

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

A20190008492

UNDER Sections 236, 237, 238 and 240 of Te Ture Whenua
Māori Act 1993 and section 68 of the Trustee Act
1956

IN THE MATTER OF An application for urgent interim injunction and
other orders

BETWEEN TE KOROWAI TIAKI O TE HAUĀURU
INCORPORATED SOCIETY
Applicant

AND TE RŪNANGA O NGĀTI TAMA TRUST
Respondent

Hearing: 18 October 2019
(Heard at New Plymouth)

Appearances: J Pou, R Haazen and R Enright for the Applicant
V Morrison-Shaw for the Respondent
P Beverley for the New Zealand Transport Authority

Judgment: 23 October 2019

JUDGMENT OF JUDGE D H STONE

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Introduction

[1] Te Rūnanga o Ngāti Tama Trust (“the Trust”) represents the iwi of Ngāti Tama. The Trust was established in 2003 to receive and manage assets, including land, from the Crown in settlement of the historical Treaty of Waitangi claims of Ngāti Tama. Since its establishment and in accordance with its deed of trust (“the Trust Deed”), the trustees of the Trust have been elected by those members of the iwi of Ngāti Tama who are registered with the Trust. Voting in the most recent trustee election closed on 21 September 2019.

[2] Te Korowai Tiaki o Te Hauāuru Incorporated (“Te Korowai”) is an incorporated society that operates for the benefit of the iwi of Ngāti Tama. On 19 September 2019, Te Korowai filed an application challenging the most recent trustee elections for the Trust. Te Korowai initially sought a number of orders from this Court, including urgent interim injunction orders requiring the Trust elections to be rerun and for the trustees elected to be restrained from making certain decisions in the interim.

[3] Te Korowai applies to this Court on the basis that the Trust has been constituted in respect of General land owned by Māori, and therefore falls within the Court’s jurisdiction under s 236 of the Act.¹

Procedural history

[4] The application by Te Korowai was filed electronically on 19 September 2019. The application was initially dealt with by Judge Harvey, who on 24 September 2019 requested submissions from the applicant on whether this Court has jurisdiction to consider the application. Counsel for the applicant filed those submissions on 24 September 2019. The application was then referred to me on 25 September 2019.

[5] On 27 September 2019, I held a judicial teleconference of the parties, through their counsel, per s 67 of the Act. At that conference, I adjourned the application for urgent injunctions and set the matter down for a substantive hearing on 18 October 2019. Of particular relevance was the fact that the trustees of the Trust agreed to notify the Court if they intended to make any significant decisions before the 18 October 2019 fixture.

¹ As recently confirmed by the Māori Appellate Court in *Moke v Trustees of Ngāti Tarāwhai Iwi Trust* [2019] Māori Appellate Court MB 265 (2019 APPEAL 265).

[6] The Trust and Te Korowai filed evidence and submissions in advance of, and made submissions at, the substantive hearing on 18 October 2019. The Trust led three witnesses at the hearing, each of whom gave *viva voce* evidence in response to some of the new matters raised in the evidence in reply filed by Te Korowai.

[7] The New Zealand Transport Authority (“NZTA”) sought leave to appear at the substantive hearing, which was not opposed by the parties. NZTA has an interest in these proceedings because it is currently negotiating an arrangement with the Trust relating to a proposed road by-pass at Mt Messenger. The by-pass is intended to go through land currently owned by the Trust. The by-pass is a significant project, and the arrangement with the Trust is an integral part of the project. The NZTA manager of that project, Mr Andrew Gard, gave evidence *viva voce* at the hearing on the project and the Trust’s involvement in it.

The issues

[8] At the hearing, Mr Pou as counsel for Te Korowai confirmed that the focus of the application and the nature of the relief sought by Te Korowai had narrowed since the application was first filed. He confirmed that the application was not about competing mandates between the Trust and Te Korowai. Nor was it about the Mt Messenger project. The application instead focusses on two main issues – the integrity of the beneficiary register maintained by the Trust and the most recent trustee election process.

[9] The overarching issues to determine are:

- (a) Does this Court have jurisdiction to consider the matters raised by Te Korowai?
- (b) Assuming the Court has jurisdiction, should injunctions be granted to require fresh elections to be held and to restrain trustee decision-making in the interim?
- (c) If injunctions are not required, should any other steps be taken now?

The law

[10] The recent Māori Appellate Court decision in *Moke v Trustees of Ngāti Tarāwhai Trust*² confirms that this Court has jurisdiction over trusts constituted in respect of any General land owned by Māori per s 236(1)(c) of the Act. The Trust holds such land.

[11] The Court also has statutory jurisdiction to grant injunctions.³ There is some uncertainty, however, as to whether that jurisdiction extends to General land owned by Māori. Section 19(1)(a), relating to actual or threatened trespass, clearly applies only to Māori freehold land, Māori reservations, or wāhi tapu. Section 19(1)(b), however, is not so limited, and instead can be invoked to prohibit any person from dealing with or doing any injury to “property that is the subject matter of the proceedings or that may be affected by any order that may be made in the proceedings”.

[12] Whether or not s 19 applies to General land owned by Māori, the injunctions sought by Te Korowai relate to matters concerning the Trust Deed. Te Korowai therefore invokes s 237(1) of the Act, which provides:

237 Jurisdiction of court generally

- (1) Subject to the express provisions of this Part of this Act, in respect of any trust to which this Part applies, the Māori Land Court shall have and may exercise all the same powers and authorities as the High Court has (whether by statute or by any rule of law or by the virtue of its inherent jurisdiction) in respect of trusts generally.

[13] The High Court has the power to grant injunctions by virtue of its general equitable jurisdiction.⁴ A recent example of the High Court considering this jurisdiction in relation to trusts is *McLaughlin v McLaughlin*, which confirms that in considering whether to grant an injunction in relation to trusts the Court must have regard to:⁵

² Above n 1.

³ Section 19, Te Ture Whenua Māori Act 1993.

⁴ See Andrew Butler (ed) *Equity and Trusts in New Zealand* (2nd ed, Thomson Reuters, Wellington, 2009) at [25.1.3].

⁵ *McLaughlin v McLaughlin* [2019] NZHC 2597 at [26], citing *American Cyanamid Co v Ethicon Ltd* [1975] AC 396 (HL); *Klissers Farmhouse Bakeries Ltd v Harvest Bakeries Ltd* [1985] 2 NZLR 129 (CA) at [133]; and *NZ Tax Refunds Ltd v Brooks Homes Ltd* [2013] NZCA 90, (2013) 13 TCLR 531 at [12].

- (a) whether the applicant can show there is a serious question to be tried;
- (b) the balance of convenience between the parties; and
- (c) the overall justice of the case.

[14] This approach has been followed in this Court.⁶ I adopt this approach also.

Submissions by Te Korowai

[15] Mr Pou submitted that this Court has jurisdiction over the Trust. He argued the Trust was constituted in respect of General land owned by Māori and therefore falls within the ambit of s 236(1)(c) of the Act. Mr Pou also submitted that Te Korowai has standing to make the application, as it represents beneficiaries of the Trust. However, to avoid any doubt as to standing, Mr Pou confirmed that Mr Allen White (being a beneficiary of the Trust) could be substituted as the applicant per s 71 of the Act.

[16] Mr Pou confirmed that Te Korowai does not seek injunctions under s 19 of the Act. Rather, Te Korowai seeks injunctions pursuant to s 237, which grants this Court the powers and authorities of the High Court in respect of trusts generally.

[17] Mr Pou accepted that, for an injunction to issue, the Court must be satisfied that there is a serious question to be tried, and that the balance of convenience and the overall interests of justice require it. In terms of whether there is a serious question to be tried, Mr Pou pointed to the evidence filed by Te Korowai as proving that there are real and substantial issues with the Trust's beneficiaries register and the recent trustee election process. He argued that the evidence showed, for example, that:

- (a) some voters had been removed from the beneficiaries register without their knowledge;
- (b) the PO Box maintained by the Trust and to which registration applications could be sent was inoperative for a period of 3-4 months, and registration

⁶ See, for example, *Taueki v Horowhenua II Part Reservation Trust – Horowhenua II (Lake) Block 920160* 347 Aotea MB 269 (347 AOT 269) at [17].

application forms that were sent to the PO Box during that period were “returned to sender”;

- (c) some voting packs for the recent trustee election process were not received by registered beneficiaries;
- (d) some beneficiaries who wished to register and vote during the election process were not advised until after the voting period had closed that their registration applications were not able to be processed due to insufficient supporting information being provided by them; and
- (e) some votes were received by email, which is not permitted under the Trust Deed.

[18] Mr Pou further submitted that the balance of convenience lies in favour of holding fresh elections. He submitted:

- (a) The ability to vote in trustee elections is a fundamental right of any member of Ngāti Tama. A failure to be able to exercise that right is a significant issue and should not be taken lightly. If individuals have not been able to exercise their democratic right, they must now be given the opportunity to do so. This weighs heavily in favour of requiring a fresh election.
- (b) The Trust’s pending decision of whether to enter into an arrangement with NZTA regarding the Mt Messenger project is one of the most important decisions that the iwi of Ngāti Tama has had to make in recent times. There will be irreversible prejudice if the Trust enters into any such arrangement. On the other hand, there will be no irreversible prejudice if there is a short delay to allow fresh elections to be held.
- (c) The beneficiary registration appeal process set out in cl 25 of the Trust Deed does not help, particularly for those individuals who applied to register during the election process and were advised after voting had closed that their

registrations had not been accepted. Those individuals have not had an opportunity to invoke the appeal process.

- (d) Running fresh elections will necessarily incur costs. But those costs will be incurred because the trustees of the Trust have not followed the Trust Deed. The consequences of failing to comply with the Trust Deed should fall to the trustees, rather than Te Korowai. Accordingly, the costs of a new election process should not be held against Te Korowai. In any event, those costs are outweighed by the adverse consequences of relying on a flawed and unsafe election process.
- (e) This is not a case of disgruntled election candidates challenging an election result they do not like. Te Korowai filed this application before the election process concluded and before the results were known.
- (f) There is no prejudice to NZTA if fresh elections are held because matters relating to the Mt Messenger project are not finalised. Some of those matters are currently before the Environment Court and may be subject to further appeal, meaning that fresh elections will likely be completed before the Environment Court and appeal processes are concluded.
- (g) The election results were close. There were 8 votes between the lowest polling successful candidate and the next highest polling candidate. The number of voters who were not able to vote were such that they may have affected the election result if they had voted. The closeness of the voting results weighs in favour of holding fresh elections.
- (h) There is a real risk that the Trust is misapplying the provisions of the Trust Deed that regulate eligibility to become a registered beneficiary of the Trust. Based on evidence given *viva voce* at the hearing by Mr Greg White, it appears that the Membership Committee established pursuant to cl 7 of the Trust Deed has relied on the names of Ngāti Tama ancestors who were granted awards by the Compensation Court in the 19th century to determine registration eligibility. If so, these names will be unlikely to include Ngāti

Tama ancestors who were not granted such awards, but who otherwise fall within the definition of “Ngāti Tama Ancestors” in the Trust Deed.

- (i) The Trust Deed does not permit electronic voting. Because the voting process involved iwi members casting votes electronically, the voting process was not undertaken in accordance with the Trust Deed.

[19] Finally, Mr Pou submitted that the overall interests of justice require that new elections be held and that the trustees should be restrained from making any significant decisions in the interim.

Submissions of the Trust

[20] Counsel for the Trust, Ms Morrison-Shaw, accepted that the Court has jurisdiction to grant injunctions and orders to enforce the Trust Deed, but rejected the notion that the Court has jurisdiction to grant injunctions over General land owned by Māori under s 19 of the Act. In terms of standing, although initially indicating that the Trust would consent to an amendment to the name of the applicant, Ms Morrison-Shaw was concerned that the proposed applicant, Mr Allen White, was a debtor of the Trust.

[21] In terms of injunctive relief, Ms Morrison-Shaw submitted that none of the grounds for an injunction were made out. In relation to whether there is a serious question to be tried, she submitted that the beneficiaries register and the election process are robust and should be relied on. In particular, she submitted that:

- (a) Of the 19 witnesses who gave evidence for Te Korowai, 11 were registered with the Trust, 14 voted in the trustee elections, and 4 of those votes were not counted because the persons who exercised them could not be registered without further information being supplied as to their eligibility. These numbers showed that, in fact, the witnesses for Te Korowai who were entitled to vote in the trustee elections did so.
- (b) All registered voters were sent voting packs. In response to evidence filed for Te Korowai that 27 persons received some mail from the Trust during the

election process but not their voting forms, the Trust produced a letter from the independent election returning officer, Electionz.com, confirming that voting forms had been sent to the address for those persons as recorded in the Trust's beneficiary register.

- (c) No persons have been removed from the beneficiaries register, unless they have requested to be removed. There is some confusion about how the beneficiaries register was first established in around 2003, as some people mistakenly believe that a register maintained by another Ngāti Tama entity at the time was merged with the Trust's register. The Trust produced evidence that it says confirms that no such merger occurred, such that some Ngāti Tama members may be operating under a mistaken belief that they are not required to register with the Trust.
- (d) No registration applications have been declined, although in 2019 12 applications are pending because the applicants have been asked to provide further whakapapa information.
- (e) The number of adult beneficiaries on the register generally aligns with the 2013 census information for Ngāti Tama.
- (f) The election process was run by an independent and experienced returning officer.
- (g) The Trust acknowledges that there were some "glitches" with the Trust's PO Box, resulting in it being inoperative for 3-4 months. However, these glitches were rectified some time ago and well in advance of the recent trustee elections. Of note, 89 new members were registered for those elections.
- (h) The Trust acknowledges that the contact details for registered beneficiaries as recorded in the register may be out of date from time to time. However, it is for the registered beneficiaries to update their contact details with the Trust.

[22] Ms Morrison-Shaw further argued that, if there is a serious question to be tried, the balance of convenience lies in not granting injunctions against the Trust for the following reasons:

- (a) An injunction is not necessary to protect the applicant. The current trustees have been properly elected. To the extent that there is concern regarding the Mt Messenger project, the Trust has confirmed that any agreement with NZTA will only be entered into in accordance with the Trust Deed.
- (b) The Trust accepts that damages would not be an adequate remedy if the applicant's grounds were made out.
- (c) Election processes are costly. Ms Morrison-Shaw indicated that the costs of running another election would be approximately \$20,000. There is no good reason for these additional costs to be incurred.
- (d) The proposed arrangement with NZTA, although not finalised, includes substantial benefits for Ngāti Tama. If the Trust is not able to finalise those arrangements, there will be significant opportunity costs for the Trust and its beneficiaries.

[23] In assessing the overall interests of justice, in addition to the matters relating to the balance of convenience, Ms Morrison-Shaw pointed to the following matters:

- (a) There has been significant delay by Te Korowai in filing the application. Some of the affidavits filed by Te Korowai were dated in May 2019, such that Te Korowai could have filed the application well before the trustee elections had even commenced. Instead, Te Korowai waited until the 11th hour in the trustee elections to file its application.
- (b) Te Korowai and some of its members have a history of challenging the Trust. These challenges have decimated what little funds the Trust retains.
- (c) There are alternative avenues available to Te Korowai. Te Korowai could have raised its issues with the Trust directly. Persons who are dissatisfied

with the beneficiary registration process are able to file appeals under cl 25 of the Trust Deed. Te Korowai members could have, and in fact did, stand as candidates in the trustee elections.

- (d) The purpose and objectives of the Act suggest that the Trust should be allowed to make decisions in accordance with the Trust Deed, in recognition of the rangatiratanga of Ngāti Tama.

Submissions of NZTA

[24] Counsel for NZTA, Mr Beverley, helpfully indicated in submissions that NZTA was available to answer any questions regarding the Mt Messenger project. He called Mr Andrew Gard to give evidence on the project. Of relevance, Mr Gard confirmed that the project is contingent on agreement being reached with the Trust. He also confirmed that NZTA is constantly assessing and reviewing its roading projects, to determine which projects should continue to be funded. If there are delays to the project (however caused), Mr Gard confirmed that there is a risk that NZTA will prioritise other projects.

Discussion

Jurisdiction and standing

[25] The applicant and the Trust agree that this Court has jurisdiction over the Trust and may issue injunctions to enforce the Trust Deed by exercising the powers and authorities granted to the Court under s 237 of the Act.

[26] It is appropriate that a beneficiary of the Trust is the named applicant. Mr Allen White consented to becoming the named applicant. Per s 71 of the Act, the application is amended to replace Te Korowai as the applicant with Mr Allen White.

Is there a serious question to be tried?

[27] The applicant has raised a number of issues with the beneficiaries register and the trustee election process. I note, in particular, the following issues:

- (a) The PO Box to which registration forms could be sent was inoperative for a period of 3-4 months around October 2018. There is evidence to show that some registration forms were returned to the sender during this period. The Trust does not deny this happened.
- (b) It is unclear how the Membership Committee established to consider registration applications applies the beneficiary definitions set out in the Trust Deed. The key definition in the Trust Deed relates to “Ngāti Tama Ancestor or Ancestors”, and means “any individual or individuals who, at any time after 1 January 1800 exercised customary rights within the Ngāti Tama Iwi Rohe by virtue of his or her being descended from Whata, Rakaeiora or Tamaariki (who were on board the Tokomaru waka that arrived in Aotearoa)”. Mr Greg White produced in evidence for the Trust a list of names which appear to be derived from the Compensation Court awards made in the 19th century. Although it is likely that those persons exercised customary rights within the Ngāti Tama Iwi Rohe at any time after 1 January 1800, there is at least a possibility that other persons may also fall into that category.
- (c) Clause 8.7 of the Trust Deed sets out the process to elect trustees. Although it expressly provides for postal votes, there is an argument that it does not allow electronic voting.

[28] Based on the evidence, I consider that there is a serious question to be tried. That question relates to the integrity of the beneficiary register and the most recent trustee election process.

Where does the balance of convenience lie?

[29] The applicant argued that prejudice would be suffered by the supporters of Te Korowai if a flawed trustee election process was not rectified, because the trustees elected would not be truly representative of the iwi of Ngāti Tama. That prejudice would be irreversible and significant if the trustees elected entered into a final agreement with NZTA that Te Korowai does not support. Conversely, the Trust argued that prejudice would be occasioned if fresh trustee elections are required. That prejudice would be irreversible and

significant if NTZA decided to walk away from any Mt Messenger arrangement with the Trust because of the delay associated with holding fresh elections.

[30] The arguments regarding prejudice largely relate to the Mt Messenger project and the details of any arrangement that may be reached between the Trust and NZTA. However, no such arrangement has been finalised yet. Accordingly, it is difficult to say whether such an arrangement will be prejudicial, as much as it is difficult to say whether failing to agree to such an arrangement will be prejudicial. Issues of prejudice arising from the details of any arrangement with NZTA are therefore hard to assess at this stage.

[31] Mr Gard for NZTA was relatively clear, however, that any further delays (for whatever reason) to the Mt Messenger project may cause NZTA to revise its position, which in turn may result in NZTA walking away from any potential arrangements with the Trust. If this occurs, there will be a lost opportunity for the Trust that may never come again. Running fresh elections will necessarily involve some delay. It is unclear whether that delay will trigger NZTA to walk away, but there is potential for that to happen. If so, an opportunity to the Trust will be lost. This potential lost opportunity points in favour of not granting the injunctions sought.

[32] It is obvious that fresh elections will cause the Trust to incur additional costs. However, if the beneficiary register is not up to scratch or the election process was flawed, those costs are simply unavoidable. The real question is whether the issues with the register or trustee election render it unsafe to rely on the election outcomes. Although I consider that there is a serious question to be tried, I am not convinced at this stage that it is unsafe to rely on the recent trustee elections. My reasons include the following:

- (a) Although it is argued that 27 voters did not receive their voting packs, the independent returning officer has confirmed that voting packs were in fact sent to those voters.
- (b) Of the remaining issues, it appears based on the numbers in evidence that the number of voters that may have been affected by those issues (assuming the applicant's evidence is to be preferred) are unlikely to have had a substantive effect on the election results.

- (c) If there is an issue with how the eligibility criteria are being applied, that is an issue that would seem to have applied for all prior trustee elections. No evidence was before the Court to indicate that any issues were raised in relation to those elections.
- (d) I am not yet convinced that the Trust Deed does not permit electronic voting. It certainly does not expressly preclude it. Clause 8.7 of the Trust Deed expressly requires the trustees to conduct the trustee election process “having regard to the best method of ensuring a fair and democratic process” and in accordance with certain provisions. Those provisions refer to a “postal voting form” as prescribed by the trustees. It is within the ambit of cl 8.7 of the Trust Deed for the trustees to permit electronic voting, so long as the form used for that type of vote is prescribed by the trustees. Electronic voting makes voting easier and enables more people to vote, which ensures a fair and democratic process.

[33] Much was also made of the possibility that persons have been removed from the beneficiaries register, perhaps on the mistaken belief that they were put on it as a result of the alleged merger of iwi registers in 2003. I accept the evidence for the Trust that no persons have been removed from the register without their approval. There is some confusion about whether historical iwi registers were merged. However, any such confusion can be allayed simply through individuals confirming with the Trust whether or not they are registered and, if they are not, completing and filing new registration forms. That approach is more convenient than running fresh elections.

What are the overall interests of justice?

[34] Delay in making the application is a relevant consideration in determining the overall interests of justice. I accept from the evidence that some of the affidavits filed by the applicant were dated in May 2019. If this application was made then, the issues could have been resolved or determined before the election process was commenced. Instead, the applicant filed the application at the 11th hour, on the penultimate day of voting in the trustee elections. In fact, because the application was not accepted for filing by the Court until after

voting had closed, it could be said that the application was filed well after the 12th hour. The short point is that the application could have been filed much earlier.

[35] Delay is also relevant to the alleged registration issues. Although the “glitch” with the PO Box for the Trust may be relatively significant, it occurred approximately 12 months ago. Any person who tried to register during that period in which the PO Box was inoperative has had ample time since to reapply if they wished to vote in the recent trustee elections.

Outcome

[36] Although there are serious questions to be tried, the balance of convenience and the interests of justice indicate that injunctions should be not granted. I therefore decline to exercise my discretion to injunct the trustees of the Trust to require them to hold fresh elections or to restrain their decision-making.

[37] In terms of the substantive application, I consider that it will be helpful for the Court to understand how the Membership Committee determines eligibility for registration. The trustees are therefore directed per s 238(1) to file with the Court a written report on how the Membership Committee determines eligibility to be a beneficiary of the Trust.

[38] There may be other matters relating to the beneficiaries register or the recent trustee election process that should be included in any report from the trustees. The applicant is directed to identify and advise the Court of any such matters. The trustees should have an opportunity to respond.

[39] Clearly there is some division within the iwi regarding the Mt Messenger project. The trustees have confirmed that they will comply with the terms of the Trust Deed if they enter into any arrangement with NZTA concerning that project. That, of course, is to be expected. There will be problems otherwise.

[40] There is a live question as to whether any arrangements between the Trust and NZTA will need to be approved by the iwi members. This will depend on whether the arrangement, once finalised, is a major transaction, as that term is defined in the Trust Deed. Given the strong feelings held by some iwi members regarding the Mt Messenger project, I asked the

trustees to consider whether they would seek iwi member approval of any arrangement with NZTA irrespective of whether or not it is a major transaction. The trustees declined to do so. I am not sure why. Perhaps it is a question of costs. Perhaps it is because the arrangement may not be approved by the iwi members.

[41] It may be difficult to assess the value of any final arrangements agreed between the Trust and NZTA, which in turn may make it difficult to assess whether they would constitute a major transaction for the Trust. The definition of major transaction in the Trust Deed could also be open to a permissive interpretation, such that it could be argued that the major transaction threshold is not triggered. But to take that approach would seem to invite further challenge and, more importantly, continued division within the iwi. I encourage the Trust and NZTA to consider carefully whether the prudent approach in these circumstances is to seek iwi member approval of any arrangements agreed between them. It would seem that the cost of checking the pulse of the iwi on this significant issue would be relatively insignificant compared to the certainty that will result what the iwi members think.

Directions

[42] The trustees of the Trust are directed per s 238(1) of the Act to file with the Court a written report on how the Membership Committee determines eligibility to be a beneficiary of the Trust. In particular, the trustees are directed to address the following issues:

- (a) Is there a list of persons who the Membership Committee considers are “Ngāti Tama Ancestors” as defined in the Trust Deed?
- (b) If there is a list of Ngāti Tama Ancestors, how have they been determined? Specifically, have they been determined by reference to Compensation Court determinations between the 1860s and 1890s?
- (c) Does the Membership Committee recognise any “Ngāti Tama Ancestors” who were not named in Compensation Court awards? If so, who are they? How has the Membership Committee determined that they exercised customary rights in the Ngāti Tama Iwi Rohe at any time after 1 January 1800?

[43] The applicant is to advise the Court and the Trust by **4.00pm Friday 1 November 2019** of any additional matters that should be included in the s 238(1) report from the trustees of the Trust. The trustees of the Trust are to advise the Court and the applicant by **Friday 8 November 2019** of any objections to the additional matters raised by the applicant. The Court will confirm the matters that should be included in the s 238(1) report as soon as practicable after that date.

[44] The s 238(1) report from the trustees of the Trust is to be filed with the Court, and served on the applicant, by **4.00pm Friday 29 November 2019**.

[45] Further directions may issue following the receipt by the Court of the s 238(1) report from the trustees of the Trust.

Pronounced at 12:00 pm at Masterton on Wednesday this 23rd day of October 2019.

D H Stone
JUDGE