

20 OCT 2016

Place: Kaikohe
Present: M P Armstrong, Judge
 S K Lauder, Clerk of the Court
 K Hardstaff, Deputy Registrar
 B L Ward, Court Assistant
Date: 25 August 2016

Panui No: 27 **Application No:** A20150003572

Subject: Omapere Taraire E & Rangihamama X3A Ahu Whenua Trust - Variation of trust

Legislation: Section 244, Te Ture Whenua Māori Act 1993

Present: P W Jones, Raniera Tau, Bruce Cutforth, Isobel Naera, Barbara Naera

Details of the applicant are as follows:

Applicant	Address
Ayla Jane Walker	PO Box 604, Kaikohe 0440

Brandon-Lee Ward, for Deputy Registrar: An application has been lodged to vary the trust order for the Omapere Taraire E & Rangihamama X3A Ahu Whenua Trust. Details of the Ahu Whenua Trust are as follows:

Name of Trust:	Omapere Taraire E & Rangihamama X3A Ahu Whenua Trust
Type of Trust:	Ahu Whenua Trust
Original Trustees:	69 Whangārei MB 266 dated 02 July 1990 Dave Toia, Haki Wihongi, Irihapeti Pou, Hera Motu, Toko Herewini, Isobel Maka-Kea, Hare Taimana, Arthur Harawira and Hamahona Pehi
Current Trustees:	17 Taitokerau MB 261-275 dated 21 January 2011 Bruce Cutforth, Taoko Wihongi, Te Tuhi Robust, Raniera Sonny Tau and Colleen Bermingham-Brown.
Trust Order:	72 Taitokerau MB 32-37 dated 09 December 2013

The trust administers the following lands:

Block:	Omapere Taraire E
Area:	1418.3225 hectares
LINZ Reference:	NA93D/221
District Council:	Far North District Council

PWA

Block:	Rangihamama X3A
Area:	573.8837 hectares
LINZ Reference:	NA89C/55
District Council:	Far North District Council

Block:	Kohewhata 27C2A
Area:	2.7351 hectares
LINZ Reference:	NA42A/721
District Council:	Far North District Council

Block:	Kohewhata No 27B
Area:	2.4964 hectares
LINZ Reference:	NA255/277
District Council:	Far North District Council

Block:	Papakauri A No 1
Area:	1.2141 hectares
LINZ Reference:	391378
District Council:	Far North District Council

Block:	Papakauri A No 2
Area:	1.2141 hectares
LINZ Reference:	402976
District Council:	Far North District Council

Block:	Papakauri A No 3
Area:	8.8098 hectares
LINZ Reference:	372698
District Council:	Far North District Council

The Court is referred to the minutes of the Omapere Taraire E & Rangihamama X3A Ahu Whenua Trust Special General Meeting held at Kohewhata Marae on 2 May 2015. A copy of the minutes is on file.

In accordance with clause 4.6.3 of the trust order a 14 day notification is required. A copy of the advertisement has now been filed.

In accordance with clause 4.6.4 of the trust order the quorum for a beneficiaries meeting shall be 30 beneficial owners. The quorum was not met.

The application is made to vary the trust order clause 5.1.1 from five trustees to seven.

An order is respectfully sought varying the terms of trust for the Omapere Taraire E & Rangihamama X3A Ahu Whenua Trust.

CLH

Transcript of Recorded Hearing:

Peter Jones: Kia ora Judge.

Court: Kia ora.

P Jones: My name is Jones. I appear on behalf of the applicants. I do not know whether it is a technical difficulty but Ms Walker is no longer the manager of the trust but the trust still wishes the application to proceed. I have two trustees with me, Mr Tau and Mr Cutforth.

Court: Thank you Mr Jones. Despite Ms Walker's absence it is clear the application is brought on behalf of the trust...

P Jones: Yes.

Court: ...so I don't have any issue with that. So according to the application Mr Jones, it appears that what is being sought is a variation to the trust order to increase the number of trustees?

P Jones: Yes Sir. The application is to increase the number of trustees from five to seven but to make no other change to the trust order.

Court: And I understand that there hasn't actually been an election to fill the extra two positions, it is simply a variation to the trust order at this stage?

P Jones: That is correct Sir. I think Mr Tau may –

Raniera Tau: Sir, if my – and there is some correspondence here if it is followed – we have mooted this for a couple of years now and we have said that immediately upon the Court granting this application we will then advertise for one. We have advertised in the paper as we sit here to comply with the period or elections. We have put in the papers the trustees that have or whose terms are up for election; myself, Taoko Wihongi and Bruce Cutforth, we have got those advertised but we were unable to advertise these until we get the stamp. As soon as that happens we will increase the number from five to seven at this time Sir and then one in abeyance until such time as we see the numbers able to carry out that work.

Court: Ka pai. So Mr Tāu, the variation or the potential to increase to seven trustees, that is something that has been discussed at a number of general meetings with the beneficiaries is it?

R Tau: Yes Sir.

Court: Okay.

R Tau: And we have evidence here on that.

Court: And is it something that was sought by the beneficiaries?

R Tau: It was sought by the trustees because of the workload Sir.

Court: I see.

PLA

R Tau: And we have put it to the trust for a couple of years now and we have brought it to fruition – bringing it to fruition by the application by our office manager in the past and that's why we are here today Sir.

Court: Okay. Now it just wasn't clear to me Mr Tau looking at the minutes from the hui on 2 May 2015 which are the minutes that were filed for this application, so it refers there to a recommendation to vary the trust order to allow for two additional trustees. Was that approved by the beneficial owners?

R Tau: Subsequently that has been as part of the minutes of the next meeting.

Court: I see.

R Tau: They have been, yes, accepted as being part of those minutes.

Court: Sorry, so it was approved at a subsequent hui?

R Tau: No, no. I mean when you put recommendations to the Board – to your report then it is not ratified until the next meeting.

Court: I see.

R Tau: So it was ratified at the next meeting...

Court: I see.

R Tau: ...that the Chairman's Report was accepted with those recommendations in it.

Court: I see. So the variation was approved by the beneficial owners...

R Tau: Yes, yes Sir.

Court: ...at that hui?

R Tau: Yes Sir.

Court: And I see that a copy of the notice for the general meeting has also been filed as well pursuant to the directions I think that I issued earlier?

P Jones: Yes, yes Sir. I had filed by email on 3 August copies of the advertising details as well as of the advertisement. And furthermore, a copy of the attendance register at the meeting. The names are entered on that register as beneficiaries – get vouchers from the trust which they are entitled on attendance.

Court: Okay. Can I just check, is there anyone here who is objecting to the proposed variations to the trust order? Kāo? Orders granted as set out in the submission.

P Jones: As Your Honour pleases.

Court: Kia ora.

P Jones: One matter that Mr Tau has asked me to clarify Sir. The order is now made, it takes effect from today and the trustees –

R Tau: So we can put the advertisement into the paper Sir?

PPH

Court: Yes. So there will obviously be a slight delay between the new trust order being amended, drawn up and circulated but the order is effective as of today's date.

R Tau: Thank you.

P Jones: Thank you Sir. I have one other matter relating to this trust Sir which you might have expected to hear from me. Can you give any indication when Your Honour's judgment might be available in the Tahere matter?

Court: I am currently working on that at the moment Mr Jones so hopefully it won't be too far away. I can't give you a definite date...

P Jones: No I understand that Sir.

Court: ...but I am in the process of finalising the decision.

P Jones: Thank you very much. Kia ora.

Court: Thank you.

Pursuant to Section 244 of Te Ture Whenua Maori Act 1993, the Court makes an order varying clause 5.1.1 to read "There shall be seven (7) trustees" in the terms of trust for the Omapere Taraire E & Rangihamama X3A Ahu Whenua Trust.

The foregoing orders to issue forthwith pursuant to rule 7.5(2)(b) of the Māori Land Court Rules 2011.

Copy of the minute to the applicant and interested parties.


M P Armstrong
JUDGE