

Annual General Meeting

19th October 2018



Omapere Taraire E Rangihamama X3A

Ahu Whenua Trust

Table of Contents

Page

Agenda

Minutes of AGM – 15th December 2018

Chairman’s Report

Papakainga Housing Development Report

Community Report

Omapere Farm Report

Rangihamama Farm Report

Forestry Report

Honey Report

Water Management Report

Rental Housing Report

Financial Report

OMAPERE TARAIRE E RANGIHAMAMA X3A AHU WHENUA TRUST
ANNUAL GENERAL MEETING 2019

To be held on Saturday 19th 2019 at Conference Room - Te Runanga a Iwi o Ngapuhi, Mangakahia Road, Kaikohe

AGENDA

- 8.00am Registrations open
- 9.30am Proxy registration closes
- 10.00am **AGM commences – Powhiri/Whakatau**
Shareholder & Beneficiary registration close
- 10.15am Bus trip to Rangihamama Farm & Papakainga Development
- 11.15am Morning Tea
- 11.30am **AGM continues - Portfolio Reports**
- 2018 AGM Minutes (15 December 2018)
 - Chairman's Report
 - Maori Land Court update
 - Community Portfolio Report
 - Omapere Farm Report
 - Rangihamama Dairy Farm Report
 - Forestry Report
 - Honey Report
 - Rental Housing Report
 - Papakainga Housing Development Report
 - Financial Report
 - General Business
- 2.00pm **Elections of Trustees - 5 x Trustee vacancies**

The following Trustee nominations were received and deemed valid:

1. Anne Tau
2. Colleen Bermingham-Brown
3. Raniera Tau
4. Steve Turner
5. Te Aroha Reihana – Ruka

Election of these candidates will be recorded, as valid nominations equal vacant positions.

2.30pm **Proposed changes to vary the Trust Order and Voting**

That the Trustees propose to apply to the Maori Land Court to vary the Trust Order as follows:

To remove clauses 5.2.1 and 5.2.2 and replace them by the following wording:

"5.2.1. Trustees may attend meetings by means of any electronic communications system that allows instantaneous and simultaneous communication PROVIDED THAT during any meeting constituted partly or wholly by such electronic communications at least 3 trustees are in constant communication.

5.2.3. In addition to resolutions of trustees passed during trustee meetings, resolutions may be validly passed by the trustees circulating email or other communications sequentially amongst themselves PROVIDED THAT any such resolution must be passed by a majority of the trustees."

4:00pm Closing karakia and kai

Only registered Shareholders with valid photo ID* will be able to vote on the day.

(* - the name on the photo ID, must correspond with the Maori Land Court shareholder register)



MINUTES for Omapere Taraire E & Rangihamama X3A Ahu Whenua Trust Annual General Meeting

Saturday 15 December 2018

Venue: Kohewhata Marae, Kaikohe

Meeting Proper Opened: 11:00am

Karakia Hakapuare/ Mihi: Wati Erueti

Waiata: Ma wai ra e Taurima

Opening: Registrations commenced at 9am with the bus trip to the Papakainga homes and Rangihamama Farm leaving at 9:30am after morning tea. Buses returned to Marae 10:45am, for an 11am start of the AGM Meeting. Further, the Chairman opens the meeting and notifies everyone the meeting will be recorded for accuracy of Meeting Minutes.

In Attendance of the Hui

Members of the Board: Chairman Raniera Tau, Trustee Colleen Bermingham-Brown, Trustee Dr Te Tuhi Robust, Trustee Bruce Cutforth, Trustee Rachel Witana, and Trustee Taoko Wihongi.

Nga Manuhiri: As per the Shareholder/Beneficiary Attendance Register.

Nga Kaimahi: Financial Accountant John Parmenter, Office Administrator Heidi Tau, and Accounts Administrator Lisa Inverarity.

Confirmation of Previous Minutes

NOTE: There has been an amendment to the minutes of the SGM held 24th March 2018. Two resolutions are placed in which shareholders will vote for the outcome of these minutes.

Resolution 2018/12 – 01

That these minutes are true and correct.

Moved: Carol Brennan **Seconded:** David Parsons

Outcome – For: 31 Shareholders **Against:** 28 Shareholders **Carried.**

Resolution 2018/12 – 02

That the minutes of the last meeting were not true and correct.

Moved: Francis Hogg **Seconded:** Te Aroha Reihana-Ruka

Outcome – Resolution Lost as per the above.

NOTE: After some discussion and disagreement around the Trust Deed and resolution matters; Moana Tuwhare, legal counsel for Rachel Witana is requested by Rachel to stand. Moana stands and provides a summary of the matters before the Maori Land Court. Further, Moana states in her opinion that this particular AGM has to go ahead as Trustee re-elections are to be held and it may resolve some of the Board issues.

The Chairman states; The AGM is later than usual today, because the Trust is at the end of the legal requirements of the Trust Deed. There have been many challenges this year, and despite all the challenges there is recorded \$500,000 profit this year.

Apologies – Nil Recorded

Conflict Register – Nil Recorded

Chairman's Report

Raniera Tau presented a report.

Resolution 2018/12 – 03

That the Chairman Report as presented be accepted.

Moved: Raniera Tau **Seconded:** Peter Parsons **Outcome:** *Carried Unanimously.*

Community Portfolio Report

Colleen Bermingham-Brown presented a report.

Resolution 2018/12 – 04

That the Community Portfolio Report as presented be accepted.

Moved: Colleen Bermingham-Brown **Seconded:** Carol Brennan **Outcome:** *Carried.*

Waiata Interlude

Waiata were sung by the whānau to calm down the atmosphere in the whare today which had got out of hand.

Hui Hakamutunga **NOTE:** The AGM was shut down and adjourned to March 2019.

Outcome:

- Going forward Te Tuhi and Colleen will stay on board as Trustees until such time as an election is held as per the requirement of the Trust Deed.
- The four nominations for the three Trustee positions for the Trust will be the only nominees put forward at the adjourned AGM in March 2019.
- People voting need to ensure that they are registered in time to be counted as part of the voting on matters that need resolution.
- Only shareholders or their proxies are entitled to vote. This was one of the issues raised today and the majority of Trustees did not want to deviate from the Trust Deed.

Conclusion:

Although the meeting did not finish all its business today, food vouchers and a pot of the Trusts Manuka honey were given out to shareholders and beneficiaries who had signed the register.

Mihi Mutunga: Dr Te

Tuhi Robust **Karakia:**

Percy Pou

Meeting closed: 1pm.

Confirmed:

Date:

Chairman's Report

EXECUTIVE SUMMARY

Resolution

That this Annual General Meeting (AGM) of the Omāpere Tarāire E and Rangihāmama X3A Ahu Whenua Trust (ORT) dated 19th October 2019, received this report and endorses the following resolution:

1. That the Trustees propose to apply to the Māori Land court to vary the Trust Oder as follows:

To remove clauses 5.2.1 and 5.2.2 and replace them by the following wording:

"5.2.1. Trustees may attend meetings by means of any electronic communications system that allows instantaneous and simultaneous communication PROVIDED THAT during any meeting constituted partly or wholly by such electronic communications at least 3 trustees are in constant communication.

5.2.3. In addition to resolutions of trustees passed during trustee meetings, resolutions may be validly passed by the trustees circulating email or other communications sequentially amongst themselves PROVIDED THAT any such resolution must be passed by a majority of the trustees."

Tēnā tātou kātoa

Ngā mihi tuatahi ki tō tātou Matua nui i te Tangi, lo Te Matua, mō āna manaakitanga maha ki ngā mea kātoa. Tuarua i o tatou pikau Aitua e hinga ra i a rātou kua ngāro atu ki te Pō. Haere haere haere. Ki a tātou te hunga ora ki te hunga ora, tēnā tātou kātoa.

On behalf of all trustees I would like to welcome all shareholders; beneficiaries and manuhiri to this AGM. Many of you will be more than be aware of the many challenges that boards such as this encounter on a regular basis. Not with standing that we as trustees are tasked by you the shareholders and beneficiaries to care and progress the kaupapa of the trust to best realise the mission statement – ***"Kia huri te whenua hei orange mo te iwi"/ "The land will sustain its people."***

Introduction

As the most recent Chair of the Board while presenting an overview of the activities to this 2019 AGM, I am mindful of the contributions of my respective trustees; advisors, staff alongside whānau and others within our immediate and extended community of Kaikohe. This particular report is premised on such contributions and discusses the period 1 July 2018 to 30 June 2019.

It is also important to note that the AGM held on 15 December 2018 at Kohewhata Marae, Kaikohe was adjourned and is reported as such within the minutes noted. What transpired in that meeting was unfortunate but it happened on one of our tupuna marae and I would hope that we as a whānau can learn from what occurred and I personally want to apologise to Kohewhata Marae Komiti on behalf of this Board.

Maori Land Court

The Maori Land Court (MLC) hearings concerning this Trust were convened 20-21 November 2018, 182 Taitokerau MB 201-374 and 7 February 2019, 188 Taitokerau MB 1-82 (Heard at Whangarei). A Judgement was released on 11 June 2019. The hearings were convened before Judge M P Armstrong.

The outcome of the hearings provided direction for the present trustees on the board. The removal of two trustees – Raniera (Sonny) Tau and Taoko Wihongi left four trustees to govern the organisation and management of the Trust to the present. The impact of this has been major with regard to increased workloads for the remaining trustees to date.

The meeting is reminded that the MLC hearings stemmed from an application by Top Energy to erect transmission lines across Trust land. Two trustees objected to this and have had their decision noted within the above judgement of Judge Armstrong. A further application has been made by Top Energy to extend another section of their network or transmission lines within the same vicinity. This is an area that the incoming Board will have to address as part of board business. The meeting should note that should trustees record their opposition to such issues then they as of right have opportunity to be excused from the majority decision through the MLC, as noted.

It is important to note the substantial impact legal challenges have had on the integrity of the Trust. Not only the high financial costs but the impact on individuals and more importantly their immediate and extended families and for this we need to be mindful of into the future. However, the Board is charged with this responsibility by you and have acted accordingly as required by the Trust Deed.

A report on the Land Occupation was received last year. It has since been reported that some of the same land has been re-occupied. Our legal counsel – Peter Jones/ Isabel Blake has advised the MLC and District Court of this situation. Advice notified from the District Court required the Trust to present another injunction against the occupant. A formal warrant has been issued and to be executed by the Court Bailiff in due course with the support of NZ Police. Members of the Board will also be present.

Strategic Plan 2016 – 2021

1. 100% Ownership of trustees Whenua Shares

Key Strategic Goal	Key Result Area	Deadline	Responsible	Note
Obtain majority shareholding by 2016	Māori Trustee shareholding less than 50%	Nov 2016	Board	Achieved
Obtain full ownership by 2025	Majority shareholding by 2016	Nov 2025	Board	Progressing

The Board has continued toward achieving the set target to obtain 100% ownership of Māori Trustee. The Trust will continue to purchase these shares at \$50,000 per annum and is reported further by Colleen Bermingham-Brown.

2. Financial Stability and Viability

Key Strategic Goal	Key Result Area	Deadline	Responsible
Good Financial systems maintained	<ol style="list-style-type: none"> 1. Financial systems reviewed annually 2. Financial systems amended as recommended by the review 3. Budgets prepared and approved annually 	June	Colleen
All financial investments to be well researched & considered	<ol style="list-style-type: none"> 1. Trustees to formulate a template for decision making in future investment decisions 2. Review performance of all financial diversification investments quarterly 	April 2017 Quarterly	Te Tuhi Colleen
Assets Protected	<ol style="list-style-type: none"> 1. Write up a Risk Management profile 	Dec 2016	Te Tuhi

Financial Systems

This year will register a financial deficit for the operational activity of the Trust. John Parmenter, Accountant will provide further information on the planning going forward in managing this situation.

Integral to all governance is the need to align financial targets to strategic direction as agreed by shareholders. This confirms the importance of AGM's and SGM's unique to this Trust. Trustees continue to seek and provide additional income streams as experienced more recently with the Honey operational activity. The development of a sustainable harvest management programme for Totara on the Rangihamama Farm block is progressing toward realising increased and sustained income for the Trust into the future. MPI officials and others have participated in bringing about this development.

Asset protection continues to be integral to the business of the Trust which maintains a low risk profile, therefore protecting the Assets of the Trust. All farms have met their respective budgeted targets for the year. There has been a new Manager appointed to the Rangihamama Farm operation. This will be discussed further by Bruce Cutforth.

3. Economic Growth

This is an area that requires further scrutiny going forward. The economic climate within the respective dairy and sheep/ beef industries remains fluid. However, with responsible financial management and ongoing discussion with government and non-government funding agencies in time the Trust will continue to prosper even better than we are today.

4. Advance Positive Social Change for Whānau & Community

In the last three years this portfolio has undergone significant change and repositioning to prepare the Trust in meeting the strategic intent of contributing back to shareholders and beneficiaries. The continued investment in scholarships and grants are examples of this approach. Colleen Bermingham-Brown will lead discussion on this later in her report.

Within the construct of this report is the advancement of the first tranche of Papakainga Houses that are nearing completion. As reported early in the project we had to take steps to cancel a contract with the first builder who did not meet the required level of delivery. This led to remedial steps that have been implemented in conjunction with Te Puni Kokiri to what is now a very good model of development for eight homes and planning progressing for a further tranche of seven homes into the near future depending on funding. Whānau are urged to register their interest in being considered for houses.

5. Natural Resource Management

Bruce Cutforth has reported the completion of large areas of Manuka plantings for waterways management on our farms. This is a programme that is growing with further areas identified for attention.

6. Sites of Cultural Significance

The Board more recently have been meeting with the Putahi Maunga Trustees. Key elements resolved are to jointly identify significant cultural sites and steps to be taken in maintaining areas into the future; all work in the immediate vicinity of the maunga to be discussed with Putahi Trust prior to work being done. It was noted that past activity on this prior to the formation of the Trust saw identified areas fenced on the Omapere Farm. Today there is no evidence of those same areas. It is agreed that these areas be restored as a priority.

Future consideration for the Trust would be to include the culturally significant areas within the Trust Deed therefore, confirming a commitment to preserving such sites into the future. Rachel Witana will provide additional comment on this activity.

Conclusion

On behalf of the Board I wish to again thank all of our staff, including our office personnel; farm managers and workers, accountant, farm consultants, advisory committees and trustees overseeing portfolios. Ngā mihi. We have come too far not to keep going whānau.

I, now turn to you as shareholders and beneficiaries. This is my final AGM report to you all as a trustee and Chair of the Board. Be assured that it has not been the easiest of times having endured huge challenges and public scrutiny and criticism through the media and other related means. Being a trustee and the Chair on this Board is a privilege however, be assured this does not mean we have all of the answers but we do the best we can. Let us as a whānau look forward into the future with the knowledge of the past informing us. To you as kaumatua, kuia, parents, individuals, mokopuna continue to support the Trust and the Board who are elected by yourselves. They cannot do the work in isolation.

To the incoming board, please note that there are always going to be challenges to decisions and directions you will make. This is part of what comes to you as a trustee in present day circumstances. Your personal and professional integrity will be under intense scrutiny as will your family. There is a need to ensure that some decisions taken will not please everybody but be assured that there is in place a very broad and firm foundation of governance flowing on into management and operational activity. This has emerged from what some of this particular board had inherited. I entrust you to uphold the kaupapa of the Trust.

Nāku noa, nā

Dr Te Tuhi Robust
Chair

Community Portfolio Report:

Colleen Bermingham-Brown

It's an absolute pleasure to once again report on the Community Portfolio for the 2019 financial year. Over the past 12 months we have been focussed on embedding the current suite of programmes that are managed within this portfolio while also ensuring we have achieved all the community objectives within our 2016 – 2021 Strategic Plan.

Purpose

My vision when creating the Community Portfolio back in 2010, was to develop a suite of programmes focussed on supporting the wellbeing and future development of our ORT Shareholders', Beneficiaries', and their whānau. This vision has not changed, and there is still more that can be achieved.

Community Programmes Overview

Outlined below are updates on all the programmes currently managed within the ORT Community Portfolio. The portfolio is focussed on delivering programmes that are focused on building capability and supporting within our ORT whānau, while developing new and future proofing current programmes for the benefit of our future generations.

Building capability in our whānau

Education Scholarships 2019

This year we have seen an increased number of applications from females applicants for our scholarships. With once again, over 50% of the applications being received either via the online application portal on the ORT website or via email.

On the closing date of March 30th, 2019, we had received the following:

Completed Applications: 18

Withdrawn Applications: 0

Incomplete Applications: 4 – Applications did not provide all information required to complete application before the due date.

Our ORT policy and practice is to contact all applicants with incomplete applications, and to update them on their application status and additional information required to complete their applications. This ensures they have sufficient time to provide the additional information required before the closing date. Two Trustees review then all completed applications and once selected, our recommendations are presented to the Board for their approval and endorsement.

This year's successful scholarship recipients were announced in March as in previous years.

All applicants were contacted directly with the outcome of their applications and the successful applicants receiving their scholarship payment via direct credit in April 2019.

Please join me in congratulating the ORT Education Scholarship recipients for 2019.

Masters & Post Graduate Certificates (\$7.0k)

- | | |
|---------------------|-----------------------------------|
| 1. Friday Roundtree | Master of Business Administration |
| 2. Atamarama Martin | Master of Education |
| 3. Angeline Nieslen | Master of Law |

Bachelors & Diploma (\$3.0k)

- | | |
|--------------------------|---|
| 1. Ruben Rameka | Bachelor of Music |
| 2. Shavarnah Puru | Bachelor of Architectural Studies |
| 3. Te Miringa O'Sullivan | Bachelor of Health Science |
| 4. Chloe Witana | Bachelor of Applied Management |
| 5. Iyanah Taylor-Mason | Bachelor of Nursing |
| 6. Adrienne Ashby | Bachelor of Medicine & Surgery |
| 7. Chelsea Sherry-Tau | Bachelor of Physiotherapy |
| 8. Sariah Kelleher | Bachelor of Art |
| 9. Ellieda Komene | Bachelor of Business Management & Law |
| 10. Daniel Tau | Bachelor Business, Support & Recreation |

Certificate (\$1.0k)

No applications were received for this category

The total amount awarded for scholarships this year totals \$51.0k.

Update on Agricultural & Apicultural Scholarship

In 2018 we expanded our education scholarship programme to include a specific Agricultural and Apicultural scholarship specifically targeted to student who whakapapa to ORT planning to study within the agricultural sector.

This year we did not receive any applications through this stream and have therefore reviewed our advertising and marketing of our education scholarship for 2020 to include location and national media profiling of our past scholarship recipients, promotion in University and Technical Institutes student scholarship publications, Runanga panui, community radio and an online media strategy. These combined strategies will ensure we increase the reach to our broader community and target audience of agricultural students.

Updated the ORT Education Scholarship Screening Process

This year we implemented a new screening process for both Education Scholarship streams – General & Agricultural, in response to several duplicate applications being received in 2018.

All applications are now screened online to ensure all applicants legal name matches their ID and bank account and that new applicants are prioritised over previous recipients. Next year will also see us return to our usual timetable of announcing the successful recipients at the SGM in March and payments being made in April.

Educational Workshops – Financial Education & Pathways to Home Ownership

Early in 2018, we ran two pilot educational workshops delivered over two Saturdays in March. One focussed on pathways to homeownership and the other, facilitated by our banking partner BNZ on financial management and budgeting. Feedback was very positive from attendees and there were two key takeaways and actions from these workshops. Discussions have commenced with some of our current partners to bring these future programmes to fruition.

Supporting our whānau

Discretionary Fund

The ORT Discretionary Fund was first launched in 2018 and provides limited financial assistance for initiatives that, promotes and enhances the social, economic and cultural advancement of ORT shareholders and beneficiaries. Funding for this initiative has been set at \$5.0k annually, and is disbursed as a grant, on a case-by-case merit basis. The approval of payment will be at the Board's total discretion, as to the amount and to whom funding will be granted with fixed amount up to \$200.00 to be applied.

Discretionary Fund applications are accepted through the ORT website, or alternatively, hardcopy applications can be submitted directly into the Trust Office. Applications will be reviewed by two Trustees and their recommendations emailed to the Board for approval and then ratified at the next Board meeting. The Boards decision will be final, and no further correspondence will be considered.

SGM, AGM & Shareholder/Beneficiary Voucher Programme

Our SGM & AGM shareholder and beneficiary meetings continue to be well attended with record numbers attending each year. Our voucher programme continues to be a huge success benefitting those shareholders, beneficiaries and their whānau who attend our SGM and AGM meetings. We have partnered with New World Kaikohe to provide food vouchers to the value a \$60.00 for Shareholders and Beneficiaries \$30.00. Annually we distribute approximately \$10k worth of vouchers to Shareholders, Beneficiaries and their whānau each year.

As we are a whānau friendly organisation and promote smoke free and alcohol free environments for our whānau, we will continue to prohibit the purchase of cigarettes and alcohol with these vouchers.

Shaping our Future

Maori Trustee Share Buyback Programme

A comprehensive overview of this share buyback scheme can be found on page 27, of the ORT Audited Financial, including an update on the current payment schedule and the number and value of the shares held by the ORT shareholders.

With our recent annual payment in June 2019, the total number of shares held by the Maori Trustee was reduced to 524,599. With our annual payments of \$50k, this share buyback programme will be completed in 2024.

Portfolio Expansion & Future Developments

Unfortunately, most of the planned development and expansion of the Community Portfolio has been delayed and, in some instances, deferred until FY20, due to the development budget allocated for the community portfolio, being reallocated to help cover our current legal expenses.

ORT Website & Facebook Page Refresh www.omapererangiamamatrust.co.nz

The new ORT website and Facebook page have been operational for more than 12 months and is being accessed on a regular basis by our shareholders, beneficiaries, business partners and the wider community. But, there is still more to be done. As a reminder, updated information is uploaded onto both the Trust website landing pages and our Facebook page. The Trust website continues to be the main platform for communication for all ORT There you can also find, recent panui, the ORT Trust Deed, 2021 Strategic Plan, job vacancies and other legal documentation, which is available for you to access at any time.

Our ORT Facebook page has also been refreshed and is a private FB group. This social media communication channel will complement the ORT website and will also enable ORT shareholders, beneficiaries and their whānau, to engage and communicate. The page is administered and monitored by the ORT Administration team.

As always, thank you for the opportunity to lead this portfolio. We have grown so much during my time I have managed this portfolio and there is still so much for us to do. I'm excited for what the future holds for our organisation, and for all those who whakapapa to the Omapere Rangihāmama Trust.

Omapere Farm Report: Bruce Cutforth

The Omapere Farm season in review has had its challenges to farm performance. The most significant of those challenges being a very dry late summer autumn which created some pressures regards feed quantity to achieve the high standards of weight gain for all classes of livestock which our manager Lloyd Brennan sets. This feed pressure caused us to carryover more heavy bulls into this season and not purchase as many replacements as had been planned. It is very pleasing to report however that at no time were our stock compromised around animal welfare. Another challenge has been losing the hill on Browns road where a number of bulls were lost to theft. The lack of security around the Trusts valuable livestock has caused the farm management team to cease stocking the 25 ha.

There has been some negative impact on the cash output from the farm caused by these challenges which John will report in the financials. In spite of these the Omapere farm has maintained its five year development programme which has required capital expenditure for land clearing, fencing, water supply, fertiliser and the purchase of capital stock to graze the extra pasture. On the bus trip you will be able to see the transformation in some of these developing areas. To get an understanding of the changes happening on this whenua here are some statistics/ data to be noted:

Omapere Farm Benchmarking using Farmax data

	11/12	12/13	13/14	14/15 Actual	15/16	16/17	17/18	18/19	19/20 Predicted
	Actual	Actual	Actual		Actual	Actual	Actual	Actual	
Pasture Grown t/ha				5.8	7.3	6.2	6.7	6.4	6.5
Stock units/ha	10.0	10.0	9.6	9.1	10.0	9.4	9.5	10.0	9.9
Sheep numbers (start -1 st July)	2591	2660	2483	2481	2180	1537	1011	666	371
Cattle numbers (1 st July)	813	909	981	911	1103	1325	1330	1688	1668
Kg livestock/ha (1 st July)	563	648	643	641	637	686	655	652	708
Farmax calculated margin c/kg DM	12.7	10.3	11.1	14.8	16.9	14.6	22.3	14.0	18.0
Av Cattle Slaught Wt				295	307	309	313	294	298
Av Lamb Slaught Wt				16.0	15.5	17.4	18.2	18.7	17.0
Production (kg carcass & wool/ha)	219	189	201	210	234	223	256	265	260
Farmax calculated revenue (\$000)	\$671	\$583	\$572	\$763	\$947	\$836	\$1,187	\$871	\$1,000
Av beef price \$/kg	\$4.35	\$4.11	\$4.31	\$5.19	\$5.44	\$5.21	\$5.39	\$5.09	\$5.2
Av sheep price \$/kg	\$6.16	\$4.01	\$4.81	\$4.56	\$4.27	\$4.57	\$6.15	\$6.59	\$5.7

	11/12	12/13	13/14	14/15 Actual	15/16	16/17	17/18	18/19	19/20 Predict
	Actual	Actual	Actual		Actual	Actual	Actual	Actual	
Pasture Grown t/ha				5.8	7.3	6.2	6.7	6.4	6.5
Stock units/ha	10.0	10.0	9.6	9.1	10.0	9.4	9.5	10.0	9.9
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Av Cattle Slaught Wt				295	307	309	313	294	298
Av Lamb Slaught Wt				16.0	15.5	17.4	18.2	18.7	17.0
Productio n (kg carcass & wool/ha)	219	189	201	210	234	223	256	265	260
Farmax calculated revenue (\$000)	\$671	\$583	\$572	\$763	\$947	\$836	\$1,187	\$871	\$1,040
Av beef price \$/kg	\$4.35	\$4.11	\$4.31	\$5.19	\$5.44	\$5.21	\$5.39	\$5.09	\$5.28
Av sheep price \$/kg	\$6.16	\$4.01	\$4.81	\$4.56	\$4.27	\$4.57	\$6.15	\$6.59	\$5.77

Key messages from this data are:

- (1) Sheep numbers will be phased out this year and the huge growth in cattle numbers.
- (2) The 25% growth in kgs carried of livestock per ha
- (3) The 40% growth margin cents per kg of grass grown.
- (4) The 22% increase of carcass and wool per ha
- (5) Growth in revenue from the farm

Along with these impressive numbers farm staff have established an impressive 12 km of fencing to protect wetlands which puts the Omapere farm at the forefront of riparian protection in the Northland Beef and Sheep industry. I acknowledge the great support from the Northland Regional Council for this environmental project. This year as a start there has been 3000 native plants planted in the riparian area. The staff on this whenua value the cultural significance of this taonga and the precious environment that they operate within. The team of Lloyd Brennan, Brookes Cooper, Paul Albert and Dharia Stewart should be proud of their achievements on our behalf and I honour them in this report. Further Colin Rakena who assists on the farm committee John Parmenter financial controller and consultant Chris Boon all have contributed to the results that the Omapere farm delivers.

The year in review Omapere Farm did not deliver the cash that it historically has done but the development work and strategic direction taken does ensure that the farm will continue to be the cash cow which underpins so much of the Trusts activities.

Rangihamama Report: Bruce Cutforth

This year has been one of consolidation for RDF1 as we complete the fourth full year of dairy production. Remembering that RDF1 was established as a limited liability partnership back in 2014 with the partners each owning a 50% share in the business. The two partners in this business are Te Tumu Paeroa [Maori Trustee] and ORT. The primary purpose for the partnership is to operate the dairy farm owning the cows, machinery and dairy company shares. There is a formal lease for the 280ha of whenua managed by RDF1 which delivers \$195,000 to ORT. Remembering that this whenua prior to the establishment of this partnership was leased and managed externally as a dairy support block with the whenua becoming increasingly infested with gorse and ragwort, the fencing and water supply infrastructure was breaking down and cattle had access to the native bush and waterways. Today we have a farm that is seen as a benchmark for environmental standards and production performance is at the top end of Northland dairy farms. For the season in review 480 cows were milked. That number has increased to 515 cows currently milking today.

Farm Performance: Total milk solids (ms) produced was 227,000 kg of ms. This is a 6% lift in productivity relative to the previous year and continues the trend of increased production on this farm. With the effective milking area being 190 ha this equates to 1200 kg of ms per ha relative to the Northland average of 700 kg or put another way 470 kg of ms a cow as against around 380kg Northland average. These are great figures influenced by a number of factors which include a farming system with reasonably high inputs, a well-managed team who work to a focused plan, and an outstanding whenua with great soils and improving fertility. We have an expectation that there will be continuing growth in productivity. I am pleased to report that we have had no major health and safety matters. Environmentally the farm has a nil discharge policy which is designed to protect the pristine water which flows through the farm. Regards animal health we did suffer more cow deaths as a % of the herd than what one would expect. This has impacted on the number of replacements required and the income from cull cows. John's disease has been identified as a key contributor to these deaths. Currently we have been testing and culling for this disease and expect to be clear of it in the near future.

The partnerships business is in a strong financial position with good cash flows coming from the dairy operation. Those numbers will be in the financial report. There has been a negative impact however on the balance sheet through the reducing value of the Fonterra shares we hold as part of our supply contract. Without doubt Fonterra's investment strategies have failed to deliver however Fonterra has delivered an internationally competitive milk price which will give sustainable returns to this

operation. This year we will receive a average milk price of \$7+. It is expected that over time there will be a recovery in the share values.

Staffing Structure: There was a major review of our staffing structure and a decision was made and implemented to appoint a contract milker to manage the farm operation. The CM responsibilities include the day to day management of the farm plus the employing of the farm staff. The position was advertised and I am pleased to report that Clinton Mokoraka was selected from the numbers who applied. He was chosen not only because he is a shareholder/beneficiary of the Trust but because of his proven farm management history. Clinton has gathered a great team around himself and Marreta and we plan to introduce his team at the dairy as part of the bus tour. The change in structure did create instability for our staff and I want to particularly mention Jarlal Beckham who had been with the farm from commencement. Karla Frost is the farm consultant, meets with Clinton every two weeks to support him in planning feed allocation etc.

In presenting this report I am aware that as Trustees we are accountable to shareholders on how we have delivered to the Strategic plan which had been signed off at the 2016 AGM. The Mission being "Manage the land and its resources to their fullest economic potential to advance positive social change for whānau". We need to achieve that economic potential whilst the very highest standards are met around cultural and Trust values which include protecting the pristine environment and creating employment opportunities for whānau. This report I believe gives clear indication that we are fulfilling the mission/ values of the Trust.

Forestry Report: **Dr Te Tuhi Robust**

Ben Paraha, Forestry Consultant has been tasked to confirm land areas identified for retirement from farming operational activity into the future with Bruce Cutforth and Lloyd Brennan. All data and other related information for the formal application to PGF fund is near completion. The target species to be planted 2020-2025 will now be Manuka and Totara. These species have been identified as viable within the PGF application information in hand. The designated area to be planted as reported previously will exceed 50ha. All seed is to be eco-sourced from the Omapere Farm Block. Two (2) whānau have been identified to supply Manuka seedlings for 2020. Totara seedlings will be sourced within the period of time stated up to 2025.

The Omapere Pine Estate (320ha) overall is showing very good growth. Minimal maintenance has been required on the internal roads. Weed and pest control continue to be that main activity for this year. The replacement of over 1.5kms of fencing has been completed in partnership with the neighbours – Far North District Council. Both parties shared 50% of total costs for the new fence.

Honey Report: **Dr Te Tuhi Robust**

Regular meetings have been convened to consider the possibility of taking a more active role such as investment in the Honey Industry. Minimal honey product takes within the northland region including our farm block at Omapere suggest that the it is not a good time progress this matter. However, it is noted that the hive rental return for this financial return had increased from the last financial year.

Rental Housing Report: **Rachel Witana**

If we thought things were bad in the rental market last year, they are even worse this year. There has been no let up in the housing shortage and there is a chronic shortage of good rental housing. This puts strain on whānau needing housing as there is very limited housing to go around. In turn, the rent per week increases as home owners capitalise on the shortage in the market. People returning from Australia and those coming back from the city apply extra pressure in their need for housing. Older long-term landlords are also leaving the market and selling up as some have become fed up with increasing government regulation and the loss of any tax advantage in some cases. In reading this you might feel it is all a bit depressing but your portfolio has again remained stable with no change in tenants that we manage over the past twelve months. The Trust

rents are on the lower side in this current market but these levels are frequently reported on and it is the Trust's decision where you sit your weekly rents in the market.

Repairs & Maintenance

Property inspections are completed on a three-monthly cycle and from those, any non-urgent repairs can be arranged for you. For urgent matters the tenants only have to call our office and we can sort that out also.

Compliance

The government is ramping up the compliance requirements on landlords including the commencement of the insulation compliance deadline as from 1st July 2019. No one predicted that the contractors would actually run out of the insulation products though so in many cases, the landlord was willing but there was no product to complete the work needed. They are slowly catching up on this now as more stock comes to hand. Your houses are all compliant to the current 2016 standard. The government then changed the measurement for the thickness required so we may need to revisit these at some time in the near future. We are also now required to put insurance information into new tenancy agreements and this relates to who is responsible to pay for tenant damages. Heating and ventilation changes are coming in 2021-2014 so we need to keep ahead of the game on what is required.

Papakainga: Dr Te Tuhi Robust

I am pleased to report that the project has been tracking according to plan and strategy. It is important to note an appreciation toward all parties – TPK; Project Managers; Contractors and local government; Top Energy and others toward getting this point. Houses are now near completion. John Parmenter will report further on financial targets for this project. Overall a very pleasing situation for the Trust to be in at present. The modelling of the project and lessons learned will be used to inform the securing of next tranche of 8 houses for the site.

Water Management: Dr Te Tuhi Robust

This year the Trust engaged Williamson Land and Water Management to prepare a report on the present and future capacity of the water for the Trust. The report has been received and notes that the Trust would in the future require a more stable water supply to support future development in other horticultural or farming relating activities. The locating of the quantity of a sustainable water supply into the future will need to be given priority. There are significant budgetary implications.



12 October 2019

The Chairperson
Omapere Taraire E & Rangihamama X3A
Ahu Whenua Trust
PO Box 604
KAIKOHE 0440

Dear Trustees

We have completed the audit of your financial statements for the year ended 30 June 2019.

The primary aim of our audit is to express an opinion as to whether your financial statements present fairly, in all material respects, the financial position and performance of your entity. The audit report expresses this opinion.

In forming our audit opinion, we conduct detailed tests of selected transactions and review the key controls in place to ensure the effective operation of your accounting systems and internal controls. As a service to ensure you receive maximum benefit from our audit, we note our evaluation of your systems and highlight areas of possible weakness or where we believe improvements can be made. Our motive is to offer objective and constructive advice so that the accounting function and related control issues can be improved in the future.

Required communications

We are required by auditing standards to report specific matters to you as follows

- We have had no disagreements with management during our audit nor any serious difficulties in dealing with management.
- We have not identified any instances of fraud involving senior management, or any other frauds that caused a material misstatement of the financial statements
- We have not noted any significant risks or exposures that are required to be separately disclosed in the financial statements.

We reaffirm that we are independent of your organisation, and that we have no relationship with your organisation that impairs our independence.

There are a few matters arising and observations from our audit visit which we now bring to your attention.

Areas of Significant Audit Focus

We believe it is best practice to communicate with you as the governing body regarding matters which form an important part of our audit process. However, ultimately it is you,

the governing body, that remains responsible for your financial systems, internal controls and financial statements.

While our audit necessarily involves testing of your overall system of financial controls and reporting, we assessed some potentially significant risk areas in relation to your organisation. Accordingly, we believe that they are important issues that should be of interest to you in your governance capacity.

Audit adjusted errors

1. Livestock

We note during the reconciliation of the livestock numbers and figures that there appeared to be a discrepancy with the counting and age of cattle (Rising 2 bulls) between the Wrightson count, the stock tally sheets and the monthly reconciliations. It resulted in a material adjustment, which was done, and a resulting change to the monthly reconciliation's performed and recorded by the farm manager. This change was to record the Autumn born bulls separately going forward.

Accounting systems and controls

1. Educational scholarships

We again note that the Scholarship payments awarded to individuals are made direct to the candidates and we recommend that future payments be paid direct to the institutions that the candidates are attending to go directly against fees. By paying the candidates direct it could be interpreted as income to them due to its ability to be converted to cash and therefore becoming taxable to them. By paying it directly to the institution it is unable to be converted to cash and therefore more in line with the nature of the scholarship intention.

2. Trustee Numbers

We note under your trust deed that the required number of trustees is 7 (section 51.1) however the current number of trustees is 4 which means that you are acting outside the requirements of the Trust deed and should be remedied as soon as practicably possible.

All the points made in this report have been discussed with John Parmenter and we have taken account of his comments in drafting the report. These points arose during the course of our audit which is designed primarily to enable us to form an opinion on the financial statements taken as a whole. Our report cannot, therefore, be expected to include all possible comments and recommendations which a more extensive special examination might indicate. This report has been prepared solely for the use of the trustees and senior management of your organisation. It may not be provided to third parties without our prior written consent.

There were a number of significant changes within the trust this year including the court appointed removal of trustee's, the change in admin staff and the changes to the payroll as well as the additional reconciliation and testing required for the livestock discrepancies

and the change in the Papakainga contracts. This has resulted in additional time required to complete the audit.

May we take this opportunity to express our thanks to you and your staff for the assistance which we received during this year's audit.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Adele M Maraki', with a stylized flourish at the end.

Adele M Maraki C.A.

**OMAPERE TARAIRE E & RANGIHAMAMA X3A
AHU WHENUA TRUST**

**SPECIAL PURPOSE FINANCIAL REPORT
FOR THE YEAR ENDED 30 JUNE 2019**

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

CONTENTS

	Page
Client Directory	1
Cattle Production Statement - Omapere	3
Sheep Production Statement - Omapere	5
Statement of Financial Performance - Omapere	6
Statement of Financial Performance - Rangihamama	8
Statement of Financial Performance - Housing	9
Statement of Financial Performance - Forestry & Honey	10
Statement of Financial Performance - Consolidated	11
Statement of Movement in Equity	13
Statement of Financial Position	14
Schedule of Fixed Assets	16
Notes to the Financial Statements	22
Independent Auditors Report	31

OMAPERE TARAI E & RANGIHAMAMA X3A AHU WHENUA TRUST

CLIENT DIRECTORY

FOR THE YEAR ENDED 30 JUNE 2019

Trustees	Te Tuhi Robust - Chairperson Colleen Bermingham-Brown Bruce Cutforth (Independent) Raniera (Sonny) Tau (removed 11/6/19) Taoko Wihongi (removed 11/6/19) Rachel Witana
Address	P O Box 604 KAIKOHE P (09) 405 3551 F (09) 405 3554
Accountant	John Parmenter Northland Corporate Accounting Limited 5 Alderton Drive Kerikeri 0230 P (09) 407 7446
Independent Auditor	Adele M Maraki Chartered Accountant PO Box 282 Kaikohe 0440 P (09) 401 0198
Bank	Bank of New Zealand Corner Bank Street & Rust Avenue Whangarei
Solicitor	Peter Jones Regent Law 2016 Limited 198 Bank Street, Regent PO Box 204 Whangarei 0112 P (09) 430 0509 F (09) 401 0487
Solicitor	John Burley McVeagh Fleming PO Box 4099 Auckland 1140

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

CATTLE PRODUCTION STATEMENT - OMAPERE FOR THE YEAR ENDED 30 JUNE 2019

	Qty	Avg	2019 \$	Qty	Avg	2018 \$
TRADING STATEMENT						
SALES						
Cows	53	879	46,588	6	916	5,497
Heifers R1YR	20	520	10,400	30	515	15,463
Bulls & Steers R1YR	30	590	17,687	69	927	63,986
Bulls & Steers R2YR & Older	712	1,445	1,028,992	773	1,695	1,310,447
	815		1,103,666	878		1,395,393
PURCHASES						
Bulls & Steers R1YR	773	610	471,552	1,303	561	731,180
	773		471,552	1,303		731,180
Cash Surplus To Statement Of Financial Performance			632,114			664,212
SCHEDULE OF LIVESTOCK ON HAND AT TAX VALUES						
CLOSING STOCK						
Beef Cows - Mixed Age	2	1,355	2,710	59	1,497	88,323
Beef Steers & Bulls - R1 Year (NSC)	773	601	464,565	1,060	648	687,167
Beef Steers & Bulls - R2 Year (NSC)	945	851	804,375	655	762	499,176
Beef Steers & Bulls - R3 Year (NSC)	7	966	6,759	-	-	-
Beef Bulls - Breeding	2	3,407	6,814	2	3,004	6,008
	1,729		1,285,223	1,776		1,280,673
OPENING STOCK		1,280,673			932,838	
NON-TAXABLE (DEDUCTIBLE) HERD ADJUSTMENT		(7,572)			4,372	
			1,273,101			937,210
Taxable Increase/(Decrease) To Statement of Financial Performance			12,122			343,463

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

CATTLE PRODUCTION STATEMENT - OMAPERE FOR THE YEAR ENDED 30 JUNE 2019

	2019 Qty	2018 Qty
NUMBERS RECONCILIATION		
Opening Numbers	1,776	1,330
Purchases	773	1,303
Natural Increase	50	60
Sales	(815)	(878)
Deaths and Missing	<u>(55)</u>	<u>(39)</u>
Closing Numbers	<u>1,729</u>	<u>1,776</u>

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

SHEEP PRODUCTION STATEMENT - OMAPERE FOR THE YEAR ENDED 30 JUNE 2019

	Qty	Avg	2019 \$	Qty	Avg
TRADING STATEMENT					
SALES					
Ewes	234	92	21,532	291	106
Hoggets	15	137	2,060	20	122
Lambs	790	142	112,494	1,332	122
Rams	-		-	3	104
Wool			-		
	<u>1,039</u>		<u>136,086</u>	<u>1,646</u>	
Cash Surplus To Statement Of Financial Performance			<u>136,086</u>		
SCHEDULE OF LIVESTOCK ON HAND AT TAX VALUES					
CLOSING STOCK					
Ewes - Mixed Age	357	190	67,830	648	160
Ewes - Hoggets (NSC)	24	34	821	-	-
Wethers & Rams - Hoggets (NSC)			-	15	35
Rams - Breeding	<u>8</u>	<u>338</u>	<u>2,704</u>	<u>9</u>	<u>289</u>
	389		71,355	672	
OPENING STOCK		106,800			131,599
NON-TAXABLE (DEDUCTIBLE) HERD ADJUSTMENT		<u>19,881</u>			<u>27,236</u>
			<u>126,681</u>		
Taxable Decrease To Statement of Financial Performance			<u>(55,326)</u>		
NUMBERS RECONCILIATION					
Opening Numbers	672			1,011	
Natural Increase	814			1,338	
Sales	(1,039)			(1,646)	
Deaths and Missing	<u>(58)</u>			<u>(31)</u>	
Closing Numbers	<u>389</u>			<u>672</u>	

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST**STATEMENT OF FINANCIAL PERFORMANCE - OMAPERE
FOR THE YEAR ENDED 30 JUNE 2019**

	2019 \$	2018 \$
OMAPERE		
INCOME		
Cash Surplus from Cattle	632,114	664,212
Cash Surplus from Sheep	136,086	204,733
Closing Wool on Hand	1,228	-
Maize growing land lease	10,000	10,000
Rebates	11,815	11,179
Rent	12,420	14,040
Sundry Income	3,840	500
GROSS MARGIN	807,504	904,663
LESS CASH EXPENSES		
FARM WORKING		
Animal Health	8,256	15,382
Cropping Expenses	9,208	10,052
Dog Expenses	8,225	7,465
Electricity	8,213	9,958
Feed & Supplements	8,221	-
Fertiliser & Lime	144,811	138,416
Fertiliser Application	31,036	28,641
Freight - Stock	13,782	17,143
Health & Safety	500	1,024
Herd Improvement	524	395
Pasture Renovation	35,807	19,318
Protective Clothing	946	606
Shearing	7,784	1,326
Shelter Trees	1,201	304
Wages	201,565	213,539
Weed and Pest Control	38,946	16,049
	519,022	479,619
REPAIRS AND MAINTENANCE		
Buildings	1,267	191
Dwelling - Employee	2,390	12,575
Fences - New Cattle Yards	9,798	-
Fences	15,329	22,484
Plant and Equipment	5,115	5,737
Races and roading	2,278	5,913
Water Supply	10,098	3,975
	46,274	50,874

The accompanying notes form an integral part of these Financial Statements. This statement must be read in conjunction with the independent Auditors Report.

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

STATEMENT OF FINANCIAL PERFORMANCE - OMAPERE FOR THE YEAR ENDED 30 JUNE 2019

		2019 \$	2018 \$
VEHICLE			
Bike	15,208		15,025
Fuel and Oil	17,016		8,168
Tractor	6,813		3,571
Utility	3,681		6,285
		42,718	33,049
ADMINISTRATION			
Advisory	8,039		13,745
Ahuwhenua Trophy Costs	-		221
Communications	2,717		2,628
Conference and Seminar	-		-
General	1,751		2,230
Legal Fees	968		-
Printing and Stationery	373		-
		13,848	18,823
STANDING CHARGES			
ACC Levies	-		(74)
Insurance	9,838		9,430
Interest - Loan	18,956		6,648
Rates	24,776		22,463
		53,570	38,466
TOTAL CASH EXPENSES		675,433	620,831
CASH OPERATING SURPLUS		132,071	283,832
OTHER INCOME			
Dividends Received		-	170
CASH SURPLUS BEFORE NON CASH ITEMS		132,071	284,002
NON CASH ITEMS			
ADD			
Taxable Increase From Cattle		-	343,463
LESS			
Depreciation	45,249		39,059
Taxable Decrease From Cattle	(12,122)		-
Taxable Decrease From Sheep	55,326		52,035
		88,453	91,094
NET NON CASH ITEMS		(88,453)	252,369
NET SURPLUS		43,618	536,371

The accompanying notes form an integral part of these Financial Statements. This statement must be read in conjunction with the independent Auditors Report.

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST**STATEMENT OF FINANCIAL PERFORMANCE - RANGIHAMAMA
FOR THE YEAR ENDED 30 JUNE 2019**

		2019	2018
		\$	\$
RANGIHAMAMA			
INCOME			
Lease		209,980	206,983
Sundry Income		<u>5,000</u>	<u>5,000</u>
GROSS MARGIN		214,980	211,983
LESS CASH EXPENSES			
REPAIRS AND MAINTENANCE			
Fences - Conversion	11,423		12,288
Land clearing	12,512		-
Plant and Equipment	721		-
	<u>24,655</u>		<u>12,288</u>
ADMINISTRATION			
Legal Fees	<u>1,177</u>	1,177	<u>504</u>
			504
STANDING CHARGES			
Insurance	4,588		4,384
Interest - Loan	74,546		76,993
Rates	<u>10,752</u>		<u>10,471</u>
	<u>89,886</u>		<u>91,848</u>
TOTAL CASH EXPENSES		<u>115,717</u>	<u>104,640</u>
CASH SURPLUS BEFORE NON CASH ITEMS		99,263	107,343
NON CASH ITEMS			
LESS			
Depreciation		<u>101,137</u>	<u>109,822</u>
NET DEFICIT		<u>(1,874)</u>	<u>(2,479)</u>

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

STATEMENT OF FINANCIAL PERFORMANCE - HOUSING FOR THE YEAR ENDED 30 JUNE 2019

		2019 \$	2018 \$
INCOME			
Rents Received		43,336	46,994
LESS CASH EXPENSES			
OPERATING			
Administration fees	4,217		4,512
Conference and Travel	2,946		-
Maintenance of Houses	8,125		4,227
		15,288	8,740
ADMINISTRATION			
Accounting	-		9,919
Communications	-		172
Electricity	726		307
Legal Fees	9,032		4,671
		9,758	15,069
STANDING CHARGES			
Insurance		5,631	4,718
TOTAL CASH EXPENSES		30,677	28,526
CASH SURPLUS BEFORE NON CASH ITEMS		12,659	18,468
OTHER INCOME			
Interest Received		52	-
CASH SURPLUS BEFORE NON CASH ITEMS		12,710	18,468
NON CASH ITEMS			
LESS			
Depreciation		531	395
NET SURPLUS		12,179	18,073

The accompanying notes form an integral part of these Financial Statements. This statement must be read in conjunction with the independent Auditors Report.

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

STATEMENT OF FINANCIAL PERFORMANCE - FORESTRY AND HONEY FOR THE YEAR ENDED 30 JUNE 2019

		2019 \$	2018 \$
INCOME			
Honey income		49,520	45,040
Packhouse Lease		6,000	6,500
Timber sales		6,476	-
		<u>61,996</u>	<u>51,540</u>
LESS COST OF SALES			
Opening Cost of Forest	285,882		250,607
Replanting Costs	-		11,930
Seedling Purchases	-		8,700
Weed & Pest	<u>2,037</u>		<u>14,645</u>
	287,919		285,882
LESS			
Closing Cost of Forest	<u>287,919</u>		<u>285,882</u>
TOTAL COST OF SALES		<u>-</u>	<u>-</u>
GROSS MARGIN		61,996	51,540
LESS CASH EXPENSES			
REPAIRS AND MAINTENANCE			
Buildings	-		96
Fences	<u>15,538</u>		<u>2,401</u>
	15,538		2,497
ADMINISTRATION			
Legal Fees	<u>809</u>		<u>3,188</u>
	809		3,188
STANDING CHARGES			
Insurance	1,102		1,063
Rates	<u>5,249</u>		<u>5,249</u>
	6,351		6,311
TOTAL CASH EXPENSES		<u>22,697</u>	<u>11,996</u>
CASH OPERATING SURPLUS		39,299	39,544
OTHER INCOME			
Interest Received		<u>0</u>	<u>0</u>
NET SURPLUS		<u>39,299</u>	<u>39,544</u>

The accompanying notes form an integral part of these Financial Statements. This statement must be read in conjunction with the independent Auditors Report.

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2019

	Note	2019 \$	2018 \$
CONSOLIDATED STATEMENT			
INCOME			
Omapere Net Profit		43,618	536,371
Rangihamama Net Loss		(1,874)	(2,479)
Housing Net Profit		12,179	18,073
Forestry and Honey Net Profit		39,299	39,544
Sundry Income		67	3,350
		<u>93,289</u>	<u>594,859</u>
LESS OVERHEADS			
ADMINISTRATION			
Accounting		14,600	12,488
Advertising		1,020	2,641
Advisory		150	-
Annual & Special General Meeting costs		12,560	16,054
Audit Fee		7,551	4,065
Bank Charges		212	753
Communications		5,751	6,111
Computer Expenses		835	1,105
Conference and Seminar		-	274
General		646	1,551
Legal Fees		100,842	33,467
Printing and Stationery		3,540	4,420
Trustee - Honorarium	11	23,860	7,184
Trustee - Travel Costs	11	-	6,869
Trustee - Meeting & Other expenses		1,990	2,134
Wages - Administration		<u>41,781</u>	<u>60,260</u>
		215,337	159,377
STANDING CHARGES			
ACC Levies		-	432
Insurance		760	800
Insurance - Trustees Liability		4,500	3,000
Interest - Overdraft		6,266	16,501
Interest - Loan		19,480	19,402
Interest - Other		470	57
Rent		<u>6,420</u>	<u>6,420</u>
		37,897	46,612

The accompanying notes form an integral part of these Financial Statements. This statement must be read in conjunction with the independent Auditors Report.

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2019

	Note	2019 \$	2018 \$
TOTAL OVERHEADS		253,234	205,989
OPERATING (DEFICIT)/SURPLUS		(159,945)	388,871
OTHER INCOME AND EXPENDITURE			
ADD			
Interest Received		660	9,294
Share of Rangihamama Dairy Limited Partnership profit		87,685	82,627
		88,345	91,921
LESS			
Trust Office Depreciation		1,138	2,013
		87,206	89,908
NET (DEFICIT)/SURPLUS BEFORE TAX		(72,739)	478,779
LESS			
Tax (Expense)/Credit	13		(129)
NET (DEFICIT)/SURPLUS AFTER TAXATION		(72,739)	478,650

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

STATEMENT OF MOVEMENTS IN EQUITY FOR THE YEAR ENDED 30 JUNE 2019

	Note	2019 \$	2018 \$
EQUITY AT START OF YEAR		5,514,995	5,148,520
SURPLUS AND REVALUATIONS			
(Deficit)/Surplus For The Year		(72,739)	478,650
ADD			
Non Taxable Livestock Revaluation		<u>12,309</u>	31,608
		12,309	31,608
LESS			
Imputation Credits converted to a loss		-	310
Non Deductible Expenses		6,632	4,085
Distributions	5	60,836	56,110
Share of Rangihamama Dairy Limited			
Partnership other movements in equity	6	115,403	83,058
Share Devaluation		<u>438</u>	219
		<u>183,309</u>	<u>143,782</u>
Total Recognised Revenues And Expenses For Year		(243,738)	366,476
EQUITY AT END OF YEAR		<u><u>5,271,256</u></u>	<u><u>5,514,995</u></u>

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2019

	Note	2019 \$	2018 \$
TRUST FUNDS			
Corpus	4	3,447,408	3,550,940
Trustee Accumulated Income Account	5	1,823,848	1,964,055
		<u>5,271,256</u>	<u>5,514,995</u>
CURRENT ASSETS			
Bank of New Zealand - Call accounts		11,758	123,667
Regent Law - Solicitor's Trust Account		-	207,632
Debtors		191,510	210,429
Wool on Hand		1,228	-
GST Receivable		18,001	-
Tax Refund Due		934	9,307
Capital Work in Progress		<u>50,315</u>	<u>50,315</u>
		273,746	601,350
LIVESTOCK			
Sheep on Hand		71,355	106,800
Cattle on Hand		<u>1,285,224</u>	<u>1,280,673</u>
		1,356,579	1,387,473
INVESTMENTS			
Share of Rangihamama Dairy Limited Partnership	6	317,274	344,992
Shares - Ballance Agri-Nutrients Co-operative Limited		76,845	68,575
Shares - Silver Fern Farms Limited		<u>1,754</u>	<u>2,192</u>
		395,873	415,758
FIXED ASSETS			
As Per Schedule of Fixed Assets		5,929,227	6,011,127
OTHER			
Cost of Forest	7	<u>287,919</u>	<u>285,882</u>
		<u>7,969,598</u>	<u>8,100,240</u>
TOTAL ASSETS		8,243,344	8,701,590

The accompanying notes form an integral part of these Financial Statements. This statement must be read in conjunction with the independent Auditors Report.

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2019

	Note	2019 \$	2018 \$
CURRENT LIABILITIES			
Bank of New Zealand - Current account		27,695	144,045
GST Payable		-	7,807
Creditors		246,956	318,952
Income in Advance		2,497	2,497
Grants received in advance	9	231,138	199,460
Provision for Holiday Pay		16,583	16,615
		524,869	689,376
TERM LIABILITIES			
Loan - BNZ Bank	8	2,191,264	2,191,264
Maori Trustee Share Loan	10	255,955	305,955
		2,447,219	2,497,219
TOTAL LIABILITIES		2,972,088	3,186,595
NET ASSETS		5,271,256	5,514,995

For and on behalf of the Trustees



Chairperson



Trustee

2 October 2019

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

SCHEDULE OF FIXED ASSETS AND DEPRECIATION FOR THE YEAR ENDED 30 JUNE 2019

Name	Purchase date	Rate	Cost	Opening WDV	Purchases	Depn	Disposals	Accum Depn	Closing WDV
			\$	\$	\$	\$	\$	\$	\$
Land									
Land - Omapere	30/06/09	0.0% None	70,875	70,875	-	-	-	-	70,875
Omapere - Revaluation	30/06/09	0.0% None	1,933,164	1,933,164	-	-	-	-	1,933,164
Water supply development	30/06/09	6.0% DV	7,757	2,709	-	163	-	5,211	2,546
Water supply	30/06/09	6.0% DV	7,582	2,648	-	159	-	5,093	2,489
Airstrip	30/06/09	5.0% DV	1,216	337	-	17	-	896	320
Clearing & Grassing	30/06/09	5.0% DV	370,063	103,178	-	5,159	-	272,044	98,019
Drainage	30/06/09	5.0% DV	25,089	12,704	-	635	-	13,020	12,069
Fencing	30/06/09	10.0% DV	110,954	9,216	-	922	-	102,660	8,294
River/Erosion control	30/06/09	5.0% DV	9,039	2,520	-	126	-	6,645	2,394
Roads, Tracks and Culverts	30/06/09	5.0% DV	15,105	7,738	-	387	-	7,754	7,351
Shelter Belts	30/06/09	10.0% DV	10,531	765	-	77	-	9,843	689
Stockyards & Dips	30/06/09	10.0% DV	9,208	670	-	67	-	8,605	603
Water supply	30/06/09	5.0% DV	10,271	2,863	-	143	-	7,551	2,720
Silage pit	30/06/09	5.0% DV	283	79	-	4	-	208	75
Bridges	30/06/09	2.5% DV	2,614	477	-	12	-	2,149	465
Fencing farm development	30/06/09	11.4% DV	24,495	3,532	-	403	-	21,366	3,129
Water supply development	30/06/09	9.0% DV	7,823	1,730	-	156	-	6,249	1,574
Water troughs - 200 gallons (x15)	15/01/11	5.0% DV	3,457	2,355	-	118	-	1,220	2,237
25mm Pipe & Fittings	22/09/11	5.0% DV	4,670	3,290	-	165	-	1,545	3,126
Water system improvements	30/11/12	5.0% DV	13,796	10,422	-	521	-	3,895	9,901
Sheep troughs	30/11/12	5.0% DV	4,135	3,094	-	155	-	1,196	2,939
10 x 515 litre troughs	4/09/15	5.0% DV	2,497	2,159	-	108	-	446	2,051
5 x 30,000 litre plastic water tanks	30/01/17	16.0% DV	14,610	11,299	-	1,808	-	5,119	9,491
Water supply - Blue Yards area	30/01/17	5.0% DV	35,130	32,546	-	1,627	-	4,211	30,919
Water Supply - Beehives area	9/11/17	5.0% DV	30,374	29,886	-	1,494	-	1,982	28,392
1 x 5,000 litre water tank	19/02/18	16.0% DV	1,463	1,367	-	219	-	315	1,148
Water supply	28/02/19	5.0% DV	2,262	-	2,262	47	-	47	2,215
Water supply - Te Pua 3 & 4	28/02/19	5.0% DV	4,381	-	4,381	91	-	91	4,290
Water supply - Toia 14, 15, 16; Putahi 9	28/02/19	5.0% DV	6,451	-	6,451	134	-	134	6,317
Land - Rangihamama	30/06/09	0.0% None	68,425	68,425	-	-	-	-	68,425
Rangihamama - Revaluation	30/06/09	0.0% None	1,718,046	1,718,046	-	-	-	-	1,718,046
Land - Rangihamama (paper road realignment)	11/06/19	0.0% SL	2,730	-	2,730	-	-	-	2,730
Bridges	30/06/09	2.5% SL	963	-	-	-	-	963	-
Clearing & Grassing	30/06/09	5.0% DV	132,480	38,683	-	1,934	-	95,731	36,749
Drainage	30/06/09	5.0% DV	11,825	3,454	-	173	-	8,544	3,281
Electrical installation	30/06/09	10.0% DV	606	49	-	5	-	562	44
Fencing	30/06/09	10.0% DV	59,070	4,712	-	471	-	54,829	4,241
Roads, Tracks & Culverts	30/06/09	5.0% DV	19,663	6,108	-	305	-	13,860	5,803
Shelter belts	30/06/09	10.0% DV	47,749	3,810	-	381	-	44,320	3,429
Stockyards & Dips	30/06/09	10.0% DV	3,586	287	-	29	-	3,328	258
Cattle yards	30/06/09	10.0% DV	24,544	1,958	-	196	-	22,782	1,762
Land clearing	30/06/09	6.3% DV	12,430	4,134	-	260	-	8,556	3,874
Laser Drainage - Wharekohe flats	31/05/13	5.0% DV	39,724	30,480	-	1,524	-	10,768	28,956
Pasture Renovation	30/06/13	45.0% DV	109,236	5,294	-	2,382	-	106,324	2,912
Borehole (R)	30/01/14	10.0% DV	21,940	12,950	-	1,295	-	10,285	11,655
Drainage (R)	20/03/14	5.0% DV	39,794	32,817	-	1,641	-	8,618	31,176
Effluent System (R)	20/03/14	5.0% DV	167,480	132,581	-	6,629	-	41,528	125,952
Water Supply (R)	20/03/14	5.0% DV	131,586	104,284	-	5,214	-	32,516	99,070
Land Development Costs Rangihamama Conversion	20/03/14	5.0% DV	34,418	27,246	-	1,362	-	8,534	25,884
Races (R)	20/03/14	5.0% DV	432,291	349,893	-	17,495	-	99,893	332,398
Tanker Loop (R)	20/03/14	5.0% DV	10,877	8,610	-	431	-	2,698	8,180
Power Supply (R)	9/12/13	10.0% DV	45,311	26,177	-	2,618	-	21,752	23,559
Feed Pad (R)	20/03/14	10.0% DV	212,537	127,504	-	12,750	-	97,783	114,754
Stormwater Diversion (Cowshed) (R)	30/06/14	5.0% DV	6,347	5,102	-	255	-	1,500	4,847
Flood Wash System - Dairy Effluent (R)	30/06/14	5.0% DV	3,603	2,896	-	145	-	852	2,751
Silage Pad (R)	17/07/14	10.0% DV	1,731	1,091	-	109	-	749	982

The accompanying notes form an integral part of these Financial Statements. This statement must be read in conjunction with the Independent Auditors Report.

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

SCHEDULE OF FIXED ASSETS AND DEPRECIATION FOR THE YEAR ENDED 30 JUNE 2019

Name	Purchase date	Rate	Cost	Opening WDV	Purchases	Depn	Disposals	Accum Depn	Closing WDV
			\$	\$	\$	\$	\$	\$	\$
Feed Pad - Storm Water Diversion (R)	1/08/14	5.0% DV	1,807	1,467	-	73	-	413	1,394
Race - Wharekohe Block	31/10/18	5.0% DV	10,095	-	10,095	379	-	379	9,716
Water Supply 60s Block (Beef)	16/05/15	5.0% DV	27,962	23,697	-	1,185	-	5,450	22,512
Horticulture development	30/06/09	6.3% DV	16,007	5,385	-	339	-	10,961	5,046
Total Land			6,154,158	4,998,763	25,919	74,495	-	1,203,971	4,950,187

Buildings

House - Omapere Farm Manager	30/06/09	0.0% SL	5,832	-	-	-	-	5,832	-
House alterations	30/06/09	0.0% SL	17,775	7,596	-	-	-	10,179	7,596
Electrical installation	30/06/09	0.0% DV	8,341	1,267	-	-	-	7,074	1,267
Office	30/06/09	0.0% SL	3,405	94	-	-	-	3,311	94
Upgrade to Managers House	30/06/09	0.0% SL	34,368	15,185	-	-	-	19,183	15,185
Renovations	30/06/09	0.0% DV	3,889	2,613	-	-	-	1,276	2,613
Garage renovations	30/06/09	0.0% DV	4,829	3,654	-	-	-	1,175	3,654
Hot water cylinder	30/06/09	0.0% DV	588	22	-	-	-	566	22
Woodburner - Managers cottage	30/06/09	0.0% SL	1,310	-	-	-	-	1,310	-
Simpsons Colombo Stove	30/06/09	6.5% SL	710	-	-	-	-	710	-
Improvements	30/06/09	0.0% SL	36,588	25,532	-	-	-	11,056	25,532
House - Shepherd	30/06/09	0.0% SL	20,206	-	-	-	-	20,206	-
Additions - Shepherds house	30/06/09	0.0% SL	2,489	1,190	-	-	-	1,299	1,190
Shepherds House - Garage	1/04/10	0.0% DV	14,088	13,564	-	-	-	524	13,564
Neptune Stove	30/06/09	6.5% SL	755	-	-	-	-	755	-
House No. 1	30/06/09	0.0% DV	16,250	10,879	-	-	-	5,371	10,879
House No. 2	30/06/09	0.0% DV	64,200	43,572	-	-	-	20,628	43,572
House 3 - Shepherd	30/06/09	0.0% SL	21,316	3,253	-	-	-	18,063	3,253
House No. 4 renovations	30/06/09	0.0% DV	50,587	35,642	-	-	-	14,945	35,642
Haybarn 4 (1/2 Round)	30/06/09	10.0% SL	1,015	-	-	-	-	1,015	-
Haybarn 3 (1/2 Round)	30/06/09	10.0% SL	793	-	-	-	-	793	-
Implement Shed	30/06/09	0.0% SL	4,697	1,058	-	-	-	3,639	1,058
Killing Shed	30/06/09	10.0% SL	200	-	-	-	-	200	-
Woolshed - Toia Road	30/06/09	2.5% SL	19,790	-	-	-	-	19,790	-
Shearers Quarters (Office)	30/06/09	2.5% SL	13,408	-	-	-	-	13,408	-
Woolshed No. 1	30/06/09	2.5% SL	4,339	-	-	-	-	4,339	-
Water tanks (2)	30/06/09	10.0% DV	609	29	-	3	-	583	26
Shearers Quarters - Hot water cylinders	30/06/09	0.0% DV	1,073	42	-	-	-	1,031	42
25,000 litre Water Tank	28/02/13	16.0% DV	2,676	1,046	-	167	-	1,797	879
Water Pump for House	28/02/13	20.0% DV	724	218	-	44	-	550	174
Water tank	28/02/13	16.0% DV	5,039	1,969	-	315	-	3,385	1,654
Buglar alarm - Shearers Quarters	31/05/13	25.0% DV	1,568	356	-	89	-	1,301	267
Burglar Alarm - Managers House	31/05/13	30.0% DV	1,145	183	-	55	-	1,017	128
65 Toia Rd - Flyscreen	31/12/18	0.0% DV	891	-	891	-	-	-	891
House - Rangihamama Managers	30/06/09	0.0% SL	8,152	-	-	-	-	8,152	-
Kitchen alterations	30/06/09	0.0% SL	8,370	4,828	-	-	-	3,542	4,828
Fisher & Paykel stove	30/06/09	6.5% SL	1,110	-	-	-	-	1,110	-
Water Pump - Rangihamama Managers house	30/06/09	12.5% DV	2,133	66	-	8	-	2,075	58
26 Browns Road, Septic tank & drainage field	5/08/11	0.0% SLN	9,255	9,255	-	-	-	-	9,255
Dwelling	30/06/09	0.0% SL	5,350	-	-	-	-	5,350	-
Carpets Rental No. 1	30/06/09	39.6% DV	4,500	-	-	-	-	4,500	-
Dwelling No. 2 - Rangihamama	30/06/09	0.0% SL	1,326	-	-	-	-	1,326	-
191 Rangihamama Road electrical improvements	14/06/12	0.0% SL	1,366	1,366	-	-	-	-	1,366
Rental improvements	30/06/09	0.0% SL	37,542	24,404	-	-	-	13,138	24,404
Rental improvements	30/06/09	0.0% DV	2,844	2,109	-	-	-	735	2,109
Shearers Quarters	30/06/09	2.5% SL	4,888	-	-	-	-	4,888	-
Shearers Quarters improvements	30/06/09	0.0% DV	28,000	21,844	-	-	-	6,156	21,844
Hot water cylinder	30/06/09	0.0% DV	643	282	-	-	-	361	282
Fuel & Implement sheds	30/06/09	2.5% SL	248	-	-	-	-	248	-
1/2 Round Haybarn	30/06/09	10.0% SL	774	-	-	-	-	774	-

The accompanying notes form an integral part of these Financial Statements. This statement must be read in conjunction with the independent Auditors Report.

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

SCHEDULE OF FIXED ASSETS AND DEPRECIATION FOR THE YEAR ENDED 30 JUNE 2019

Name	Purchase date	Rate	Cost	Opening WDV	Purchases	Depn	Disposals	Accum Depn	Closing WDV
			\$	\$	\$	\$	\$	\$	\$
Haybarn	30/06/09	10.0% SL	403	-	-	-	-	403	-
Implement Shed No. 1	30/06/09	2.5% SL	3,066	-	-	-	-	3,066	-
Implement Shed No. 2	30/06/09	2.5% SL	820	-	-	-	-	820	-
Pump house	30/06/09	10.0% DV	75	-	-	-	-	75	-
Store Shed	30/06/09	2.5% SL	585	-	-	-	-	585	-
Woolshed	30/06/09	2.5% SL	7,734	-	-	-	-	7,734	-
Woolshed toilets	30/06/09	3.0% SL	4,850	2,307	-	146	-	2,689	2,162
Killing Shed	30/06/09	0.0% SL	199	-	-	-	-	-	-
Pump Shed	30/06/09	10.0% SL	2,088	-	-	-	-	2,088	-
Water Tank	30/06/09	0.0% SL	337	-	-	-	-	337	-
Farm building upgrade	30/06/09	4.0% DV	812	472	-	19	-	359	453
Silo Pad (R)	31/03/14	4.0% SL	2,500	2,067	-	100	-	533	1,967
Implement Shed (R)	30/03/14	10.0% SL	43,796	24,754	-	4,380	-	23,422	20,374
Farm Dairy (R)	20/03/14	6.0% SL	402,450	297,851	-	24,147	-	128,746	273,704
Palm Kernel Bin	20/10/14	10.0% SL	4,318	2,699	-	432	-	2,051	2,267
Dairy Manager's House 207 Rangihamama Rd	21/03/15	0.0% SL	225,406	225,406	-	-	-	-	225,406
Dairy Manager's House - Curtains	21/03/15	30.0% SL	1,034	-	-	-	-	1,034	-
Dairy Manager's House - Carpet	21/03/15	40.0% SL	5,826	-	-	-	-	5,826	-
Dairy Manager's House - Gas Cylinders	21/03/15	25.0% SL	369	62	-	62	-	369	-
Stove 978 Lake Road	5/10/15	25.0% DV	1,290	590	-	148	-	848	443
Westinghouse Saturn Stove	29/04/16	22.0% DV	2,047	1,080	-	238	-	1,205	842
Bobby calf loading ramp	31/07/16	10.0% DV	1,156	936	-	94	-	314	842
Packing Shed	30/06/09	2.5% SL	50,624	-	-	-	-	50,624	-
Woodstove & Hearth	30/06/09	0.0% SL	756	61	-	-	-	695	61
Jayline Junior wood stove	30/06/09	0.0% DV	1,963	43	-	-	-	1,920	43
Agitator washing machine	30/06/09	12.0% DV	250	22	-	3	-	231	19
Kelvinator fridge	30/06/09	15.0% DV	355	25	-	4	-	334	21
Range	30/06/09	18.0% DV	1,155	47	-	8	-	1,116	39
RA610MEWS Stove	30/06/09	26.4% DV	1,457	10	-	3	-	1,450	7
Neptune stove	30/06/09	26.4% DV	756	7	-	2	-	751	5
Insulation - 939 Lake Road	30/09/10	0.0% DV	1,495	1,458	-	-	-	37	1,458
Insulation - 191 Rangihamama Road	30/09/10	0.0% DV	1,646	1,605	-	-	-	41	1,605
Insulation - 65 Toia Road	30/09/10	0.0% DV	1,521	1,483	-	-	-	38	1,483
Insulation - 207 Te Pua Road	30/09/10	0.0% DV	2,286	2,229	-	-	-	57	2,229
Insulation - 978 Lake Road	30/09/10	0.0% DV	3,745	3,652	-	-	-	93	3,652
Insulation - 26 Browns Road	30/09/10	0.0% DV	2,397	2,337	-	-	-	60	2,337
F&P Stove, 191 Rangihamama Road	5/06/12	25.0% DV	1,039	182	-	46	-	903	137
Oven & Dishwasher	28/02/13	25.0% DV	1,973	420	-	105	-	1,658	315
Carpet - 939 Lake Road	31/08/12	25.0% DV	2,274	416	-	104	-	1,962	312
Carpet - 65 Toia Road	28/02/13	25.0% DV	3,516	749	-	187	-	2,954	562
Office Extension	16/07/13	0.0% SL	1,756	1,756	-	-	-	-	1,756
Kennels - 978 Lake Road	8/04/14	40.0% SL	1,858	-	-	-	-	1,858	-
Septic Tank - 65 Toia Road	11/09/13	0.0% SL	8,939	8,939	-	-	-	-	8,939
Fire - Masport Minos II - 65 Toia Road	25/03/14	0.0% SL	2,800	2,800	-	-	-	-	2,800
Porch Extension - 939 Lake Road	23/04/14	0.0% SL	2,600	2,600	-	-	-	-	2,600
Fire - Masport R1500 - 207 Te Pua Road	23/04/14	0.0% SL	3,624	3,624	-	-	-	-	3,624
Stove - 939 Lake Road	30/06/14	25.0% DV	899	279	-	70	-	690	209
155 Rangihamama Road - insulation	30/09/18	0.0% DV	997	-	997	-	-	-	997
207 Rangihamama Road - heat transfer system	31/10/18	0.0% DV	1,581	-	1,581	-	-	-	1,581
Total Buildings			1,297,417	826,086	3,469	30,975		498,638	798,580

The accompanying notes form an integral part of these Financial Statements. This statement must be read in conjunction with the independent Auditors Report.

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

SCHEDULE OF FIXED ASSETS AND DEPRECIATION FOR THE YEAR ENDED 30 JUNE 2019

Name	Purchase date	Rate	Cost	Opening WDV	Purchases	Depn	Disposals	Accum Depn	Closing WDV
			\$	\$	\$	\$	\$	\$	\$
Vehicles									
2004 Ford Courier double cab ute CDE943	30/06/09	31.2% DV	30,057	166	-	52	-	29,943	114
John Deere 6330 4WD ROPS Tractor with FEL	6/06/12	13.0% DV	90,503	38,826	-	5,047	-	56,724	33,779
Kea K645A Road trailer	6/06/12	25.0% DV	1,900	332	-	83	-	1,651	249
Quad - Suzuki LTA 750 w/ Extras	15/07/14	30.0% DV	14,130	3,393	-	1,018	-	11,755	2,375
Trailer - Compass Light Crate	14/07/14	25.0% DV	1,739	550	-	138	-	1,327	413
ATV - Kymco UXV 700i with Roof	23/06/15	30.0% DV	13,957	4,669	-	-	4,669	-	-
KYMC0 UXV 700i side by side ATV	11/08/16	30.0% DV	15,217	7,728	-	2,318	-	9,807	5,410
Kymco UXV 700i	20/07/18	30.0% DV	17,383	-	17,383	5,215	-	5,215	12,168
Kymco UXV 700i	20/07/18	30.0% DV	16,913	-	16,913	5,074	-	5,074	11,839
Total Vehicles			201,799	55,664	34,296	18,945	4,669	121,496	66,346
Plant and Equipment									
Lister shearing plant	30/06/09	10.0% DV	933	26	-	3	-	910	23
Microscope	30/06/09	10.0% DV	207	-	-	-	-	207	-
CF32 Rotowiper & Foam marker	30/06/09	14.4% DV	3,550	146	-	-	146	-	-
Flailmaster HD 60 slasher	30/06/09	14.4% DV	5,550	206	-	30	-	5,374	176
6 Tonne Tipping Trailer	30/06/09	14.4% DV	7,955	300	-	43	-	7,698	257
AES 2000 psi Water Blaster	30/06/09	26.4% DV	1,850	3	-	1	-	1,848	2
Kea trailer & stock crate	30/06/09	14.4% DV	2,667	112	-	16	-	2,571	96
Stihl 038 Magnum chainsaw	30/06/09	60.0% DV	964	-	-	-	-	964	-
Kinghit post driver	30/06/09	14.4% DV	5,500	254	-	37	-	5,283	217
Harrows	30/06/09	14.4% DV	986	49	-	7	-	944	42
Stafix M36 electric fence unit	30/06/09	26.4% DV	1,062	3	-	1	-	1,060	2
Alloy weigh platform	30/06/09	14.4% DV	480	27	-	4	-	457	23
Water tank	30/06/09	10.0% DV	350	-	-	-	-	350	-
Arc welder	30/06/09	10.0% DV	338	1	-	0	-	337	1
Wool handling table	30/06/09	10.0% DV	290	6	-	1	-	285	5
Woolpress No. 1	30/06/09	10.0% DV	1,832	59	-	6	-	1,779	53
Woolpress No. 2	30/06/09	10.0% DV	1,116	19	-	-	19	-	-
Disc grinder - Kiwi	30/06/09	10.0% DV	279	7	-	1	-	273	6
CDax CT Broadcaster	30/06/09	10.0% DV	725	42	-	4	-	687	38
PEL 628 electric fence unit	30/06/09	12.5% DV	1,046	33	-	4	-	1,017	29
400 gallon tank	30/06/09	18.0% DV	385	9	-	-	9	-	-
Weighing scales	30/06/09	26.4% DV	1,244	5	-	1	-	1,240	4
Pasture plate meter	30/06/09	14.4% DV	380	26	-	4	-	358	22
Tru Test loadbars	30/06/09	14.4% DV	684	53	-	8	-	639	45
SmartScale loadbars	30/06/09	14.4% DV	2,367	182	-	26	-	2,211	156
Makita circular saw	30/06/09	60.0% DV	212	-	-	-	-	-	-
3 Ton Trolley jack	30/06/09	14.4% DV	222	17	-	2	-	207	15
Water tank	30/06/09	9.0% DV	2,000	426	-	38	-	1,612	388
Makita Drill hammer	30/06/09	60.0% DV	391	-	-	-	-	391	-
Ball pump	30/06/09	14.4% DV	2,949	231	-	33	-	2,751	198
Onga pump	30/06/09	21.6% DV	690	16	-	3	-	677	13
Double ended shearing grinder	30/06/09	22.0% DV	222	4	-	-	4	-	-
Grantbuilt 7'6" Tray C/W rails	30/06/09	14.4% DV	1,165	103	-	-	103	-	-
Hustler bale grab	30/06/09	14.4% DV	2,400	299	-	43	-	2,144	256
Pivoting front mudguards	30/06/09	26.0% DV	995	16	-	4	-	983	12
Spray unit	30/06/09	19.2% DV	6,552	427	-	82	-	6,207	345
Lock pulley & motor	30/06/09	15.6% DV	621	77	-	-	77	-	-
3 unit dog kennel & run (x2)	30/06/09	48.0% DV	2,960	2	-	-	2	-	-
Tortella Hammer Flail Mulcher	30/06/09	60.0% DV	5,600	-	-	-	-	5,600	-
Docking cradle	30/06/09	15.6% DV	907	148	-	23	-	782	125
Rotowiper	30/06/09	19.2% DV	850	93	-	-	93	-	-
Stafix M6 electric fence unit	30/06/09	15.0% DV	354	13	-	2	-	343	11
2000 litre diesel tank & pump	30/06/09	10.0% DV	570	10	-	1	-	561	9
Plant & Equipment - various	30/06/09	10.0% DV	1,494	70	-	-	70	-	-

The accompanying notes form an integral part of these Financial Statements. This statement must be read in conjunction with the independent Auditors Report.

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

SCHEDULE OF FIXED ASSETS AND DEPRECIATION FOR THE YEAR ENDED 30 JUNE 2019

Name	Purchase date	Rate	Cost	Opening WDV	Purchases	Depn	Disposals	Accum Depn	Closing WDV
			\$	\$	\$	\$	\$	\$	\$
Plant & Equipment - various	30/06/09	10.0% DV	386	19	-	-	19	-	-
Grader blade	30/06/09	25.0% SL	2,409	-	-	-	-	2,409	-
Irrigation pump system	30/06/09	10.0% DV	8,135	152	-	-	152	-	-
Sunbeam shearing handpiece	30/06/09	10.0% DV	234	3	-	0	-	231	3
Smartscale 500 C/W loadbars	30/06/09	14.4% DV	2,367	205	-	-	205	-	-
Block & Chain	30/06/09	14.4% DV	410	30	-	-	30	-	-
Platform	30/06/09	14.4% DV	653	48	-	7	-	612	41
Measuring Wheel	30/06/09	12.0% DV	251	37	-	-	37	-	-
Stihl chainsaw	30/06/09	60.0% DV	556	-	-	-	-	-	-
XJ350pc Water pump	30/06/09	21.6% DV	622	21	-	5	-	606	16
Pressure tank	30/06/09	14.4% DV	869	105	-	15	-	779	90
Spray boom	30/06/09	19.2% DV	992	65	-	12	-	939	53
CDax GT400 spreader	1/07/09	16.0% DV	2,144	447	-	72	-	1,769	375
Redeye REK-08 Standalone mobile security system	7/12/10	25.0% DV	2,151	245	-	-	245	-	-
Redeye REK-16 Standalone mobile security system	7/12/10	25.0% DV	2,151	245	-	61	-	1,967	184
1.1Kw Pump, Toia Road	24/02/12	20.0% DV	2,565	617	-	123	-	2,071	494
W610 Weigh scale indicator	2/04/12	22.0% DV	830	176	-	39	-	693	137
HR3 Reader	2/04/12	22.0% DV	1,869	398	-	-	398	-	-
3SV19 Water Pump, Toia Road	25/06/13	20.0% DV	3,849	1,240	-	248	-	2,857	992
Freezer for Dog Tucker - F&P 699L Chest White	30/06/14	25.0% DV	1,651	511	-	128	-	1,268	383
Cattle Crush - Cattlemaster Classic	29/08/13	13.0% DV	12,995	6,559	-	853	-	7,289	5,706
Mains Energizer - 63000RS	25/03/14	13.0% DV	2,053	1,126	-	146	-	1,073	980
GO 6000 Loadbar set	7/09/15	13.0% DV	1,109	748	-	97	-	458	651
Portable loading ramp	10/02/16	13.0% DV	3,390	2,428	-	316	-	1,278	2,112
63000RS Electric fence unit	23/02/16	13.0% DV	1,999	1,432	-	186	-	753	1,246
INEX weedwiper	29/09/16	16.0% DV	1,995	1,453	-	232	-	774	1,221
INEX Spot sprayer 200 litre, 12 volt, flat deck	18/11/16	16.0% DV	991	744	-	119	-	366	625
Lombardini Diesel Motor & Capari Pump	20/01/17	20.0% DV	16,834	12,131	-	2,426	-	7,129	9,705
Stockman weigh crate - 3 way drafting	10/03/17	13.0% DV	5,995	4,989	-	649	-	1,655	4,340
Loadbars HD1010 3,000kg	13/04/17	13.0% DV	1,652	1,390	-	181	-	443	1,209
Weigh scale indicator IDS000	10/08/17	25.0% DV	2,173	1,676	-	419	-	916	1,257
Fieldmaster 230 Gearmower	16/01/18	16.0% DV	8,419	7,751	-	1,240	-	1,908	6,511
Energiser Mains 36000R MK111	30/06/18	13.0% DV	869	860	-	112	-	121	748
CDIT 650 spreader	30/04/19	16.0% DV	4,593	-	4,593	184	-	184	4,410
4 bay dog kennel	31/05/19	40.0% DV	1,792	-	1,792	119	-	119	1,673
EID stick reader	31/05/19	25.0% DV	1,303	-	1,303	54	-	54	1,249
Travelling Irrigator - Williams GB Magnum 300G (R)	12/02/14	20.0% DV	9,353	3,516	-	703	-	6,540	2,813
Effluent Pump - Doda Floater 20 hp (R)	12/02/14	20.0% DV	6,990	2,628	-	526	-	4,888	2,102
Pontoon - Williams 4 Drum (R)	12/02/14	20.0% DV	2,206	830	-	166	-	1,542	664
Water Pump - Grundfos CR5-12 Vertical Multi-Stage (12/02/14	20.0% DV	2,995	1,126	-	225	-	2,094	901
Pressure Tank - FLE-C310V 10 bar (R)	12/02/14	8.0% DV	1,150	797	-	64	-	417	733
Teat Sprayer (R)	27/03/14	30.0% DV	2,428	525	-	158	-	2,061	368
Milking Plant (R)	20/03/14	16.0% DV	93,620	44,118	-	7,059	-	56,561	37,059
Cooling Plant (Dairy) (R)	20/03/14	16.0% DV	26,926	12,689	-	2,030	-	16,267	10,659
Wash Down Unit (Dairy) (R)	20/03/14	20.0% DV	13,845	5,291	-	1,058	-	9,612	4,233
Water Heater (Dairy) (R)	20/03/14	16.0% DV	9,153	4,314	-	690	-	5,529	3,624
Pump - Floodwash Grundfos Seg. Grinder	30/06/14	20.0% DV	3,615	1,457	-	291	-	2,449	1,166
Total Plant and Equipment			349,432	128,662	7,689	21,442	1,609	207,432	113,300

The accompanying notes form an integral part of these Financial Statements. This statement must be read in conjunction with the independent Auditors Report.

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

NOTES TO THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2019

1. REPORTING ENTITY

Omapere Taraire E & Rangihamama X3A Ahu Whenua Trust is a trust formed under a Trust order dated 2 July 1990, pursuant to Section 438 (5) of the Maori Affairs Act 1953. The Trust Order was reviewed on 6 August 1996 in accordance with the requirements of the Te Ture Whenua Act 1993.

Omapere Taraire E & Rangihamama X3A Ahu Whenua Trust is a large-scale land administration trust operating for the long-term benefit of over 3,000 shareholders.

The special purpose financial report was authorised for issue in accordance with a resolution of trustees dated 2 October 2019.

2. STATEMENT OF ACCOUNTING POLICIES

(a) Basis Of Preparation

The financial statements have been prepared in accordance with "A Special Purpose Financial Reporting for use by For-Profit Entities" (The Framework) published by the Chartered Accountants Australia and New Zealand. It is considered by the Trustees to be an appropriate framework on which to prepare the Trust's financial statements for the year ended 30 June 2019.

These Special Purpose Financial Statements have been prepared for:

- the entity's owners
- internal management purposes only

(b) Historical Cost

These financial statements have been prepared on a historical cost basis, except for certain assets which have been revalued as identified in specific accounting policies below. The financial statements are presented in New Zealand dollars (NZ\$) and all values are rounded to the nearest NZ\$, except when otherwise indicated.

(c) Debtors

Debtors are valued at anticipated net realisable value.

(d) Depreciation

Depreciation is calculated using rates permitted under the Income Tax Act 2007 and detailed in the Schedule of Fixed Assets.

(e) Income Tax

Income tax payable has been accounted for using the taxes payable method. Income tax is calculated on the profit disclosed by the Statement of Financial Performance less permanent differences. The Trust does not have any timing differences which give rise to either deferred tax or a tax asset.

This statement must be read in conjunction with the Independent Auditors Report.

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

NOTES TO THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2019

(f) Cost of Forest

Cost comprises direct expenses incurred in replanting and tending the forest up until harvest.

(g) Investments

Investments are stated at the lower of cost and net realisable value. Investment income is recognised in the Statement of Financial Performance when received.

(h) Fixed Assets

All fixed assets are recorded at cost less accumulated depreciation.

The latest valuations dated 1 September 2016 by Quotable Valuation, value the Land and Improvements at a total of \$11,362,000 being \$6,804,000 for the Omapere farm and \$4,558,000 for the Rangihamama farm.

(i) Goods and Services Tax (GST)

The Financial Statements have been prepared on a GST exclusive basis except for Debtors and Creditors which are shown GST inclusive. The previous years' comparatives have been prepared on a GST inclusive basis except for fixed assets which are shown GST exclusive. Where GST is not recoverable it is recognised as part of the asset cost or expensed as appropriate.

(j) Leases - Operating

Leases under which all the risks and benefits of ownership are effectively retained by the lessor are classified as operating leases. Operating lease payments are charged to expenses over the period in which they are incurred.

(k) Livestock

Livestock is valued under Herd Scheme values unless otherwise denoted by (NSC) which stands for National Standard Cost.

(l) Investments in Joint Ventures

The investment in the Rangihamama Dairy Limited Partnership joint venture is recognised using the equity method. The Trust's share of the Joint Venture's net profit or loss for the year is recognised in the Trust's Statement of Financial Performance.

The Trust's share of any other equity movement of the joint venture is recognised in the Trust's Statement of Movements in Equity.

(m) Changes in Accounting Policies

There have been no significant changes in accounting policies.

3. GENERAL NOTES

(a) Capital Expenditure

At balance date the Trust had \$994,558 (2018: \$1,037,284) of capital commitments for expenditure relating to the Papakainga project.

This statement must be read in conjunction with the Independent Auditors Report.

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2019

(b) Comparative Figures

The comparative figures in the Financial Statements for last year relate to a 12 month period.

(c) Contingent Liabilities

There are no known contingent liabilities at balance date.

4.	CORPUS	2019	2018
		\$	\$
	Opening Balance	3,550,940	3,602,609
	ADD		
	Non Taxable Livestock Revaluation	12,309	31,608
		<u>12,309</u>	<u>31,608</u>
	LESS		
	Share of Rangihamama Dairy Limited		
	Partnership other movements in equity	115,403	83,058
	Share devaluation	438	219
		<u>115,841</u>	<u>83,277</u>
	CLOSING BALANCE	<u><u>3,447,408</u></u>	<u><u>3,550,940</u></u>
5.	TRUSTEE ACCUMULATED INCOME ACCOUNT	2019	2018
		\$	\$
	Opening Balance	1,964,055	1,545,911
	(Deficit)/Surplus after tax for the year	<u>(72,739)</u>	<u>478,650</u>
	LESS		
	Non deductible Expenses	6,632	4,085
	Imputation Credits converted to a loss	-	310
	Koha	9,636	8,760
	Scholarships	51,000	47,000
	Discretionary Fund	200	350
		<u>67,468</u>	<u>60,505</u>
	CLOSING BALANCE	<u><u>1,823,848</u></u>	<u><u>1,964,055</u></u>

This statement must be read in conjunction with the Independent Auditors Report.

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2019

6. SHARE OF RANGIHAMAMA DAIRY LIMITED PARTNERSHIP

The movements in the Trust's share of the investment in the Rangihamama Dairy Limited Partnership during the year are as follows:

	2019 \$	2018 \$
Opening balance	344,992	345,441
Trust's 50% share of Limited Partnership's:		
Net operating profit/(loss)	87,685	82,627
Other movements in equity	(115,403)	(83,076)
Net movements for the year	(27,718)	(449)
Closing balance	317,274	344,992

The Limited Partnership made operating profits for the past 3 years ended 31 May 2017 - 2019. It is budgeted to also make an operating surplus for the year ending 31 May 2020. Offsetting this has been the write down in value of shares held in Fonterra which account for virtually all of the other movements in equity.

7. COST OF FOREST

The Trust completed the replant of all areas harvested of the first forest rotation. Operations during the last year were limited to the culling of goats to protect the young seedlings.

	2019 \$	2018 \$
Opening cost of forest	285,882	250,607
Current year costs		
Seedlings	-	8,700
Replanting costs	-	11,930
Weed & Pest control	2,037	14,645
Total costs for the year	2,037	35,275
Closing cost of forest	287,919	285,882

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2019

7. COST OF FOREST (Continued)

Emissions Trading Scheme (ETS)

During the year ended 30 June 2013, the Trust was allocated, from the Crown, 15,660 New Zealand Units in the Emissions Trading Scheme in respect of 237 hectares of pre-1990 forest land. At balance date, the market value per unit was \$23.15 (2018: \$21.10), meaning the total market value of the units held by the Trust was \$362,529 (2018: \$330,426).

The Trust owns 46 hectares of post 1989 forest land. The Trust has chosen to not enter its post 1989 Forest into the Emissions Trading Scheme.

8. BANK OF NEW ZEALAND - FINANCE FACILITIES

Overdraft Facility

The Overdraft Facility with the Bank of New Zealand at balance date had a limit of \$300,000. The interest rate on the facility at balance date was 9.20% up to \$300,000 and 20.20% thereafter. The facility is secured over the livestock, plant and equipment owned by the Trust.

Term Loan

	Repayment due	Interest rate	2019 \$	2018 \$
Loan -04	20 June 2023	5.02%	2,191,264	2,191,264
			<u>2,191,264</u>	<u>2,191,264</u>

The loans are secured by a Perfected Security Interest in all present and after acquired property of the Trust, excluding land, buildings and infrastructure improvements. The loan is interest only. The Trust also has a credit card facility with a limit of \$5,000.

The Trust has guaranteed the repayment of loans and interest of up to \$1,100,000 made by the Bank of New Zealand, to the Rangihamama Dairy Limited Partnership - refer to Note 12.

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2019

9. GRANTS RECEIVED IN ADVANCE

The Trust has entered into agreements with Te Puni Kokiri to receive grants for the construction of the Papakainga Housing Project on Rangihamama Road. The timing of receipt of funds under the grant agreements is generally in advance of each stage of capital expenditure on the project.

The grants received are offset against the costs of the project as they are incurred. Any amount not yet used at balance date is shown as Grants Received in Advance.

Any costs incurred that are not covered by the grants are included in Capital Work in Progress - Papakainga Housing Project.

10. MAORI TRUSTEE SHARE LOAN

On 8 November 2012, the Trust accepted an interest free loan from the Maori Trustee, known as the Conversion Fund Presumed Advances, in exchange for the shares it held valued over \$1,000.

The Trust has recognised the full extent of the loan by reducing the Trust's equity by an equivalent amount.

After loan repayments are made, the Maori Trustee will apply to the Maori Land Court to cancel shares which they own in proportion to the amount repaid.

Until that time, the Maori Trustee stands as an owner and has the same powers and rights as all other owners.

	2019	2019	2018	2018
	\$	Number of shares held by Maori Trustee	\$	Number of shares held by Maori Trustee
Opening balance	305,955	729,468	355,955	1,036,832
Less repayment	(50,000)	-	(50,000)	(307,364)
Balance as at 30 June 2019	255,955	729,468	305,955	729,468

Application has been made by the Maori Trustee to reduce their shareholding to 627,014 shares following the loan repayment on 29/6/18 however the application has yet to be heard by the Maori Land Court.

After the annual loan repayment on 28 June 2019, the Maori Trustee will apply to the Maori Land Court to reduce the Maori Trustee shareholding to 524,559 shares, which equates to the value of the loan balance owing at year end.

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

NOTES TO THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2019

11. TRUSTEE TRANSACTIONS

During the year the Trustees received the following remuneration for attendance at meetings to conduct the Trust's business and reimbursement for costs.

						2019
Trustee Name	Number of trustee meetings attended	Current year	Meeting Fees Refund of prior year overpayments	Net fees	Travel	Total
		\$	\$	\$	\$	\$
C Bermingham-Brown	9	4,000	-	4,000	-	4,000
B Cutforth (independent)	9	4,000	-	4,000	-	4,000
TT Robust	8	4,025	-	4,025	-	4,025
R Tau	5	3,977	-	3,977	-	3,977
T Wihongi	4	3,792	-	3,792	-	3,792
R Witana	4	4,067	-	4,067	-	4,067
		23,860	-	23,860	-	23,860

						2018
Trustee Name		Current year	Meeting Fees Refund of prior year overpayments	Net fees	Travel	Total
		\$	\$	\$	\$	\$
C Bermingham-Brown		4,000	(3,204)	796	1,057	1,853
B Cutforth (independent)		4,000	(3,204)	796	2,212	3,008
TT Robust		4,023	(3,204)	819	1,057	1,877
R Tau		4,477	(3,565)	912	1,176	2,088
T Wihongi		4,000	(3,204)	796	1,057	1,853
R Witana		4,000	(936)	3,064	309	3,373
		24,500	(17,316)	7,184	6,869	14,053

During the 2018 year errors were found in the amount of honorarium paid for the 2012 to 2017 financial years. The trustees unanimously agreed to refund the overpayments. The trustees also resolved to make a one-off reimbursement of mileage costs for the same period.

In addition, B Cutforth, the independent trustee accepted 50% of his normal mileage allowance for the 2018 year.

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2019

12. RELATED PARTY TRANSACTIONS

Rangihamama Dairy Limited Partnership

During the 2014 year, the Trust entered into a Limited Partnership with Te Tumu Paeroa to operate a dairy farming business on a large part of the Rangihamama farm. As part of that agreement, the Trust entered into an operating lease on 20 March 2014, to lease 278 hectares of the Rangihamama farm to the Limited Partnership, of which the Trust has a 50% share. The lease is for a period of 5 years ending on 19 March 2019, with 2 rights of renewal for further terms of 2 years each.

As at 31 May 2019, the Limited Partnerships latest balance date, the Trust's share of the net assets of the Limited Partnership was \$317,274 (2018: \$344,993).

The following material transactions have taken place during the year with the Limited Partnership:

- (a) The Trust provided the following goods and services to the Limited Partnership:

	2019 \$	2018 \$
Operating lease of the Rangihamama dairy farm	195,000	195,000
Lease of additional land for maize growing	10,000	10,000
Purchase of dairy beef calves	-	10,780

These sales were made at market rates using independent valuations as appropriate.

- (b) The Trust has an operating lease with the Limited Partnership as noted above.
- (c) At balance date the Limited Partnership owed the Trust \$15,750 (2018: \$3,649) for maize lease and an NRC grant for fencing of waterways.
- (d) At balance date the Trust owed the Limited Partnership \$9,801 (2018: \$12,397) for purchase invoices and costs incurred on the Trust's behalf.
- (e) The Trust has guaranteed the repayment of loans and interest of up to \$1,100,000 made, by the Bank of New Zealand, to the Limited Partnership.
- (f) During the year, in their capacity as shareholders or beneficiaries of the Trust, Taoko Wihongi received \$60 in vouchers and Rachel Witana \$30 in vouchers. (2018: Raniera Tau \$60 in vouchers). This was in accordance with the policy applicable to any shareholders or beneficiaries who attend the Annual General Meeting and/or the Special General Meeting.

OMAPERE TARAIRE E & RANGIHAMAMA X3A AHU WHENUA TRUST

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2019

12. RELATED PARTY TRANSACTIONS (continued)

- (g) At 30 June 2018, the following trustees owed the Trust for the refund of honorarium overpaid to them in prior years. All of these balances were repaid during the current year.

	2019	2018
		\$
R Tau (Chairperson)	-	1,576
C Bermingham-Brown	-	1,122
T Wihongi	-	1,336
	<u>-</u>	<u>4,034</u>

13. INCOME TAX

	2019	2018
	\$	\$
Prior year - under/(over) provision for tax	-	129
Current year provision	-	-
Tax (credit)/expense	<u>-</u>	<u>129</u>

The Trust has tax losses of \$326,043 (2018: \$254,320) to offset against future taxable income.

INDEPENDENT AUDITOR'S REPORT

To the Executive Committee of
Omapere Taraire E & Rangihamama X3A Ahu Whenua Trust

Opinion

We have audited the financial statements of Omapere Taraire E & Rangihamama X3A Ahu Whenua Trust, which comprises the statement of financial position as at 30 June 2019 and the statement of financial performance for the year ended 30 June 2019, and notes to the financial statements including a summary of significant accounting policies.

In our opinion, the accompanying financial statements of the trust for the year ended 30 June 2018 are prepared, in all material respects, in accordance with the accounting policies specified in Note 1 to the financial statements.

Basis for Opinion

We conducted our audit in accordance with International Standards on Auditing (New Zealand) (ISAs (NZ)). Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of our report. We are independent of the Partnership in accordance with Professional and Ethical Standard 1 (Revised) *Code of Ethics for Assurance Practitioners* issued by the New Zealand Auditing and Assurance Standards Board, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Other than in our capacity as auditor we have no relationship with, or interest in, the trust.

Trustee's Responsibilities for the Financial Statements

The Trustees are responsible for the preparation of the financial statements in accordance with the accounting policies specified in Note 1 to the financial statements and for such internal control as the Trustees determine is necessary to enable the preparation for financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Trustees are responsible for assessing the Trusts ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless the Trustees either intend to liquidate the Trust or to cease operations, or have no realistic alternative but to do so.

Auditor's Responsibility for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISAs (NZ) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered

material if, individually or in the aggregate, if they could reasonably be expected to influence the decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISAs (NZ), we exercise professional judgement and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Trust's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimate and related disclosures made by Trustees.
- Conclude on the appropriateness of the use of the going concern basis of accounting by the trustees and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Trusts ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Trust to cease to continue as a going concern.

We communicate with the Trustees regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

Who we Report to

This report is made solely to the Trusts shareholders, as a body. Our audit work has been undertaken so that we might state those matters which we are required to state to them in and auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Trust and the Shareholders, as a body, for our audit work, for this report or for the opinions we have formed.



Adele M Maraki
Northland
12 October 2019

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

UNDER Sections 67, 236, 237, 239 and 240, Te Ture
Whenua Māori Act 1993

IN THE MATTER OF Omapere Taraire E & Rangihāmama X3A Ahu
Whenua Trust

A20180002924

BETWEEN RACHEL WITANA and TAOKO WIHONGI
Applicants

AND RANIERA SONNY TAU, TE TUHI ROBUST,
BRUCE CUTFORTH and COLLEEN
BERMINGHAM-BROWN
Respondents

A20180002884

AND BETWEEN TE TUHI ROBUST
Applicant

AND RACHEL WITANA and TAOKO WIHONGI
Respondents

Hearing: 20- 21 November 2018, 183 Taitokerau MB 210-374
7 February 2019, 188 Taitokerau MB 1-82
(Heard at Whangārei)

Judgment: 11 June 2019

JUDGMENT OF JUDGE M P ARMSTRONG

Copies to:
M Tuwhare, Afeaki Chambers, P O Box 13-397, Onehunga, Auckland 1643 moana@afeakichambers.co.nz
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TABLE OF CONTENTS

Introduction	[1]
What is this case about?	[4]
Should the minority trustees be removed for cause?	[17]
<i>What legal principles apply?</i>	<i>[18]</i>
<i>Should I remove Mr Wihongi?</i>	<i>[21]</i>
Background	[21]
The negotiations for the 2018 easement	[26]
Mr Wihongi's meeting with Top Energy	[32]
Did Mr Wihongi breach his obligations as a trustee?.....	[46]
Should I exercise my discretion to remove Mr Wihongi?	[53]
<i>Should I remove Ms Witana?</i>	<i>[70]</i>
Did the majority trustees resign?	[79]
<i>What legal principles apply?</i>	<i>[79]</i>
<i>Did they resign?</i>	<i>[87]</i>
Should the majority trustees be removed for cause?	[109]
<i>Failing to comply with the trust order</i>	<i>[111]</i>
<i>Negotiation of the easement compensation</i>	<i>[123]</i>
<i>Failure to include Ms Witana in signing the easement agreement</i>	<i>[127]</i>
<i>Misleading the shareholders</i>	<i>[134]</i>
<i>Mr Tau's attitude to beneficial owners</i>	<i>[139]</i>
<i>Further grounds for removal.....</i>	<i>[141]</i>
Should the minority trustees be reimbursed from the trust fund?	[152]
Should the Court facilitate the next annual general meeting?	[163]
Decision.....	[167]

Introduction

[1] The Omapere Taraire E and Rangihamama X3A Ahu Whenua Trust (“ORT”) is a large and commercially successful trust in Te Taitokerau. This success culminated in the trust winning the prestigious Ahuwhenua Trophy in 2017 for the top sheep and beef farm in New Zealand. Like many others, this trust also has its challenges. The trustees have had to make difficult decisions concerning the occupation of trust land by beneficiaries. They have also been confronted with a number of applications before this Court challenging their decisions.

[2] A significant factor that has carried this trust through both good and bad is the strong leadership from its trustees. Sadly, that leadership has fractured. The resulting two factions now say the other should be removed from office.

[3] This judgment determines whether any of the trustees should be removed. It also addresses ancillary issues seeking reimbursement from the trust fund, and assistance from the Court to facilitate an annual general meeting.

What is this case about?

[4] This trust administers six blocks located in the Te Taitokerau district, the largest of which is the Rangihamama X3A and Omapere Taraire E (Aggregated) block. The trustees are Raniera Sonny Tau, Bruce Cutforth, Colleen Bermingham-Brown, Dr Te Tuhi Robust, Taoko Wihongi and Rachel Witana.¹

[5] In 2017, Top Energy Limited sought to construct a high voltage transmission line from the Ngawha Generation Substation to Kaikohe. Part of the proposed transmission line ran through trust land. Top Energy sought an easement from the trustees for the construction and maintenance of the transmission line.

[6] On 9 February 2018, a resolution was passed by four of the trustees, Mr Tau, Dr Robust, Ms Bermingham-Brown and Mr Cutforth (“the majority trustees”), approving the easement (“the 2018 easement”). Mr Wihongi and Ms Witana (“the minority trustees”) do

¹ 157 Taitokerau MB 7-20 (157 TTK 7-20).

not support the easement. In particular, Mr Wihongi considers that the compensation payable is not sufficient. Mr Wihongi refused to sign the easement agreement. For reasons discussed below, Ms Witana was not asked to do so.

[7] On 22 February 2018, Mr Wihongi met with representatives from Top Energy concerning the 2018 easement. He did not discuss this with the other trustees beforehand. They were not aware that this meeting was going to take place. It is alleged that at this meeting:

- (a) Mr Wihongi attempted to renegotiate the compensation payable under the 2018 easement; and
- (b) Mr Wihongi sought a separate pecuniary advantage for Puhimoanaariki Marae, of which he is a trustee, beneficiary and owner.

[8] Mr Wihongi's meeting with Top Energy, and the signing of the easement, were raised at a trustee meeting on 23 March 2018, and then at a special general meeting of the beneficiaries the following day ("the first SGM"). On both occasions, these issues caused considerable upset. It is alleged that at these meetings, the majority trustees resigned from office.

[9] The minority trustees called a further special general meeting on 5 May 2018 ("the second SGM"). This SGM was not supported by the majority trustees. Ms Witana and Mr Wihongi paid the costs of calling and holding that meeting.

[10] The majority trustees argue that:

- (a) The minority trustees refused to sign the 2018 easement agreement and implement the decision of the majority;
- (b) Mr Wihongi met with Top Energy and sought a pecuniary advantage for his Marae; and
- (c) Ms Witana and Mr Wihongi have failed to carry out their duties satisfactorily.

[11] They seek an order removing the minority trustees for cause per s 240 of Te Ture Whenua Māori Act 1993 (“the Act”).

[12] The minority trustees argue that:

- (a) The majority trustees resigned; or
- (b) They have failed to carry out their duties satisfactorily.

[13] They seek an order that the majority be removed for resigning, or failing that, for cause. They also seek to be reimbursed from the trust fund for the costs of calling and holding the second SGM, and for the costs of filing this application.

[14] These issues have caused tensions to rise amongst the trustees and beneficiaries. The trust’s annual general meeting in December last year became disruptive and was closed down. Both sides seek assistance from the Court to convene a further AGM.

[15] The minority trustees also sought two further orders. On 21 November 2018, I granted an order, by consent, that the 2018 easement can be executed and registered by a majority of trustees.² The minority trustees also sought an order that they be absolved from any liability arising from the grant of the easement per cl 5.2.5 of the trust order. They did not pursue that issue in closing submissions and so it was abandoned.

[16] The following issues arise:

- (a) Should the minority trustees be removed for cause?
- (b) Did the majority trustees resign?
- (c) Should the majority trustees be removed for cause?
- (d) Should the minority trustees be reimbursed from the trust fund?
- (e) Should the Court facilitate the next annual general meeting?

² 183 Taitokerau MB 210 – 374 (183 TTK 210 - 374).

Should the minority trustees be removed for cause?

[17] Separate allegations are brought against Mr Wihongi and Ms Witana. I first consider the applicable legal principles, before determining, in turn, whether they should be removed.

What legal principles apply?

[18] Section 240(a) of the Act provides that the Court may remove a trustee if satisfied that the trustee has failed to carry out his or her duties satisfactorily. In *Perenara* the Māori Appellate Court held:³

As a general approach the Court should proceed with caution when asked to consider removal. Conversely, we also endorse the notion that immediate removal should follow obvious abuse, failure or malfeasance. However, as pointed out by Mr Kahukiwa, the test to apply is not one confined to obvious abuse, failure or malfeasance. Rather the legislation may, depending on the circumstances of each case, also require a consideration of trustees' performance to assess whether they have carried out their duties satisfactorily. In considering performance, the rules of natural justice must be observed, the appropriate legal thresholds as provided for in the Act, the Trustee Act 1956 and the Reservation Regulations have to be reached and the Court must consider whether there is any positive defence or reasonable excuse for unsatisfactory performance.

[19] In *Rameka v Hall* the Court of Appeal held:⁴

[28] The general responsibilities of responsible trustees are set out in s 223 of the Act. That section refers to the following:

- (a) Carrying out the terms of the trust:
- (b) The proper administration and management of the business of the trust:
- (c) The preservation of the assets of the trust:
- (d) The collection and distribution of the income of the trust.

[29] As we have noted, these statutory duties are not exhaustive and general trustee law principles are also relevant. Further, the trust order applicable to the trust may add other responsibilities. The relevant obligations of trustees have been described by the Maori Appellate Court in these terms:

- a) A duty to acquaint themselves with the terms of trust;
- b) A duty to adhere rigidly to the terms of trust;

³ *Perenara v Pryor – Matata 930* (2004) 10 Waiariki Appellate MB 233 (10 AP 233) at [241].

⁴ *Rameka v Hall* [2013] NZCA 203.

- c) A duty to transfer property only to beneficiaries or to the objects of a power of appointment or to persons authorised under a trust instrument or the general law to receive property such as a custodian trustee;
- d) A duty to act fairly by all beneficiaries;
- e) A duty of trustees to invest the trust funds in accordance with the trust instrument or as the law provides;
- f) A duty to keep and render accounts and provide information;
- g) A duty of diligence and prudence as an ordinary prudent person of business would exercise and conduct in that business if it were his or her own;
- h) A duty not to delegate his or her powers not even to co-trustees;
- i) A duty not to make a profit for themselves out of the trust property or out of the office of trust: *Garrow and Kelly Law of Trusts and Trustees* (sixth edition, pp 523–582 inclusive).

[30] The settled approach in the Maori Appellate Court in applying s 240 is to make an assessment of these standard duties together with what the Court has described as:¹³

... the broader approach having regard to the special nature of Maori land trusts and the provisions of [the Act]. Thus the prerequisite for removal of a trustee was not a simple failure or neglect of duties, but a failure to perform them satisfactorily. Accordingly an assessment of the trustee's performance was essential when applying s 240.

We endorse this approach as part of the first stage inquiry.

[20] In applying these principles, I must first consider whether the trustee has failed to carry out his or her duties satisfactorily in an objective sense, before deciding whether to exercise my discretion to remove the trustee.⁵

Should I remove Mr Wihongi?

Background

[21] Before determining this issue, it is necessary to traverse more of the factual background.

⁵ *Taurua v Harawira – Te Tii Waitangi A* [2017] Māori Appellate Court MB 328 (2017 APPEAL 328) at [13].

[22] Puhimoanaariki Marae is set apart over the Kohewhata 2A block for the benefit of the “Ngapuhi Tribe”.⁶ Mr Wihongi is closely connected to this Marae. He is:

- (a) One of eight trustees for the Marae;
- (b) One of 15 owners in the underlying land holding 21.369 out of a total 50.689 shares. He is the largest shareholder in the land by some margin; and
- (c) One of the beneficiaries of the Marae being a member of Ngapuhi.

[23] The Parahirahi Ngawha Waiariki Trust is a separate trust constituted to administer the Parahirahi C1 block, also known as Ngawha Springs. Mr Wihongi, Mr Tau and Dr Robust are trustees on Parahirahi, along with a number of others. Parahirahi has also had dealings with Top Energy on an unrelated matter.

[24] 2017 is not the first time ORT engaged with Top Energy concerning the grant of an easement. In 2010, the ORT trustees granted an easement in favour of Top Energy across trust land (“the 2010 easement”). The trustees at that time were Mr Tau, Mr Wihongi, Mr Cutforth, Tania Beckingsale and Steve Turner. During the course of those negotiations, Mr Wihongi raised that some of Top Energy’s power poles were wrongly placed on Puhimoanaariki Marae land. Top Energy agreed to relocate those poles away from the Marae.

[25] The agreement to relocate those power poles away from the Marae was incorporated into the 2010 easement agreement with ORT as Schedule 5. This was undertaken with consent from the ORT trustees and the Marae trustees.⁷

The negotiations for the 2018 easement

[26] When negotiating the 2018 easement, ORT and Top Energy obtained separate valuations to assess the compensation payable. The valuation obtained by the trustees

⁶ “Setting Apart Māori Freehold Land as a Māori Reservation” (17 October 2002) 154 *New Zealand Gazette* 3925 at 3961, see Title Notice 15 TNTOK 44.

⁷ Affidavit of T Wihongi, sworn 5 July 2018, exhibit A, schedule 5.

assessed compensation at \$10,108.00. The valuation obtained by Top Energy assessed compensation at \$20,000.00.

[27] On 28 September 2017, Mr Tau sent an email to the other trustees. That email set out the background to the negotiations and advised that Top Energy had agreed to pay compensation at the higher valuation of \$20,000.00. The email attached a copy of the draft easement and the Top Energy valuation. The trust's valuation was distributed to the trustees on an earlier date. Mr Tau finished his email with the following:⁸

In terms of the job I was tasked with, I have completed that and we now need a decision?

[28] Dr Robust, Ms Bermingham-Brown and Mr Cutforth all responded that they support the grant of the 2018 easement at compensation of \$20,000.00. Mr Wihongi and Ms Witana raised a number of concerns in relation to the easement and the amount of compensation.

[29] A trustee meeting was held on 9 February 2018. A resolution was moved "[t]hat the ORT Trust accept the easement contract with Top Energy and sign accordingly."⁹ The majority trustees voted in favour of the resolution. Mr Wihongi voted against it. Ms Witana was present at the meeting but was not included in the vote. This is discussed further below.

[30] The minutes from the meeting record:¹⁰

Taoko has stated he is not happy to sign the agreement. He does not agree with giving Top Energy easement over the land due to the possible future implications. The Board decided that it was a majority vote that would stand and that would become the Board decision. The Board decision was to sign to give Top Energy easement. It was discussed that if the Board did not sign the agreement Top Energy could just take under the Public Works Act with no agreement from the Trust Board. All trustees listed on the agreement need to sign to make a legal document.

Peter Jones – Regent Law – Is called on speaker phone to clarify the Trust position around signing. Peter stated that the Easement has to be registered against the title of land. All the Trustees named on the title need to sign the agreement so that it can be registered against the title with the Maori Land Court. It cannot be registered if all named as Trustees on the title do not sign.

Public Works Act – Top Energy can exercise the right under the Public Works Act (as this purpose would allow) if the Trust refused to sign the agreement. They could

⁸ Affidavit of Raniera Sonny Tau sworn 31 August 2018, exhibit A.

⁹ Affidavit of Taoko Wihongi sworn 5 July 2018, exhibit B.

¹⁰ Ibid.

go to court and get a court order to continue. If the Trust decided to oppose this in court they would have no defence against this purpose use.

Taoko requested some time, a couple of weeks, to think about his position and signing the agreement.

[Sic]

[31] The trustees agreed that Mr Wihongi should have further time to consider his position.

Mr Wihongi's meeting with Top Energy

[32] Top Energy had arranged to meet with representatives from the Parahirahi Trust on 22 February 2018 to discuss an unrelated matter. Prior to that meeting, Mr Wihongi contacted Allan Burdett, a Top Energy representative. Mr Wihongi asked Mr Burdett if the Top Energy representatives would meet with him after the Parahirahi meeting concerning the 2018 easement. Mr Burdett agreed. Mr Wihongi did not raise this with the other trustees for ORT. They were not aware this meeting concerning the 2018 easement was going to take place.

[33] The Parahirahi meeting was held as scheduled. Both Mr Wihongi and Dr Robust attended the meeting on behalf of the Parahirahi Trust. At the conclusion of the Parahirahi meeting, Dr Robust prepared to leave. Russell Shaw, the Chief Executive Officer of Top Energy, approached Dr Robust and asked if he was staying for the next meeting. Dr Robust responded "[w]hat meeting?"¹¹ Mr Shaw explained they were meeting with Mr Wihongi concerning the 2018 easement. Dr Robust advised that the other ORT trustees were not aware of this and asked Mr Shaw to contact Mr Tau after the meeting. Dr Robust then left.

[34] Mr Wihongi accepts he did not advise any of the ORT trustees beforehand that he had arranged the meeting between himself and Top Energy to discuss the 2018 easement.¹²

[35] What took place at the meeting between Mr Wihongi, Mr Shaw and Mr Burdett, is in dispute. Mr Shaw gave evidence as follows:¹³

¹¹ 183 Taitokerau MB 210-374 (183 TTK 210-374) at 277.

¹² Ibid, at 352 - 353.

¹³ Affidavit of R Shaw sworn 27 August 2018 at [3].

...Mr Wihongi was quite explicit in what he was seeking. He said that the compensation amount that the other Trustees had agreed was “*not good enough*” and that he would “*not sign*” the Easement Agreement unless “*more money*” was paid. My response to him was that he was entitled to his own view on whether the amount was enough or not, however that this was a matter that he needed to take up with the Trustees of ORT not directly with Top Energy. His response was that the Trustees were happy with the amount and had agreed to the financial figure before going on to say that the additional amount he wanted was not for the ORT for the transmission line, but rather was to be a payment for the purpose of rebuilding his marae “*Puhimoanaariki*” located at Mangakahia Road, Kaikohe. Mr Wihongi stated that he was not prepared to “*sign off*” on the ORT easement unless this additional payment was agreed to by Top Energy.

[36] Mr Shaw reacted very strongly to this. He says he referred to this as a “*bribe*” and “*extortion*” so that Mr Wihongi would understand the gravity of what he had asked.¹⁴ Mr Burdett also gave evidence. He supported Mr Shaw’s version of events.

[37] Mr Wihongi gave evidence as follows:¹⁵

Later in February I went and saw Russell Shaw and Allen Burdett as I wasn’t happy with the \$20,000.00 compensation as I believed it was peanuts, but they brushed me off because the other Trustees had already signed the easement and I was in a minority. Effectively the other Trustees had negated any opportunity to negotiate a better deal. I said to them they had used our land for over 50 years without payment and that they owed our community and our marae. I used the terms “*compensate*” or “*sponsorship*” in my communication with them but I was not specific about the conditions I was seeking or an amount or value.

[38] In a subsequent affidavit Mr Wihongi states:¹⁶

The evidence of Allan Burdett states that I sought as a condition of signing the easement documents a collateral pecuniary advantage. I do not understand exactly what he is meaning here. I never used those terms. What I sought is further terms and conditions for the easement, not as a price for me signing the easement. I certainly did not intend that if Top Energy agreed to what I was proposing that this would be a side deal, separate to the easement arrangement. I assumed that as in 2010 that it would form part of the easement agreement.

...

In the evidence of Russell Kenneth Shaw, he states that I attempted to extract a collateral pecuniary advantage for my own marae. Again I am not sure what he is meaning. In so far as this means that I attempted to negotiate a better deal under the easement agreement the other trustees seem to unquestionably accept, then I agree...

¹⁴ Affidavit of R Shaw sworn 27 August 2018.

¹⁵ Affidavit of T Wihongi sworn 5 July 2018 at [19].

¹⁶ Affidavit of T Wihongi sworn 11 July 2018 at [2] – [3].

[39] I questioned Mr Wihongi about this meeting. He told me that Top Energy “closed the door” on renegotiating the 2018 easement, and so he reflected back on the 2010 easement. He said that Top Energy had use of the Marae land for 50 plus years and there was no compensation for that. Mr Wihongi told me:¹⁷

Now they’re paying compensation to Rangihamama for the use of the land, what about our poor marae, they used for that amount of years, 50 years plus.

...

...I’m just wanting some better deal for shareholders nothing else...

[40] In response to my questions, Mr Wihongi accepted that he asked Mr Shaw for further funding to assist with the rebuild of Puhimoanaariki Marae though he referred to this as “sponsorship”.¹⁸

[41] I also asked Mr Wihongi whether he told Mr Shaw and Mr Burdett that he wouldn’t sign the 2018 easement unless Top Energy provided the funding to assist with the rebuild of the Marae. Mr Wihongi said this is one of the conditions he mentioned to Cedric Davenport, a different Top Energy representative, at a later meeting.¹⁹

[42] I accept Mr Shaw’s evidence as to what occurred at this meeting. I consider he was an honest and reliable witness. Mr Shaw’s evidence was also supported by Mr Burdett who was present at the meeting. I also consider that Mr Burdett gave an accurate account of what occurred.

[43] I do not consider Mr Wihongi was intentionally trying to mislead me. However, his evidence was evasive. It is only when I pressed him that he acknowledged what occurred. When I assess Mr Wihongi’s evidence as a whole, it is largely consistent with that from Mr Shaw and Mr Burdett. Mr Wihongi accepts:

- (a) He had the meeting with Mr Shaw and Mr Burdett;
- (b) He did not tell the other ORT trustees about this beforehand;

¹⁷ 183 Taitokerau MB 210-374 (183 TTK 210-374) at 366.

¹⁸ Ibid.

¹⁹ Ibid.

- (c) He asked for money to assist with the rebuild of the Marae; and
- (d) This was one of the conditions of him signing the easement agreement.

[44] While Mr Wihongi claims that he told Cedric Davenport, at a later meeting, that the funding for the Marae had to be provided before he would sign, I accept Mr Shaw and Mr Burdett's evidence that he said this to them at the meeting on 22 February.

[45] The events that followed this meeting are addressed further below. There is no dispute that Mr Wihongi never signed the 2018 easement agreement and refused to do so. He did file a belated application seeking an order that the easement could be signed and registered by a majority. I address that below as well.

Did Mr Wihongi breach his obligations as a trustee?

[46] Mr Wihongi clearly considered \$20,000.00 was insufficient to compensate the grant of the 2018 easement. He is entitled to his view. He was also entitled to vote against the resolution to approve the 2018 easement. However, once the easement had been approved by the majority, the easement agreement was valid and effectual as if all trustees had concurred.²⁰

[47] The minority trustees attempted to argue the majority breached the trust order by approving the easement by email. This is a red herring. Despite the earlier email correspondence, the agreed statement of facts confirms a resolution was passed at the trustee meeting on 9 February 2018 to accept the easement agreement and sign accordingly.²¹ This is also clear in the minutes from that meeting.

[48] In *Ellis v Faulkner*, Judge Carter considered a similar issue.²² In that case, one of the trustees refused to sign a chattels security even though it had been approved by the majority. Judge Carter found:²³

²⁰ See clause 5.2.5 of the trust order, 137 Taitokerau MB 122-126 (137 TTK 122-126) and s 227 of the Act.

²¹ Agreed statement of facts dated 14 September 2018 at [9]. In closing submissions, Ms Tuwhare calls into question the validity of this resolution. It is not open to her to do so given the admission in the agreed statement of facts.

²² *Ellis v Faulkner – Poripori Farm A Block* (1996) 57 Tauranga MB 7 (57 T 7).

²³ *Ibid*, at 15

This Court accepts that part of the duties of trustees is to consider fully matters that are put to the trustees and affect the operations and administration of the Trust, that they will have diverging views and that they are entitled to put their various views forward and have them considered. Healthy discussion and argument are part of any commercial forum. However, the Trust order indicates, as does section 227 of Te Ture Whenua Māori Act, that once a decision is made it is the majority that rules. Trustees who dissent are entitled to apply to the Court for directions, although as I have commented, their performance may be judged as the result of such action. They may also under section 227(6) have their dissent recorded.

Other than that, all trustees must be prepared to work with the majority to implement the decision which has been made. Where a trustee still takes a different view or regards himself as being separate from the majority of the trustees then dangers arise.

[49] The same applies here. Once the decision was made by the majority trustees, Mr Wihongi had limited options. He was entitled to apply to the Court for directions. He was also entitled to have his dissent recorded. However, he was not entitled to refuse to sign the easement agreement. He needed to challenge the majority decision in Court or get on with implementing the decision. He could not try to frustrate the registration of the easement by refusing to sign.

[50] What occurred at the meeting on 22 February is of greater concern. In *Fenwick v Naera*, the Supreme Court held:²⁴

[69] Because of the nature of trusts, equity imposes numerous duties on trustees. The obligations include: the duty of loyalty, the duty of impartiality, the duty to act personally, the duty to keep and render full and candid accounts and the duty to preserve trust property.

[70] The duty of loyalty and its prohibition on trustees (and other fiduciaries) from having conflicts of interests is a central tenet of the fiduciary relationship. Some commentators have even referred to this as part of the “irreducible core” of the relationship. Under the “self-dealing” rule, developed under the duty of loyalty, if a trustee sells the trust property to him or herself, the sale is voidable by any beneficiary *ex debito justitiae* (as of right), however fair the transaction.

[51] The duty of loyalty, and the general principle that trustees must avoid a conflict of interest, is also confirmed in cl 5.4 of the trust order. Clause 5.4,3(d) states that a trustee is deemed to have a conflict of interest where the trustee:

Is a director, shareholder, member, official, partner or trustee of another party to, or person who will or may derive a financial benefit from, the matter or transaction (not being a party that is wholly owned by the trust or by any subsidiary of the trust). ...

²⁴ *Fenwick v Naera* [2015] NZSC 68.

[52] Mr Wihongi breached his duty of loyalty to ORT. He used his position as a trustee on ORT to try and obtain a benefit for Puhimoanaariki Marae. Mr Wihongi is a trustee and beneficiary of that Marae. He is also the largest of fifteen shareholders in the underlying land over which the Marae is set apart. Mr Wihongi tried to force Top Energy to fund the rebuild of the Marae by refusing to sign the 2018 easement unless they did so. Mr Wihongi knew that the 2018 easement could not be registered without his signature as he and the other trustees were advised of this by the trust's solicitor at the trustee meeting on 9 February 2018. This is a serious breach of his obligations as a trustee.

Should I exercise my discretion to remove Mr Wihongi?

[53] Even though I have found that Mr Wihongi breached his obligations as a trustee, I still have a discretion as to whether he should be removed. Not all breaches justify removal. A small or technical breach may not require the extreme step of removal. I also have to take into account Mr Wihongi's performance as a whole, and the kaupapa of the Act as set out in the Preamble, ss 2 and 17.

[54] I recognise that Mr Wihongi is an important leader within the trust and the wider community. He is a recognised kaumatua and has been a key part of the success that the trust has enjoyed. His authority and mana have also provided stability for the trust and support from the beneficiaries.

[55] Against that, Mr Wihongi has committed a serious breach of trust. Even if he did not agree with the majority decision, he had to get on and implement it. He could have applied to the Court for directions, or have his dissent recorded, but he could not try and frustrate the process by refusing to sign.

[56] Mr Wihongi told me he was aware he could have sought directions.²⁵ I accept that he and Ms Witana did file an application per s 67 of the Act.²⁶ This was filed on 17 April 2018, over two months after the majority decision had been made. The only issue raised in that application is the alleged resignation of the majority trustees. That application did not

²⁵ 183 Taitokerau MB 210-374 (183 TTK 210-374) at 370.

²⁶ A20180002924.

raise the easement or whether it could be registered with only a majority having signed. Such orders were eventually sought but only by amendment to the application on 10 July 2018.

[57] I also accept that any prejudice to ORT, and Top Energy, over Mr Wihongi's refusal to sign, was resolved when I granted the order that it could be registered by a majority. Despite that, I cannot overlook the risk posed to ORT and Top Energy by his action in refusing to sign.

[58] If that was the only issue, his positive contributions to the trust may have persuaded me that removal is not necessary. However, the steps he took seeking advantage for his Marae was a significant breach at the high end.

[59] The easement could not be registered without his signature. Mr Wihongi was aware of that and attempted to use it to obtain a benefit for Puhimoanaariki Marae. Mr Wihongi is a trustee, beneficiary and owner in relation to that Marae. He did this with full knowledge that the easement had already been approved by the majority. He arranged the meeting with Top Energy without telling the other trustees beforehand about the meeting itself or what he was intending to do.

[60] Mr Wihongi also raises what may be construed as a positive defence, or a reasonable excuse, for his actions. These are:

- (a) He was seeking to replicate what occurred in relation to the 2010 easement;
- (b) He was acting for the benefit of Māori community purposes as provided for under the trust order;
- (c) He was authorised to negotiate with Top Energy; and
- (d) Top Energy confirmed they have not paid him any money personally.

[61] I do not accept Mr Wihongi's explanation that he was seeking to replicate what occurred in 2010. That was a very different situation. The removal of the poles from the Marae as part of the 2010 easement agreement was undertaken with the knowledge and consent of all the ORT trustees. That did not occur in 2018. The poles had also been wrongly

placed on Marae land. Removing the poles in 2010 was a relatively straight-forward exercise. The Marae trustees signed a written consent to the removal of the poles. This was attached as part of Schedule 5 to the 2010 easement agreement. While it was incorporated as a schedule to the ORT agreement, it was effectively a separate agreement between Top Energy and the Marae trustees, which was appended to the ORT agreement for convenience.

[62] This is vastly different to what happened in 2018. Without the knowledge or approval of the other ORT trustees, Mr Wihongi used his position as an ORT trustee to try and force Top Energy to provide a monetary benefit for the Marae.

[63] Nor do I accept that Mr Wihongi was using his position to advance Māori community purposes as provided for under the trust order. Section 218(2)(b)(iii) of the Act provides that making grants or loans towards the cost of constructing, maintaining or repairing Marae comes within the definition of Māori community purposes. However, the trust order requires that a decision had to be made by at least a majority of trustees to apply trust funds for Māori community purposes, and then only after consultation with the beneficial owners.²⁷ This did not occur.

[64] There was some dispute as to whether Mr Wihongi had authority to negotiate with Top Energy in relation to the 2018 easement. The majority trustees say that Mr Tau was authorised to negotiate directly with Top Energy and that Dr Robust and Mr Wihongi were to provide a supporting role. Mr Wihongi and Ms Witana do not agree. They say Mr Tau, Mr Wihongi and Dr Robust were all authorised to negotiate with Top Energy. I accept the evidence from the majority trustees. The email from Mr Tau dated 27 September 2018 clearly demonstrates that he was the person who undertook the primary negotiations with Top Energy. That email also shows he reported back to the other trustees. While Mr Wihongi and Ms Witana raised concerns in relation to the 2018 easement, neither of them raised any issue that Mr Wihongi had not been included in the negotiations. There is no objective evidence to demonstrate that Mr Wihongi was authorised to negotiate directly with Top Energy.

[65] Even if Mr Wihongi had been authorised to negotiate with Top Energy, he certainly was not authorised to meet with them without the knowledge of the other trustees, after the

²⁷ Clauses 3.2.17(c) and 5.2.5 of the trust order.

easement agreement had been approved by the majority, and certainly not to try and negotiate a separate payment for Puhimoanaariki Marae.

[66] Finally, Mr Wihongi referred to a letter he obtained from Mr Shaw which states that no money was paid to Mr Wihongi personally. That is not the allegation before me. The breach in this case is that he was seeking to use his position as a trustee on ORT to obtain benefit for Puhimoanaariki Marae of which he is a trustee, beneficiary and owner. Throughout this proceeding, Mr Wihongi has maintained that there was nothing wrong with this approach as he was seeking a benefit for the Marae not for himself. This only demonstrates that Mr Wihongi fails to understand a fundamental obligation he owes as a trustee and in particular the duty of loyalty.

[67] The Preamble promotes the retention of the land, and the occupation, development and utilisation of the land for the benefit of its owners. This is consistent with the overall obligation on trustees to act in the best interests of the owners. Mr Wihongi was not doing so when he met with Top Energy. I consider his removal is consistent with the kaupapa of the Act.

[68] While it is difficult to do so, I consider my only option is to remove Mr Wihongi as a trustee.

[69] Mr Burley, for the majority trustees, also argued that Mr Wihongi breached the Secret Commissions Act 1910. As I have found that Mr Wihongi should be removed for a breach of trust, it is not necessary to consider that argument.

Should I remove Ms Witana?

[70] The majority trustees contend Ms Witana should be removed as she also failed to sign the 2018 easement agreement. This is a curious argument given that Ms Witana was never asked to sign the agreement. She was included in the discussions and deliberations leading up to the meeting on 9 February 2018. However, she was not asked to vote on the resolution nor was she ever asked to sign the agreement. The agreement itself did not list her as a trustee and there was no provision in the agreement for her to sign.

[71] The minutes from the trustee meeting of 9 February 2018 record:²⁸

The trustees listed on the agreement are the trustees as registered with the Māori Land Court at the time of generating the agreement. Rachel Witana's appointment as a trustee was registered with MLC 16 August 2017, and was not a trustee at the time the agreement was created.

[72] The majority trustees told me they were relying on advice from their solicitor that her signature was not required as she was not a trustee at the time the agreement was drawn. This is clearly incorrect. Ms Witana was appointed as a trustee on 16 August 2017. She was registered as a trustee against the title to the land on 29 November 2017. The resolution by the majority trustees approving the easement was not passed until 9 February 2018. She should have been included in the vote, named on the agreement, and asked to sign it.

[73] Despite that, she was not. It is not clear to me how the majority trustees can argue she should be removed for failing to sign when she was never asked to do so.

[74] The majority trustees rely on the following comment by Ms Witana at the first SGM:²⁹

Having said that, and what Sonny is referring to from the legal ramifications point of view, our Trust Deed, this Trust Deed, this is the current one, was varied back in 2016. The clause on here states that if the majority of trustees agree to something and the minority don't, and I might add I'm one of the minority don't, we still must sign, we still must sign. It's at that point in terms of whenua tuku iho that I won't sign. And it's a breach, yes, of this Trust Deed, it definitely is, there's no song or dance about it, Sonny is right.

[sic]

[75] I do not consider this advances the point much further. If Ms Witana was asked to sign, and refused, she may have breached her obligations. But the fact remains she wasn't asked. Certainly, these comments from Ms Witana were unwise. She may well regret making them. But the comments were made in the heat of the moment, at a highly contested beneficiary meeting. The comments must be placed in that context.

[76] The majority trustees also argue that Ms Witana has failed to carry out her duties satisfactorily as she has failed to read through relevant documents before attending trustee

²⁸ Affidavit of Taako Wihongi sworn 5 July 2018, exhibit B

²⁹ Transcript of SGM 24 March 2018, A20180002884, exhibit 1.

meetings, and has failed to prepare, or properly prepare, policy documents when asked to do so. Ms Witana disputes this. She contends she did prepare one of the policy documents and this was then re-written by Ms Bermingham-Brown before she received any feedback or comment from the other trustees. She also claims that she has been unable to prepare the other policy documents because she has not been provided with the relevant information to do so.

[77] There is no clear or cogent evidence on these issues demonstrating that Ms Witana has failed to carry out her duties satisfactorily. I was not provided with any of the policy documents in question, nor was I referred to minutes of trustee meetings where these issues were discussed. There is no evidence to show these concerns were raised before this proceeding was commenced. An uncharitable eye may perceive that the real reason her removal is sought is that she sided with Mr Wihongi.

[78] The evidence does demonstrate that, at times, Ms Witana's comments and actions have been unhelpful and unwise. However, I do not consider the high threshold has been met requiring her removal.

Did the majority trustees resign?

What legal principles apply?

[79] There are no provisions in the Act which address what constitutes a valid resignation by a trustee of an ahu whenua trust. Guidance can be obtained from the Māori Reservations Regulations 1994, and general legal principles.

[80] Clause 3(e) of the Māori Reservation Regulations provides that trustees of a Māori reservation may retire by giving notice to that effect to the Court or to the other trustees. This regulation does not address the form of that notice or whether it has to be in writing.

[81] In *Neville's Law of Trusts, Wills and Administration*, the learned authors state a trustee may retire in one of the following ways:³⁰

³⁰ Nicky Richardson and Lindsay Breach *Nevill's Law of Trusts, Wills and Administration* (12th ed, LexisNexis, Wellington, 2016) at 7.4.

- (1) *Under any express power in the trust instrument.* If this is available it is the method to be adopted as a first resort (such power is not common).
- (2) *Under s 43 of the Trustee Act 1956.* Under this section, a substituted trustee or trustees must be appointed for the retiring trustee or each of the retiring trustees.
- (3) *Under s 45 of the Trustee Act 1956.* This section sets out the procedure when it is not intended to appoint a substitute, but there must be two or more continuing trustees before this power is available. Retirement must be by deed and the retiring trustee must have the consent of the co-trustees and the person (if any) empowered to appoint new trustees. Note that, except if only one trustee was originally appointed, he or she will not be discharged under s 45(1) unless there will be either a trustee corporation or at least two individuals to act as trustees to perform the trust (s 45(3)).
- (4) *Under s 46 of the Trustee Act 1956 as a matter of right.* Section 46 of the Act makes provision for the retirement of trustees when for any reason the other methods are not available. It provides that if any trustee desires to be discharged from his or her trust, he or she is entitled to retire on passing his or her accounts before the registrar of the court, and giving notice to the co-trustee or co-trustees (if any) and to the person (if any) to appoint new trustees. Note that this provision does not relieve the retiring trustee from the obligation to see that a new trustee is appointed in replacement.
...
- (5) *With the consent of all the beneficiaries.* The beneficiaries must all be sui juris, but it is doubtful if this method is available if a co-trustee will not consent.
- (6) *Payment into the Treasury.* This is in effect a method of retirement. Sections 77-79 of the Trustee Act 1956 permit any persons holding money belonging to any trust, or the majority of them if the concurrence of the remainder cannot be obtained, to pay the trust money into the Treasury to the account of the Registrar of the High Court, where it attends the order of the court. This gives the persons paying the money in a discharge for what they have paid in, but it is of course open to any interested person to show that they are chargeable for other moneys unaccounted for.

[82] These options are not particularly apposite to trustees on an ahu whenua trust as trustees are appointed, removed and replaced by the Court. The most relevant provision is s 46 of the Trustee Act which allows a trustee to retire as of right. This requires the trustee to pass his or her accounts to the Registrar and to give notice of his or her retirement to his or her co-trustees or to any other person empowered to appoint new trustees. This provision does not set out the form that the notice of retirement must take in contrast to s 45 which requires retirement by deed.

[83] Section 157 of the Companies Act 1993 provides that a director of a company may resign by signing a written notice or 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.

[84] Despite that, in *Little v Jull*, the High Court found that s 157 of the Companies Act did not intend to prevent a director from resigning by evincing a clear intention to do so, short of written notice to the company.³¹ Williams J considered that clear evidence of an oral resignation that is clearly accepted on behalf of the company is sufficient to amount to resignation as a director.

[85] In *Ngamoki-Cameron v Koopu – The Proprietors of Mangaroa and other blocks Incorporated*, Judge Harvey found that:³²

[25] A resignation is construed as a unilateral act and one which does not require acceptance. In the absence of any detailed procedural arrangement between the parties, a resignation can only, it would appear, be withdrawn with the consent of the recipient.

[86] Taking these various principles into account I determine that:

- (a) A trustee of an ahu whenua trust may retire by giving notice to that effect to the Court or to his or her co-trustees;
- (b) The resignation can be tendered in writing, or orally, provided that there is clear evidence of the resignation itself;
- (c) A resignation is a unilateral act. It does not require acceptance by the co-trustees or the Court;
- (d) Whether there is clear evidence of a resignation is a question of fact to be decided on a case by case basis;

³¹ *Little v Jull* [2013] NZHC 3123 at [48]-[49]. This approach was confirmed in *Latumbo v Pacific Auto Carrier (NZ) Ltd* [2018] NZHC 2773 at [47].

³² *Ngamoki-Cameron v Koopu – The Proprietors of Mangaroa and other blocks incorporated* (2014) 91 Waiariki MB 279 (91 WAR 279).

- (e) Once the trustee has effected his or her resignation, it can only be withdrawn with the consent of the recipient.

Did they resign?

[87] The minority trustees argue the majority resigned at the trustee meeting on 23 March 2018, at the first SGM, and/or in subsequent correspondence. The majority trustees dispute this. I consider in turn the alleged resignations raised by the minority trustees.

[88] The trustee meeting on 23 March discussed the 2018 easement. Dr Robust did not attend the meeting. He sent a letter to Ms Bermingham-Brown and asked her to read it at the meeting. That letter referred to Mr Wihongi's meeting with Top Energy on 22 February 2018 and said Mr Wihongi needed to resign with immediate effect. Dr Robust concluded the letter with the following:³³

If Taoko does not resign then I would tender my resignation to the board.

[89] This does not constitute an effective resignation. Dr Robust does not say that he has resigned. He states that if Mr Wihongi does not resign, he will. In response to my questions, Dr Robust confirmed that he never actually tendered a resignation.

[90] The minutes for the 23 March meeting record that Ms Bermingham-Brown and Mr Cutforth commented on Dr Robust's letter. Mr Tau is then recorded as making the following comment:

That under our trust deed we are obligated to follow the direction of the majority of Trustees. Clearly four out of five is a big majority. If we are unable to stick with our legal obligations under our trust deed, we would need to look at resigning from the Trust, as we cannot be professional if we ignore our legal obligations. This situation will have legal ramifications for us on other Boards.

[91] At the end of those minutes three action points are listed:

- ◇ **Taoko** – requested more time, a couple of weeks, to think about his position and signing the agreement.
- ◇ The Board decided that the majority vote would stand and that becomes the Board decision. The Board to sign the Top Energy easement.

³³ Affidavit of T Wihongi, sworn 5 July 2018, exhibit F.

◇ All Trustees listed on the agreement need to sign to make a legal document.

[92] Again, this does not constitute an effective resignation. The comment by Mr Tau, as recorded in the minutes, says they “would need to look at resigning”. There is no clear evidence saying they did resign. The action points also demonstrate that Mr Wihongi was still considering whether to sign the easement. If he had, the issue of the majority trustees resigning would have evaporated.

[93] At the first SGM, Mr Tau made a number of further comments concerning the majority trustees resigning. This includes the following:³⁴

One trustee didn't want to sign off, and he'll talk about his own reasons later, but the upshot of that is this – that if a decision is made by this Board as a majority, it becomes the decision of the whole Board. This decision where one trustee won't sign then puts the trusteeship of us in jeopardy. So yesterday at a Board meeting Te Tuhi raised in a letter and I don't know whether we should read that letter to you or not, that he couldn't stay here as a trustee under that regime and that he would tender his resignation immediately, today. I had sent out an email a week before saying that if we didn't follow through with what the Trust Deed said, I would tender my resignation as well. Then Colleen Birmingham-Brown said she couldn't, so she will tender her resignation today as well. Then Bruce Cutforth said as a professional director he couldn't stay on the trust under that regime. So we offered the trustee this way out. We offered him to sign the document and then we would get on with life. As a trust. Colleen stated yesterday that she couldn't do that because of an issue around trust. I've just spoken to Colleen and she's agreed that if the trustee would sign that agreement and you know, it doesn't matter what the issue are, once a decision is made by the Board, it is the decision of the Board. Doesn't matter what the reasons are. You can have redress by going to the Maori Land Court if that's what you want. So if that is not signed or the agreement is made not to sign that agreement today, you will have my resignation effective immediately, you will have Colleen's, you will have Bruce's and you will have Te Tuhi's. Kia ora.

...

For me personally, there's no other area, so that's the end of it as far as I'm concerned, you'll have my resignation today and Colleen's, Bruce and Te Tuhi

...

You've heard what we've said. You'll have our resignations on the table effective as of ...

[94] I note that the above extracts are taken from various parts of the transcript from the SGM. The whole of the transcript should be read to properly put these comments into context. Despite that, and as with the earlier comments at the trustee meeting, I do not

³⁴ Transcript of the Special General Meeting 24 March 2018, A20180002884, exhibit 1.

consider that these comments effected a valid resignation. Mr Tau made various comments that the trustees intend to or will resign. He did not say that the trustees have actually resigned. I also have doubts whether Mr Tau could tender a valid oral resignation on behalf of his fellow trustees. The distinction between whether the trustees had resigned or had threatened to resign is important in the context of this case.

[95] Having considered the evidence as a whole, including hearing from the majority trustees in person, I accept that they had serious concerns about Mr Wihongi's actions in meeting with Top Energy, in seeking a benefit for Puhimoanaariki Marae, and also in refusing to sign the 2018 easement. They considered that to resolve the matter Mr Wihongi should sign the easement agreement. That would have allowed the easement to be registered and the trustees could have moved on and put the issue behind them. The majority trustees considered that, if Mr Wihongi would not do that, then he should resign. The majority trustees also took the view that if Mr Wihongi would not sign the easement, or would not resign as a trustee, they could not continue in office and would resign themselves. This is what these comments are referring to. Despite the various comments that they would resign, ultimately, they did not do so.³⁵ Instead, they ended up filing the current application seeking to remove Mr Wihongi and Ms Witana for cause.

[96] In her closing submission, Ms Tuwhare, for the minority trustees, relies on the trustees' resignations being accepted by the beneficiaries at the second SGM. There is a question over whether that was a valid meeting which I address below. In any event, a resignation is a unilateral act and does not require acceptance. Whether the resignations were accepted by the beneficiaries is not relevant. The question is whether a valid resignation was effected. I have found that the majority trustees did not effect a valid resignation.³⁶

[97] For these reasons, I find that Dr Robust, Mr Cutforth and Ms Bermingham-Brown did not tender an effective resignation. However, Mr Tau did.

[98] At the first SGM, Mr Tau said the following:³⁷

³⁵ Other than Mr Tau who I will return to later.

³⁶ Ibid.

³⁷ Transcript of the Special General Meeting 24 March 2018, A20180002884, exhibit 1.

The issue is this – you’ve heard from Colleen, you’ve heard from Bruce, you’ve heard from Te Tuhi, you’ve heard from myself. We can no longer sit in a position like this. Because of the attack on the integrity of each other. So, that’s about it for me, for us, that’s about it, that’s on behalf of my whanau, **I’m tendering my resignation effective immediately.** That’s the end of it for me. Carol.

[Emphasis added]

[99] This is a clear and unequivocal statement. Mr Tau communicated this to his co-trustees and to the beneficiaries who were present at the meeting. This was a clear and effective resignation as a trustee on this trust.

[100] In his opening submission, Mr Burley, for the majority trustees, argued that, if the majority trustees did tender their resignations, this was withdrawn in an email from Mr Tau dated 26 March 2018. I put this to Mr Tau. He advised he is not relying on this email to withdraw any potential resignation.³⁸ Despite that, in closing submissions, Mr Burley attempted to argue, once again, that if there was a resignation it was withdrawn by that email. In the face of Mr Tau’s statement to me, this argument cannot be maintained.

[101] I find that Mr Tau did tender his resignation at the first SGM and this was not withdrawn.

[102] If there was any question that Mr Tau resigned at the first SGM, this was put beyond doubt when he resigned in writing on 13 June 2018. This resignation is referred to in Dr Robust’s report to the trustees as the acting chair for the trustee meeting held on 22 June 2018. Dr Robust’s report notes:³⁹

On 13 June 2018, Raniera Tau presented to me in writing his wish to resign as Chair and Trustee from the Trust for personal reasons. As Deputy Chair offer this situation to board for discussion and noting. It is important to consider that his wishes are taken without prejudice and discussed in committee.

[sic]

[103] Mr Tau’s resignation was then considered at the trustee meeting. The majority trustees argue they accepted Mr Tau’s resignation as the chairperson but not as a trustee. Ms Witana contends they accepted his resignation as both trustee and chairperson but acknowledged that Mr Tau would remain as a trustee until removed by the Court.

³⁸ 183 Taitokerau MB 210-374 (183 TTK 210-374) at 255.

³⁹ Affidavit of R Witana sworn 6 July 2018, exhibit J.

[104] Ultimately, the dispute as to what the trustees resolved at the meeting is immaterial. A resignation is a unilateral act. It does not require acceptance by the other trustees. Mr Tau resigned in writing. Dr Robust tabled this at the trustees' meeting. It matters not whether the resignation was accepted by the other trustees. The resignation was effective when it was received at the meeting.

[105] In closing submissions, Mr Burley referred to a decision I made in *Graham – Waihou-Hutoia X Māori Reservation (Piki Te Aroha Marae)*.⁴⁰ He submits the trustees refusing to accept Mr Tau's resignation means they withdrew the resignation on his behalf, and Mr Tau's acceptance of this decision, demonstrates the effective withdrawal of the resignation by action. I do not accept this argument.

[106] In *Graham*, the trustee in question, Mr Heperi, resigned in writing. That resignation was provided to the trustees and filed with the Court. I found that Mr Heperi properly effected his resignation. However, at a subsequent trustee meeting, Mr Heperi sought to remain as a trustee. This was then approved by the other trustees at that meeting. I found that, in effect, those trustees consented to his resignation being withdrawn.

[107] This can be distinguished from the present case. Mr Tau did not resign, and then ask to remain as a trustee, followed by approval from the other trustees to do so. On the best evidence available, the other trustees did not accept his resignation as a trustee. The majority acted on the basis that, as they did not accept it, there was no valid resignation. That is not the case.

[108] For these reasons, I find that Mr Tau resigned as a trustee on this trust. Per cl 5.1.2(b) of the trust order, Mr Tau should be removed. As Mr Tau has only resigned, rather than being removed for cause, he can stand for re-election if he chooses.

Should the majority trustees be removed for cause?

[109] At para [53] of her closing submissions, Ms Tuwhare 'summarises' the grounds upon which her clients contend the majority trustees should be removed for cause. There are 23 different grounds noted. These are not grounds for removal in a conventional sense but

⁴⁰ *Graham – Waihou-Hutoia X Māori Reservation (Piki Te Aroha Marae)* (2014) 88 Taitokerau MB 258 (88 TTK 258).

appear to be a ‘scatter-gun’ approach making as many allegations as possible, many of which overlap. It is difficult to make sense of this ‘summary.’

[110] At paras [89] to [118] of her submission, Ms Tuwhare sets out more detailed arguments under the heading “Failure to carry out trusteeship satisfactorily”. These arguments, at times, resemble the ‘grounds’ summarised at para [53]. I consider these arguments in turn.

Failing to comply with the trust order

[111] Ms Tuwhare contends the majority trustees are failing to comply with the trust order as:

- (a) Ms Bermingham-Brown is resident in Germany but regularly attends meetings through electronic media; and
- (b) The trustees have been making decisions by email and then ratifying the decisions at subsequent trustee meetings.

[112] Clause 5.2.2 and 5.2.5 of the trust order state:

- 5.2.2 Notwithstanding clause 5.2.1 where due to unforeseen circumstances a trustee is not able to attend a meeting of trustees he or she may do so by teleconference or other electronic or digital communication system PROVIDED THAT he or she remains in communication throughout the meeting.
- 5.2.5 The powers of the trustees may be exercised at a meeting of trustees by a majority of trustees and all such acts and proceedings arising shall be as valid and effectual as if all trustees had concurred PROVIDED THAT where a trustee notifies the Registrar of the Court in writing of his or her dissent from the majority decision of the trustees before the decision is implemented that trustee shall be absolved from any personal liability arising out of the decision.

[113] Mr Bermingham-Brown is resident in Germany. She attends most trustee meetings electronically. Ms Tuwhare contends this is not an unforeseen circumstance and is in breach of cl 5.2.2.

[114] Ms Tuwhare further contends that the trust order requires decisions to be made at trustee meetings. She submits that the trustees regularly make decisions by email also in breach of the trust order.

[115] In *Bramley v Hiruharama Ponui Inc – Committee of Management* the Māori Appellate Court found:⁴¹

[9] Whether governance performance has been satisfactory or not must depend then on whether there is a clear and present apprehension of risk to the incorporation asset or to the wider interests of the incorporation shareholders as a result of action or inaction of the committee. It is not every unsatisfactory act or omission which should lead to removal, but those that go to the principles of the Act. To adopt any other approach, would lead to removal being the primary remedy available for any technical breach of the Act. We do not think that wholesale removal of Māori governance members is consistent with the principles of the Act or the intentions of the legislature.

[116] Technically, Ms Bermingham-Brown attending trustee meetings on a regular basis by electronic means is in breach of cl 5.2.2. That provision is clear that electronic attendance is only to occur in unforeseen circumstances. Her permanent residence in Germany is not an unforeseen circumstance. However, there is no evidence that her attendance at trustee meetings by electronic means has put the trust assets at risk or has otherwise compromised the wider interests of the beneficiaries. This is a technical breach as referred to in *Bramley*.

[117] The same applies to the trustees considering issues by email. The trustees were in contact by email concerning the grant of the 2018 easement. Following Mr Tau's final email of 28 September 2017, the majority trustees confirmed that they supported the grant of the easement at the upper valuation of \$20,000.00. The minority trustees continued to express concern. A resolution was then passed by the majority at the trustee meeting on 9 February 2018 approving the easement.

[118] The majority trustees contend it is common practice on this trust for the trustees to discuss trust business, and to make decisions, by email. These decisions are then ratified at the next trustee meeting. The majority contend this is a practical way to ensure that the trustees can keep up with any urgent business that may arise between trustee meetings. The

⁴¹ *Bramley v Hiruharama Ponui Inc – Committee of Management* (2006) 11 Waiariki Appellate MB 144 (11 AP 144).

minority trustees dispute that this is a common practice and contend that they have not participated in decision-making by email before.

[119] Once again, this is a technical breach, if it is a breach at all. Clause 5.2.5 of the trust order states that the powers of the trustees “may” be exercised at a meeting. It does not say that the powers must be exercised at a meeting. In any event, I accept the explanation by the majority that where decisions are made by email, this is then ratified at a subsequent trustee meeting. If this is a breach, it is a technical breach and is a practical measure to attend to business between trustee meetings.

[120] I also accept the evidence from the majority trustees that this is common practice on this trust. The majority trustees referred to other examples where this had occurred. While the minority trustees rejected this was common practice, they nevertheless contend that the majority trustees should be removed over the operation of this very practice.

[121] There is no evidence to demonstrate that, before this proceeding commenced, the minority trustees ever objected to Ms Bermingham-Brown attending meetings electronically. Nor is there any evidence to show they objected to decisions being made by email, and then ratified at trustee meetings. It appears that the minority trustees were not concerned with this until the fallout occurred with the majority trustees. They are now raising this to try and have the majority trustees removed because of that division.

[122] To prevent future disputes, the trustees should consider amending the trust order to expressly provide for these practices.

Negotiation of the easement compensation

[123] Ms Tuwhare criticises the majority trustees for agreeing to \$20,000.00 as compensation for the easement. She submits the majority did not attempt to negotiate anything more.

[124] It is not clear what Ms Tuwhare is relying on. Mr Wihongi was clearly unhappy with the \$20,000.00 figure. He referred to this as peanuts. Mr Wihongi based his position on the fact that Top Energy were going to generate a large amount of income from the electricity that would be transported along the transmission line over trust land. This is his personal

view. There is no expert or objective evidence to demonstrate that this is a proper approach to determine the compensation payable (it is certainly not an approach I have seen in valuations produced in this Court). Nor is there any evidence to show the compensation was below market or was otherwise unacceptable.

[125] Two valuations were obtained from registered valuers assessing the amount of compensation payable. The trustees and Top Energy agreed to the compensation at the higher amount. Ms Tuwhare, and the minority trustees, have not shown that the terms of the easement are oppressive or are in any way less favourable than a standard easement of this nature.

[126] Mr Wihongi clearly wanted more money. On the evidence before me, there is no proper or principled basis supporting his view. I do not accept Ms Tuwhare's argument that the failure by the trustees to try and get more is somehow evidence that they have failed to discharge their duties satisfactorily.

Failure to include Ms Witana in signing the easement agreement

[127] Ms Tuwhare argues the trustees failed to carry out their duties satisfactorily as Ms Witana was excluded from the vote on 9 February 2018 concerning the grant of the easement, and was excluded from signing the 2018 easement.

[128] Ms Witana was included in the email correspondence between the trustees in relation to the easement. She was provided with the draft easement and the valuations obtained as were all the other trustees. She was asked for her view by email and expressed that view. Mr Tau also responded to the various points that she raised.

[129] Ms Witana was not included in the vote approving the easement at the trustee meeting on 9 February 2018. There was no attestation provision for her to sign the easement agreement.

[130] The trustees got this wrong. Ms Witana was a trustee at the time the resolution was considered. She had also been registered as a trustee on the title to the trust lands. She should have been included in the vote. The draft easement agreement was prepared before Ms Witana was appointed as a trustee. Upon her appointment, this should have been updated

to include her. Ultimately, this is a moot point as Ms Witana made it clear that she opposed the grant of the easement, and that she would not sign it.

[131] While the trustees erred here, Mr Tau told me they were relying on advice from the trust's solicitor.⁴² It is prudent for trustees to take advice, particularly on legal issues. Despite that, relying on advice will not always excuse trustee behaviour particularly if they commit a flagrant breach of trust. I don't consider that is the case here. This was a purely legal issue. The trustees took legal advice and relied on that advice.

[132] Importantly, there was no loss to the trust as a result. While Ms Witana did not participate in the vote, her view opposing the grant of the easement, along with Mr Wihongi, has been clear and well known. She and Mr Wihongi sought an order that the majority trustees could sign and register the easement without requiring their signature. I granted that order by consent.

[133] Accordingly, while Ms Witana should have been included in the vote and provided for in the easement agreement, I am satisfied that the trustees were relying on advice from their solicitor and that in the circumstances of this case this error does not justify removal.

Misleading the shareholders

[134] Ms Tuwhare states that, prior to the first SGM, the trustees received advice that if they did not agree with the 2018 easement, Top Energy could take proceedings under the Public Works Act. The trustees were also advised that the Public Works process requires an independent assessment of reasonable compensation as assessed by valuation.

[135] Ms Tuwhare submits that at the first special general meeting, when discussing the Public Works Act 1981, Mr Tau said "we get nothing". She contends Mr Tau misled the beneficiaries at the meeting.

[136] I accept that what Mr Tau said was incorrect. If an easement is obtained under the Public Works Act 1981, the trust would still receive compensation. However, the beneficiaries were not being asked to approve the easement. The issue had been raised as

⁴² 183 Taitokerau MB 210-374 (183 TTK 210-374) at 260.

part of the wider discussions on what was occurring between the trustees. It is not the case that the beneficiaries were making a decision on a matter and Mr Tau misled the beneficiaries to try and influence their decision.

[137] Mr Tau's comment also occurred during general discussion and in response to comments from a beneficiary. This was also in the context of a tense meeting with beneficiaries where emotions were running high. I consider Mr Tau made the comment in the heat of the moment. While the statement was factually wrong, I do not consider that this is behaviour that warrants removal.

[138] Ms Tuwhare also contends Mr Tau sent emails which vilified Ms Witana and Mr Wihongi. I have reviewed the emails complained of. There is nothing in them. It is clear that the disagreement over the easement caused a breakdown in the relationship between the majority and minority trustees. Strong words and views were expressed on both sides. The emails Ms Tuwhare refers to does not vilify her clients as she submits. Once again, this does not justify removal.

Mr Tau's attitude to beneficial owners

[139] Ms Tuwhare further submits that Mr Tau made derogatory comments about beneficial owners in the following email:

It was frightening hearing a lot of the beneficiaries on Saturday condoning illegal and immoral behaviour. That does not all go well for the type of trustees who may put their names forward as potential replacement trustees.

[140] As with the email referred to above, this comment does not demonstrate a level of behaviour that requires removal. I have found that Mr Tau has resigned and should be removed. As such, this, and the above arguments, which refer to his removal for cause, are moot.

Further grounds for removal

[141] At paragraph [53] of her closing submission, Ms Tuwhare raises other grounds for removal that were not expanded on in the body of the submission or which seem to have been incorporated into arguments on other causes of action. It is difficult to determine

whether these grounds are being advanced in relation to the application for removal for cause. For the sake of completeness, I briefly address these issues below.

[142] During cross-examination, and in parts of her closing submission, Ms Tuwhare criticised the majority trustees for failing to conduct an investigation or dispute resolution process in relation to Mr Wihongi's meeting with Top Energy on 22 February 2018. She asserts the majority trustees simply accepted the version of events from the Top Energy representatives, failed to conduct a proper investigation to ascertain the truth of the matter, and failed to implement a dispute resolution process to try and address the issue.

[143] Ms Tuwhare has not set out how failing to take such action is a breach of trustee obligations. While an alternative dispute resolution process to resolve differences amongst trustees may be good practice, there is no obligation to go through such a process. Clause 6 of the trust order provides that where a trustee is aggrieved by a decision, action or omission of another trustee, he or she must first give written notice of the grievance to the trustees. If it is not satisfactorily addressed, the trustee may request a general meeting of beneficial owners or refer the grievance to the Court.

[144] Dr Robust did give written notice raising a grievance in relation to Mr Wihongi's meeting with Top Energy. This was discussed at the trustee meeting on 22 March 2018 and was then also discussed at the special general meeting the following day (though this was raised on the day rather than being an item on the agenda). Both factions of trustees then filed applications before this Court.

[145] Ms Tuwhare has not set out any basis in law for the process she contends should have been adopted. Ms Tuwhare seems to be conflating trustee obligations with the obligations an employer owes an employee. Those obligations do not apply where disputes arise between trustees.

[146] I have also accepted the evidence from Top Energy as to what occurred at the meeting on 22 February 2018. It is difficult to see how I can remove the majority trustees for relying on statements from Top Energy which I have found to be accurate.

[147] Ms Tuwhare also contends the majority trustees used the threat of their resignations as an ultimatum to try and force Mr Wihongi to sign the easement. I have already addressed the resignations themselves.

[148] While the majority trustees took a firm position, I consider they were justified in doing so. Mr Wihongi committed a serious breach of trust. When the majority learnt of this, they became extremely concerned. They told Mr Wihongi that he needed to sign the easement or resign as a trustee. They also made comments that if he did neither they would resign.

[149] Ultimately that did not occur, but I do not consider the trustees were bullying or otherwise acting inappropriately. Their strong stance is not surprising given the serious nature of the breach Mr Wihongi committed. In these circumstances, asking Mr Wihongi to sign, or resign, or indicating that they would resign themselves, is understandable.

[150] Finally, Ms Tuwhare contends the trustees have failed to maintain the confidence of the beneficiaries. It appears Ms Tuwhare is relying on the resolution passed at the second SGM to accept the resignations of the majority trustees. As I have already found, the majority trustees (excluding Mr Tau) did not effect valid resignations. Even if they had, acceptance of their resignations is not required. There is also the question as to whether the second SGM was valid.

[151] I accept that in *Ellis v Faulkner – Poripori Farm A Block*, Judge Carter found that the Court is entitled to take into account the views of the owners in deciding whether a trustee's performance is satisfactory.⁴³ However, Judge Carter also found that the Court cannot blindly follow the wishes of the owners. There must still be grounds under s 240 for the Court to exercise its jurisdiction to remove a trustee. I am not satisfied that there are sufficient grounds to remove the majority trustees in this case.

Should the minority trustees be reimbursed from the trust fund?

[152] The minority trustees also seek an order that they be reimbursed from the trust fund for the costs of bringing this application, and for holding the second SGM. These costs are:

⁴³ *Ellis v Faulkner – Poripori Farm A Block* (1996) 57 Tauranga MB 7 (57 T 7).

Māori Land Court application fee	\$60.00
Advertising the second SGM in the Herald and Advocate	\$996.41
Second SGM hall hireage and catering	\$900.00
Printing for Māori Land Court and second SGM and courier to Māori Land Court	\$334.30
Total	\$2,290.71

[153] In *Hall v Opepe Farm Trust* Judge Harvey found.⁴⁴

[49] It is trite law that a trustee is entitled to indemnity out of the trust funds for expenses properly incurred. Therefore, for a trustee's indemnity to apply, the expense or liability must have been incurred in the proper administration of the trust. Expenses improperly incurred will fall upon the trustee personally. In that sense, a trustee will always be at risk when they incur expenses. The definition of what constitutes "properly incurred" will necessarily be determined on the facts of each case, but in order to be indemnified the expenses must relate to the scope of the trustees' role.

[154] Judge Harvey also found that where hostile litigation fails, a trustee may still be entitled to an indemnity if the trustee's actions were reasonable.

[155] In relation to the costs sought for this proceeding, the minority trustees only seek reimbursement for the filing fee, printing and courier. All other costs have been met by a grant from the special aid fund. The minority trustees' substantive application has been partly successful. I found that Mr Tau did resign and so should be removed. I also granted an order confirming that the easement could be signed and registered by a majority. Other parts of the application, claiming that the remaining majority trustees resigned, or should be removed for cause, were not successful.

[156] As the minority trustees were partly successful, I consider the costs claimed for preparing and filing this application should be met out of the trust fund. I also take into account that the costs are relatively low in relation to the overall size of the trust assets.

[157] The costs claimed for the second SGM are not as straightforward. Calling a meeting of beneficiaries is clearly within the scope of the trustees' role. Ordinarily where such a

⁴⁴ *Hall v Opepe Farm Trust* (2014) 104 Waiariki MB 54 (104 WAR 54).

meeting is called one would expect that the costs associated with the meeting would be met out of the trust fund. The issue in this case is that the meeting was called by a minority of trustees. This raises the question of whether the costs were properly incurred.

[158] The decision to call a meeting of beneficiaries, like any trustee decision, must be made by at least a majority. That did not occur here. Ordinarily, where a trustee calls a meeting of beneficiaries without approval from a majority, it will be difficult to demonstrate that the costs were incurred in the proper administration of the trust. However, the circumstances of this case are unique.

[159] The signing of the easement agreement, and Mr Wihongi's actions in meeting with Top Energy, led to a significant dispute between the trustees. This spilled over into considerable tension, and division, when the issue was raised at the first SGM. While there were lengthy discussions by both trustees and beneficiaries at that meeting, the issue was not resolved. Ms Witana raised that another meeting should be called to try and resolve the matter. There was support for this from some of the beneficiaries. Ms Witana then called the second SGM. While she did not have the proper approval from a majority of trustees to do so, I consider she was acting in a genuine attempt to discuss this with the beneficiaries to try and resolve the issue.

[160] I also consider that the minority trustees were acting on the basis that the majority trustees had resigned at the first SGM. I have found that, other than Mr Tau, valid resignations were not effected. However, it is not the case that there was no substance to the allegation. Numerous comments about resignations were made, and in the absence of a decision from this Court, it is understandable that the minority trustees, and some beneficiaries, held a genuine belief that the majority had resigned. In these circumstances, the minority trustees considered they were the only active trustees in office.

[161] Finally, when Ms Witana raised at the first SGM that she was going to call another meeting, there was no opposition from the other trustees that the minority did not have sufficient authority to call a meeting, or that the costs incurred would have to be paid personally. The lack of opposition from the majority trustees at the first SGM may well have influenced the minority trustees in believing they were acting properly.

[162] For these reasons, I consider that the costs claimed for the second SGM should also be indemnified out of the trust fund. I note that I have made this finding in the unique circumstances of this case. This should not be construed as a precedent that such costs will be met from the trust fund in other situations where a meeting has been called without sufficient authority from the trustees.

Should the Court facilitate the next annual general meeting?

[163] The trust held its annual general meeting on 15 December 2018. Along with general trust business, an election was to be held to fill the vacancies from those trustees who were due to retire pursuant to the rotation provisions in the trust order. The AGM did not go well. Ms Tuwhare says it descended into chaos to the extent that the meeting had to be closed down. Both sides now seek assistance from the Court to facilitate the AGM.

[164] I accept that there was substantial disruption at the AGM in December and that the meeting had to be closed down. However, this disruption arose as there was significant division over whether the majority trustees had resigned, and whether Mr Wihongi had breached his duties, or had acted properly. Those questions have now been answered in this judgment. I do not consider it is necessary for the Court to intervene in the next AGM.

[165] With these issues resolved, the trustees can facilitate the AGM themselves. If the trustees consider it would be useful to have an independent person chair the meeting, they can nominate someone to do so without requiring intervention from the Court. I leave this to the trustees to consider.

[166] Along with general trust business, the next AGM will need to consider an election to replace those trustees up for rotation, as well as to replace Mr Tau who resigned, and Mr Wihongi who has been removed. Mr Tau, and those trustees up for rotation, are entitled to stand for re-election if they wish.

Decision

[167] I grant the following orders pursuant to Te Ture Whenua Māori Act 1993:

- (a) Section 240 removing Taoko Wihongi for cause;

- (b) Section 239 removing Raniera Sonny Tau as he has resigned;
- (c) Sections 220 and 239 vesting the land and assets of the trust in the remaining trustees;
- (d) Sections 236, 237 and s 38 of the Trustee Act 1956 that Rachel Witana and Taoko Wihongi are to be reimbursed \$2,290.71 from the trust fund; and
- (e) The remaining applications are dismissed.

[168] As both sides have been partly successful, I consider costs should lie where they fall. If any party seeks costs they are to file and serve submissions on costs within three weeks of this judgment. Any submissions in response are to be filed and served within a further three weeks.

Pronounced in open Court at 2:50 pm in Whangārei on Tuesday the 11th day of June 2019.



M P Armstrong
JUDGE