

ORDER VESTING MAORI RESERVATION IN TRUSTEES

The Maori Affairs Act 1953

Section 439

IN THE MAORI LAND COURT
OF NEW ZEALAND,

Waiariki DISTRICT.

Wairaka A 40 Block.

At a sitting of the Court held at Whakatane
on the 9th day of November 19 66,
before Kenneth Gillanders Scott, Esquire, Judge.

WHEREAS the land known as Wairaka A 40
was by Order in Council issued on the 17th day of April
19 67 set apart as a Maori reservation for the purpose of a meeting place,
building site, recreation ground, and a place of historical and scenic
interest for the common use and benefit of
the Maori people of New Zealand generally.

And whereas application has been made for an order vesting the said land in
trustees.

Now THEREFORE upon hearing such application it is hereby ordered that the
said land be and the same is hereby vested in

Samuel Jaram
Robert Hudson
Ngahuia Stowell
Charles Bluett
Daphne Williams
Te Hau Tutua
Frederick Lawson

in trust to hold and administer the same for the benefit of the beneficiaries named
in the said Order in Council.

DEPUTY REGISTRAR

As witness the hand of the Judge and the Registrar of the Court



DEPUTY REGISTRAR

VESTING ORDER ON CONSOLIDATION

The Maori Affairs Act 1953

Section 202

Whakatane N.R. 30/49 et seq

IN THE MAORI LAND COURT
OF NEW ZEALAND,

Waiariki

DISTRICT.

**Parish of Waimana Allotments
260A, 260B, 260C and
260D** BLOCK

Wairaka

CONSOLIDATION SCHEME

At a sitting of the Court held at **Whakatane**
on the **7th** day of **April** 19**54**,
before **John Harvey**, Esquire, Judge.

WHEREAS a consolidation scheme under the provisions of Part XVIII of the Maori Affairs Act 1953 known as the

Wairaka

Consolidation Scheme has been

prepared by the Court and confirmed by the Minister of Maori Affairs AND WHEREAS the Court in proceeding to give effect to the said scheme has completed the making of all necessary orders for the purposes of Section 200 of the said Act.

NOW THEREFORE IT IS HEREBY ORDERED as part of the distribution of the land remaining available for distribution in accordance with the said scheme that the parcel of land containing **One acre one rood twelve decimal fortyfive perches**

(**1** acres **1** roods **12.45** perches)

more or less being portions of the lands formerly known as

**Parish of Waimana part 260A Sections 6, 7, 8, 9 and 10 and
Part Closed road (2)**

and being more particularly delineated on the plan annexed hereto and now named by the Court

Wairaka A 40

Block be and the same is hereby vested

for an estate in fee simple in the persons whose names are set out in the Schedule endorsed hereon as tenants in common in equal shares or in the shares set out opposite their respective names in the said schedule **subject to the restrictions and encumbrances endorsed hereon**

AND IT IS HEREBY DECLARED that this order shall take effect as from the

7th day of **April** 19**54**.

As witness the hand of the Judge and the seal of the Court.



Richard
District Judge.

Fee charged:

Nil

THE SCHEDULE HEREINBEFORE REFERRED TO

NAME	SEX AND (IF MINOR) AGE	SHARE
<p><u>Restrictions and Encumbrances</u></p> <p><u>Land Subject to:</u></p> <p>1. Part XVI of the Maori Land Act, 1931</p>		

ENTERED BY
CHECKED BY

Extract from N.Z. Gazette, 27 April 1967, No. 27, page 775

Setting Apart Maori Freehold Land as a Maori Reservation

BERNARD FERGUSON, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 17th day of April 1967

Present:

THE RIGHT HON. J. R. MARSHALL, PRESIDING IN COUNCIL.

PURSUANT to section 439 of the Maori Affairs Act 1953, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby sets apart the Maori freehold land described in the Schedule hereto as a Maori reservation, for the purposes of a meeting place, building site, recreation ground, and place of historical and scenic interest for the common use and benefit of the Maori people of New Zealand generally.

SCHEDULE

GISBORNE LAND DISTRICT

ALL that piece of land situated in the Borough of Whakatane and described as follows:

A. R. P. Being
1 1 12.45 Wairaka A 40, Block II, Whakatane Survey District.

T. J. SHERRARD, Clerk of the Executive Council.
(M.A. 21/3/556)

R. B. OWEN, Government Printer, Wellington, New Zealand

Place: Whakatane
Present: L R Harvey, Judge
 T R Waititi, Clerk of the Court
 T Waiapu, Acting Deputy Registrar
 H Tahana, Court assistant
Date: 10 June 2005

Panui No: 80 **Application No:** A20050005765

Subject: Wairaka A40 - Wairaka Te Whare o Toroa - Vest Maori reservation in new trustees
Legislation: Section 338(7), Te Ture Whenua Maori Act 1993
Also Present: Charles Bluett, Les Stowall, Dale Fenton, Mary Bluett, Makuini Tamiana other present

Details of the applicant are as follows:

Applicant	Address
Maxine Bluett	40 Wairaka Road, P.O Box 316, Whakatane

Patiti Fenwick, for Deputy Registrar:

Block:	Wairaka A40
Type of Trust:	Ahu Whenua Trust
No of Owners:	16
Area:	5378 square metres
Valuation of Block: (as at 1 September 1996)	Capital Value = \$420,000 Land Value = \$69,000 Improvement Value = \$351,000 (Buildings, Fencing, others)
Memorial Schedule Entries:	Proclamation S.198637 declaring parts of Wairaka A Block to be street NZ Gazette, 27 April 1967 No.27. page 775 set aside as a Maori Reservation for the purposes of a meeting place, building site, recreation ground and place of historical and scenic interest for the common use and benefit of the Maori people of New Zealand generally.
Current Trustees:	1) Charles Bluett 2) Maxine Bluett 3) Patrick Hudson 4) Ngahuia Stowell 5) Paul Kora 6) Steven Mokai 7) Te Hau Tutua

Proposed Trustees:	1) Charles Bluett 2) Maxine Bluett 3) Patrick Hudson 4) Dayle Fenton 5) Materoa Dodd 6) Les Stowell 7) Wiremu Simeon
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Minutes of Wairaka Marae Committee and Trustees AGM held on 27 February 2005 electing trustees are on file as tagged.

A request has been made to the applicant for written consent from the proposed trustees and written resignation for the current trustees not seeking reappointment.

Court: Miss Bluett is not here?

Ms Dayle Fenton: No sorry Your Honour she is not here.

Court: Kei te pai. Then who will deal with the application?

Ms D Fenton: Kia ora.

Court: All right this is an application for the appointment of trustees. A hui was held on the 27th of February at Te Whare o Toroa Marae where Charles Bluett, Maxine Bluett, Patrick Hudson, Dayle Fenton, Materoa Dodd, Les Stowell and Wiremu Simeon were elected. I understand that the case manager Mr Fenwick wrote to Ms Bluett and asked her to provide copies of resignations of those trustees who are not to be appointed. Do you have anything to add about that?

Ms D Fenton: I am sorry Your Honour I don't have the papers in front of me because I had hoped that the people would be here today. Mr Tutua is here today and I understand that he is one of the existing trustees. As for the others they are either proposed trustees or passed away, is that correct?

Court: Yes Mrs Rowson has passed away, as we all know. Mr Kora has also passed away has he not? What is the position of Mr Mokai, does anyone know? Is he happy to be replaced?

Ms D Fenton: He now lives in Hamilton and doesn't really attend our Marae meetings as regularly as he used to. I am sure he would have no objection to us then.

Court: So that leaves Mr Tutua. Mr Tutua are you happy to be replaced or do you wish to remain?

Mr Tutua: I was against the replacement of the trustees but I was told by the hui that we would be replacing in three years. Trustees will be replaced and I pointed out to them that we were put in there not by the committee but by the hapus of Ngati Awa. I represent Taiwhakaea and there were others that represent Patuwai. And we were the main trustees for the land. The trustees of the Marae were the marae committee and this is what I pointed out to the Wairaka committee, that it is not for them to replace us. It is our hapu and I represent Taiwhakaea. That is how I understood what was put on me and I'm not happy about the process of electing new trustees. But, they said to me that you got to be replaced in the next three years, so I don't know.

Court: So do I understand you to say Mr Tutua that you don't wish to be removed?

Mr Tutua: Correct.

Court: Well the Maori Reservations Regulations 1994 used to provide for the election of trustees to Maori reservations every three years. That was amended in the year 2002 and that requirement for triennial elections was removed. Which I thought was a mistake but there you go. So trustees are not rotated every three years for Maori reservations as they used to be. Which as I say I thought was odd.

The other point is that it is well settled in this Court that trustees to Maori reservations are only removed for malfeasance, failure to perform their duties or other abuse. In other words you have got to do something wrong to get booted off a marae. There is no shortage I can assure you. But if people dispute their removal and the reason for it is this, the Maori Reservations Regulations has a provision clause 3(h) I think it is, which says that you are eligible for reappointment unless you have been removed by the Court. And this is a big problem because it means that someone who quite innocently is removed is no longer eligible. And it's to my way of thinking, a drafting error.

So I am happy to make the appointments of those persons who were confirmed at the meeting. That said, my other concern and unfortunately Ms Bluett is not here, but there is no copy of the notice. Are any of the proposed trustees able to confirm as to the content of the notice? Ms Fenton you will be well familiar with the Court's stance as to notice.

Ms D Fenton: I have a record not with me Your Honour, but if I could just state that I spoke to Mr Tutua the other week and actually brought to his attention this hearing because my understanding was that he would need to resign. And the fact that he hasn't amongst the four of us here is not a problem. We don't have a concern with him staying on as a trustee with us. So I would just like that noted in the record that there is no under-handed trying to boot people off or anything like that.

Court: Kei te pai. It is an unusual situation too with a lot of our marae in this Mataatua region that the gazette notice refers to Maori of the District. And perhaps the trustees might need to think about exploring the possibility of change because strictly speaking the notice should then say that; "there is an election of trustees for Te Whare o Toroa Marae, Wairaka A40, the beneficiaries are Maori of the District". There are heaps of marae like that, which perhaps might have worked in an earlier age but perhaps now might need amending. Of course they will then require the consent of the owners of the land as opposed to the beneficiaries, which is another whole headache and can of worms in itself.

Mr Tutua: That is one of the headaches I think we are about to face. The Wairaka committee are there at the will of the hapus of Ngati Awa. They don't own it they are only there to look after the Marae. The mana of the land actually belongs to these outsiders. The land does not belong to Ngati Awa. There are other people outside who have shares in that Marae complex and as far as we know the power belongs to hapus of Ngati Awa not Ngati Hokopu. They are only caretakers. So that needs to be looked into, you know, they are saying what are we, we got no marae. We are just there because the people are allowed to use the marae, these are things I think we have got to look into sir.

Court: All right I will leave that to the trustees to explore. The application before me is for the appointment of trustees. I am happy to make those appointments and if Mr Tutua wishes to remain and there don't appear to be any objections from those proposed trustees in Court. What I will do is read out the names of the proposed trustees once more so that everyone is clear.

Court: The proposed trustees are Charles Bluett, Maxine Bluett, Patrick Hudson, Dayle Fenton, Materoa Dodd, Les Stowell, William Simeon and Mr Tutua who wishes to remain. Are there any objections?

Mr Tutua: Before you do sir, as I say I am there to represent Taiwhakaea. Now there were other trustees who represented Patuwai, Ngati Pukeko they selected people from those marae to be a trustee on Wairaka. Now who says we got to take their place?

Court: Well I apprehend Mr Tutua that those are matters for those hapus to bring to the attention of the current trustees.

Mr Tutua: No the hui was called by Ngati Hokopu and I was there and they voted me out. So it is quite possible that those other people were there too and they were voted out.

Court: The hearing was properly notified as you know and there doesn't appear to be anyone from Patuwai or Ngati Pukeko here to dispute the appointments apart from yourself. Perhaps what I can do is arrange for the marae committees of Ngati Pukeko and Patuwai Toroa to get a copy of our minutes of today. And if they wish to apply for a rehearing kei te pai that is up to them, but if they do nothing well I really can't do anything further.

Mr Tutua: That is all I can ask.

Court: I understand Ms Fenton, Mr Tutua, that significant sensitivities are involved and I don't wish to wade into that discussion at this point and simply want to appoint these trustees so that they can get on with their job. These trustees as referred to are now appointed trustees of this Maori Reservation, Wairaka A40. Do you all understand your obligations as trustees? Ae, kia ora orders accordingly for immediate release.

As I mentioned the case manager will send a copy of the minutes of our sitting today to the secretary of Toroa Marae and of Pukeko Marae for their information, orders accordingly, all done. Thank you Ms Fenton, thank you Mr Tutua.

Pursuant section 338(7) of Te Ture Whenua Maori Act 1993 the Court makes orders appointing Charles Bluett, Maxine Bluett, Patrick Hudson, Dayle Fenton, Materoa Dodd, Les Stowell and William Simeon as trustees to the Wairaka A40 Maori Reservation. Mr Tutua is to remain as a trustee.

The foregoing orders to issue forthwith pursuant to rule 66(3) of the Maori Land Court Rules 1994.

Copy of minute to the applicant, interested parties and the secretaries of Toroa and Pukeko Marae.

L R Harvey
JUDGE

ORDER VESTING MAORI RESERVATION IN TRUSTEES

Te Ture Whenua Maori Act 1993, Section 338(7)

The Maori Land Court Rules 1994, Rule 66(3)

In the Maori Land Court
of New Zealand
Wairariki District

IN THE MATTER Wairaka A40 block

AT a sitting of the Court held at Whakatane on the 10th day of June 2005 before Layne Ross Harvey, Judge

WHEREAS the Maori freehold land known as Wairaka A40 was, by notice in the New Zealand Gazette issued on the 27th day of April 1967, set apart as a Maori reservation for the purpose of a meeting place, building site, recreation ground and place of historical and scenic interest for the common use and benefit of the Māori people of New Zealand generally.

AND WHEREAS the Court on the 5th day of November 1997 vested the said land in trustees pursuant to Section 338(7) of Te Ture Whenua Māori Act 1993

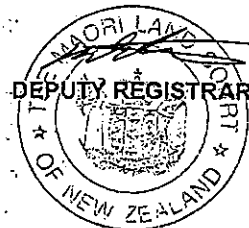
NOW THEREFORE, upon hearing all evidence adduced in support thereof and being satisfied on all matters upon which it is required to be so satisfied, **THE COURT DOETH HEREBY ORDER**, pursuant to section 338(7) of Te Ture Whenua Maori Act 1993 and with their consent, that the said land be and the same is hereby vested in:

<u>Name</u>	<u>Address</u>
Charles Bluett	9 Douglas Street, Whakatāne
Maxine Bluett	PO Box 316, Whakatāne
Patrick Hudson	27 Harvey Street, Whakatāne
Dayle Fenton	PO Box 1886, Taupo
Materoa Dodd	17 Toroa Street, Whakatāne
Les Stowell	Waihou Bay, R.D.3, Opotiki
William Simeon	17 Morrison Street, Taneātua
Te Hau Tutua	

in trust to hold and administer the same for the benefit of the beneficiaries named in the said notice.

AND IT IS HEREBY FURTHER DECLARED, pursuant to Rule 66(3) of the Maori Land Court Rules 1994, that this Order do **ISSUE IMMEDIATELY** from the office of the Court.

AS WITNESS the hand of a Deputy Registrar and the Seal of the Court.



A20050005765