson or secretary and may change the registered office.
  - (4) Particulars of such elections and appointments and all changes therein shall be supplied to the Registrar in form 4 of Schedule 2 or to the like effect.
  - (5) Meetings of the committee shall be called by the chairperson or may be held at such times and places as may be fixed by resolution of the committee.
  - (6) Any 2 members may at any time require the chairperson or the secretary to summon a meeting.
  - (7) Unless convened with consent of all the members, not less than 3 clear days' notice of any meeting shall be given to every member of the committee.
  - (8) A notice sent to a member's usual residential address, within the prescribed time, shall be sufficient notice for the purposes of subclause (7).
  - (9) If at any meeting the chairperson is not present at the time appointed for holding the meeting, the members present shall choose one of their number to be chairperson, and the person so chosen shall have and may exercise at that meeting all the powers of the chairperson.
  - (10) **Questions arising at any meeting shall be decided by a majority of the members present, but 3 members at least shall concur in every act of the committee.**
  - (11) **In the case of an equality of votes, the chairperson shall, in addition to a deliberative vote, have a casting vote.**
  - (12) The proceedings of every meeting shall be recorded in a minute book.

(Emphasis added)

[35] It is within the power of the Committee to accept the withdrawal of Mr Koopu's resignation. I understand Mrs Pook is the interim chairperson, according to the draft minutes of the 7 December 2013 meeting. If the Committee is deadlocked on any issue then she will have a casting vote to break that impasse, notwithstanding a generally accepted convention that a casting vote is usually exercised in support of the status quo. This is because on an equality of votes any motion so put will have been defeated without the intervention of a casting vote by the chairperson.

It has been held that the use of a casting vote must be exercised in good faith and to resolve disputes rather than to further personal interests.<sup>10</sup>

[36] The key point is that the chairperson of a Māori incorporation does have a casting vote, much like the chairperson of a Māori reservation trust.<sup>11</sup> The issue here is whether or not Mrs Pook was elected as interim chairperson for the 7 December 2013 meeting only or until any further election is held. The draft minutes appear to be somewhat ambiguous on the point. The issue may have been resolved since the sitting held on 8 January last.

[37] The Committee should at its next meeting, if it has not done so already, consider the question of accepting or rejecting Mr Koopu's attempt to withdraw his resignation. A copy of the minutes of that or earlier meetings that considered the point could then be filed with the case manager for the Court's information. I would also like to know if the Committee has made any final decision on chairperson, interim or otherwise, or whether the issue remains at large.

*What is the procedure to be followed when a casual vacancy arises?*

[38] This issue was raised during the hearing and members of the Committee made comments on this point. As foreshadowed, it also emerged that the Incorporation does not appear to have a policy or procedure in place for dealing with casual vacancies. I suggested that the Incorporation should simply follow the process adhered to by other bodies that have a triennial election cycle or one where the election is staggered so that vacancies arise on an annual basis.

[39] I further noted that usually the practice, in the absence of a definite procedure set out in the constitution or the Regulations, is for an election to be held for the balance of the term of the person who has resigned part way through their tenure provided this is done within 6 to 12 months of an election. By way of examples, this process applies to school boards of trustees, post settlement governance entities and members of local authorities.<sup>12</sup> For members of Parliament the time period between a vacancy and a by-election is much shorter.<sup>13</sup>

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<sup>10</sup> *In Re Bondi Better Bananas Ltd* [1951] O.R. 410, [1951] 3 D.L.R. 522 (Ont. Sup. Ct.); reversed on other grounds in *Bondi Better Bananas Ltd., Re*, [1952] 1 D.L.R. 277 (Ont. C.A.). See also *Re Medefield Pty Ltd* (1977) 2 ACLR 406 where in a case involving a two equal-member company with equal shareholdings the Court ordered an injunction restraining the member chairman from exercising his casting vote, which he had used in his favour.

<sup>11</sup> Reg 17(h), Māori Reservations Regulations 1994

<sup>12</sup> See s 105, Education Act 1989, cl 4.5-4.7, Second Schedule, Te Rūnanga o Ngāti Awa Charter and s 117, Local Electoral Act 2001

<sup>13</sup> Section 129, Electoral Act 1993

[40] While I acknowledge the comments made at the hearing that the Incorporation practice was to await the next annual general meeting before a casual vacancy is filled, if a resignation occurs within a very short time after an annual general meeting then the Incorporation will be carrying a vacancy for almost 12 months. That does not appear to be best practice.

[41] Section 275(2) of the Act provides:

**275 Conduct of meetings of shareholders**

- (1) General meetings of the shareholders of a Maori incorporation shall from time to time be held as required by this Act or by the constitution of the incorporation.
- (2) **The court may at any time by order direct the holding of a special general meeting of shareholders.**
- (3) All general meetings shall be summoned in the manner prescribed by the constitution of the incorporation.

...

(Emphasis added)

[42] Clause 23(1) of the Māori incorporations constitution states:

**23 Election of members to committee of management**

- (1) The election of persons to fill vacancies in the committee shall be conducted at the annual general meeting **unless the court in any particular case orders the holding of a special general meeting for this purpose**, or unless the committee decides to submit the filling of a vacancy to a special general meeting convened for that or any other purpose.

...

(Emphasis added)

[43] Contrary to the applicant's submissions, I consider that these provisions provide ample jurisdiction for the Court to be able to order that a special general meeting be held for the purpose of holding an election for the current vacancy on the Committee. In any event, I invite submissions from the parties on this issue to be filed within 21 days from the receipt of this decision on this point.

**Decision**

[44] Erueti Koopu resigned from the Committee of Management of the Mangaroa Incorporation on 8 December 2013 the date set out in his letter dated 4 December 2013.

[45] Should the Committee of Management accept the withdrawal of Mr Koopu's resignation he can then be reinstated as a member of that Committee. If the Committee declines to do so by the time of its next meeting then Mr Koopu's resignation remains effective.

[46] To avoid doubt I confirm that:

- (a) Any member of a Māori incorporation committee of management is entitled to attend a meeting of the committee by telephone per cl 26 of the Māori incorporation's constitution set out in schedule 1 to the Māori Incorporations Constitution Regulations 1994.
- (b) The chairperson of a Māori incorporation, in the absence of an express provision in the incorporation's constitution to the contrary, may exercise a casting vote per cl 25 of the Māori incorporation's constitution set out in schedule 1 to the Māori Incorporations Constitution Regulations 1994.

[47] The parties are invited to file submissions on the procedure to be adopted where a casual vacancy arises on the resignation, removal, incapacity or death of a member of the Committee prior to the expiry of their term of office, within 21 days.

[48] Leave is reserved for any party to seek directions at any time.

Pronounced in open Court at 4.15 pm in Rotorua on this 12th day of March 2014

L R Harvey  
**JUDGE**