

Te Korowai o Ngāruahine Trust

Electoral Review Committee Report

1. Introduction

- 1.1 This document reports on the findings of the Electoral Review Committee (“ERC”) that was appointed in response to a request by Karl Adamson (“Mr Adamson”) for a review of the 2020 Ōkahu-Inuawai Hapū Electorate election (“the Election”) of Trustees to Te Korowai o Ngāruahine Trust (“Te Korowai”).

2. Background

- 2.1 The 2020 Election of Trustees for Te Korowai closed at 5pm on Wednesday 12 August 2020. The results were finalised on 18 August 2020 and were circulated to the candidates by email on 19 August 2020.
- 2.2 The deadline for receipt of requests for review of any Election result of 5pm on Friday 4 September 2020 was set out in the 19 August 2020 email to candidates.
- 2.3 A copy of the result notice was posted on Te Korowai’s website and was published in the Taranaki Daily News newspaper on Saturday 22 August 2020.

3. Election Review Process

- 3.1 The Te Korowai Trust Deed (“the Deed”) sets out the process for electing Trustees and any request for review of an Election.
- 3.2 The relevant provisions are set out in Schedules 2 and 4 of the Deed which cover off the Election of Trustees and voting.
- 3.3 We set out below the specific provisions of the Deed and actions taken relating to the review process for the 2020 Ōkahu-Inuawai Hapū electorate:

a. **at Schedule 2, paragraph 6.1:**

“Any candidate may, within 10 Working Days after the Chief Returning Officer has certified the results of a voting process for the election of Trustees in accordance with paragraph 7.3 of Schedule 4, seek a review of that Election.”

- i. on Wednesday 2 September 2020 Mr Adamson, a candidate in the Ōkahu-Inuawai (me ētehi atu) Hapū Electorate applied for a review of that Election result by email to the Chief Returning Officer; and
- ii. no other requests for requesting a review of the Election were received by the deadline of 5pm on Friday 4 September 2020;

b. **at Schedule 2, paragraph 6.2:**

“The Board must refer any request for a review of an Election to an Electoral Review Committee to determine whether the successful candidate was duly elected and whether the Election was void or should be conducted again.”

- i. the ERC was convened on 7 September 2020;

c. **at Schedule 2, paragraph 6.3:**

“An Electoral Review Committee will be appointed by the Board as required and will comprise three persons, including:

- a. *An independent elections expert*
- b. *An independent member of Te Ohu Arotake; and*
- c. *One person who has previously been a Trustee or is a current Trustee who did not stand for re-election in the relevant Election.*

- i. the ERC members appointed were:
 1. Anthony Morton (independent elections expert);
 2. Neil Taylor (independent member from Te Ohu Arotake); and
 3. Will Edwards (a current Trustee who did not stand for re-election).

d. **at Schedule 2, paragraph 6.4:**

"The Electoral Committee will:

- a. *Elect one of their number to be the chairperson;*
- b. *Subject to meeting the requirements of natural justice and tikanga, have the sole discretion to call for evidence and determine the manner in which a review of the Election should be dealt with;*
- c. *Taking into account the nature and circumstances surrounding the request for the review, act promptly to complete their review with the expectation that (subject to any matters outside of the control of the Electoral Review Committee delaying completion of the review) the review will be completed within 20 Working Days of the appointment of the Electoral Review Committee; and*
- d. *In reaching their conclusion on any review be guided by the substantial merits of the application without regard to legal forms or technicalities, including any technical defect in complying with the requirements of this Deed, the intention being that no Election will be declared invalid by reason of a technical defect if the Electoral review Committee is satisfied that the Election was conducted so as to be substantially in compliance with the requirements of this Deed and the technical defect did not materially affect the results of the Election."*

- i. Will Edwards was elected Chairperson of the ERC;
- ii. the ERC met formally six times to review and discuss the review;
- iii. in addition to the six formal meetings, the ERC Chair had follow up telephone calls or meetings with Te Korowai's Pouhautū, Allie Hemara-Wahanui. These meetings were in relation to process, timing and supply of further information to assist with the ERC's review of the Election;
- iv. in Mr Adamson's initial request for an Election Review he did not provide specific rationale to support his request;
- v. on 11 September 2020, (following the first meeting of the ERC) an email was sent to Mr Adamson asking him to provide specific details of what he would like reviewed and to do so by 5pm Wednesday 16 September 2020;
- vi. Mr Adamson responded to that email at 1.14pm on Wednesday 16 September 2020 outlining reasons for the review;
- vii. on 17 September 2020 at 7.28pm, a further request for information was sent to Mr Adamson requesting that further information be provided by 3pm 22 September 2020. Due to a technical computer error, this message was not received by Mr Adamson and so the request was sent again on 28 September 2020 at 7.47pm with a new due date for information of 3pm 5 October 2020;
- viii. the ERC also invited Mr Adamson to take part in either an in-person meeting or via Zoom;
- ix. on 18 September 2020 at 7.34pm, the ERC requested information from the Pouhautū which was supplied on 21 September 2020 at 2.46pm;

- x. on 5 October 2020 at 8.38am, further information was received by the ERC from Mr Adamson;
 - xi. on 7 October 2020 at 2.24pm, the ERC requested further information from the Pouhautū which was supplied on 8 October 2020 at 2.56pm; and
 - xii. on 9 October 2020 at 10.30am, the ERC met with Mr Adamson via Zoom to discuss his concerns around this issue and seek clarification regarding information he had provided;
- e. **at Schedule 2, paragraph 6.5:**
- “At the conclusion of the Electoral Review Committee’s review of an Election, the Electoral Review Committee must determine whether the successful candidate, or any other candidate, was duly elected, or whether the Election was void and should be conducted again, and the chairperson of the Electoral Review Committee must promptly notify that decision with reasons to the Trust.”*
- i. on 15 October 2020, the ERC made a decision on the outcome of the review.

4. Substance of the Review

- 4.1 Mr Adamson raised the following concerns as reasons for seeking the review (in an email dated 16 September 2020):
- a. Issues with the registration process;
 - b. A lack of or untimely communication from the office; and
 - c. Whanau failing to receive voting forms and requesting the Electoral Review Committee to specifically look at the following queries:
 - i. *“If the basis of my request for a review is considered technically deficient under the deed and therefore moot, or*
 - ii. *Materially significant to declare the Okahu election invalid?*
 - iii. *Further I request the reason why there were 4 votes deemed invalid, and*
 - iv. *If these votes may have had an impact on the result for the 2nd & 3rd place candidates?”*

Issues with Registration Process

- 4.2 A review of the information from the Pouhautū (email dated 21 September 2020) showed that the following communication had been made publicly available by Te Korowai.
- 4.3 During April 2020 (during COVID-19 Alert level 3 and 4 lockdown), Te Korowai sent out a private notice (as required under Schedule 2, paragraph 4.1) by email notifying Adult Registered Members that any change to their Hapū Electorate must be made prior to the commencement of the Election Period (*means the date from the period of giving notice calling for nominations in accordance with paragraph 4.2 of Schedule 2 until the date on which the Chief Returning Officer certifies the result of the voting process in accordance with paragraph 7.3 of Schedule 4*). The last day advertised to register a change of Hapū Electorate was 15 May 2020. This was publicised by notices on the website, text messages and emails to each individual on the register that had email and cell phone details. It was the intention of Te Korowai to also send out a letter to each member by post. However, this was not able to proceed due to the lockdown.
- 4.4 The ERC has reviewed the requirements of whether the voting papers had to be sent via post. The Deed defines “Private Notice” (consistent with section 5 of the Māori Fisheries Act 2004) as:
- private notice** means a notice-
- (a) *Sent by any means that is private to the recipient: and*
 - (b) *In the case of a notice given by a mandated iwi organisation complies with kaupapa 4 of Schedule 7*

There is no specific requirement for “private notices” to be sent out by post.

A lack of or untimely communication from the office

- 4.5 After the Election Period commenced there were further notifications sent by Te Korowai in relation to registering to be able to participate in the upcoming Election. These included a series of emails, Public Notices, Te Pakiki Newsletter and Facebook posts. In addition to these notifications there was specific help available to Uri via the following:
- a. the External Independent Election House (“electionz.com”) provided a toll free Election helpline and an email account for Election enquiries; and
 - b. the toll free Election helpline and email account for Election enquiries was included in:
 - i. the candidate handbook prepared for the Election;
 - ii. the first Public Notices for the Election advertised in May 2020;
 - iii. the second Public Notices for the Election advertised in June 2020;
 - iv. copies of the Public Notices that were posted on the Trust’s website; and
 - v. email reminders sent to members that had not voted on 21 July 2020, 31 July 2020 and 6 August 2020.

Whānau failing to receive voting forms

- 4.6 The ERC obtained the further information in relation to specific whānau members provided by Mr Adamson (by email dated 5 October 2020), including that 10 Uri were unable to vote.
- 4.7 The ERC obtained information from the Pouhautū in relation to the specific Uri as detailed by Mr Adamson. The ERC has concluded the following:
- a. two of the whānau members have not contacted Te Korowai to register as Adult Registered Members;
 - b. one of the whānau members voted in the Ōkahu-Inuāwai Hapū Electorate;
 - c. five of the whānau members did receive voting papers but due to the relevant emails being diverted to the recipient’s spam folder, in combination with the late request for assistance, it meant they were unable to locate the emails prior to the close of voting; and
 - d. two of the whānau members were registered to vote but applied to change Hapū Electorate after the date for cut off of 15 May 2020 (Te Korowai is able to change the Hapū Electorate after this date but is not required to do so).

Invalid Votes

- 4.8 The Chief Returning Officer has confirmed that the four ‘informal’ votes were returned voting papers where the voters had voted on the special resolution but not on the Trustee Election. As no candidates were selected on those voting papers they are shown as ‘Blank Voting Papers’ in the result document for the Trustee Election. Images of the four blank voting papers have been made available to the ERC.

5. Findings from this Review

- 5.1 The ERC has considered all of the issues raised by Mr Adamson as detailed above.
- 5.2 Based on the information considered by the ERC, it determines that:
- a. the request from Mr Adamson was not merely technical in nature and therefore moot;
 - b. Te Korowai has followed a fair process in allowing for the change of Hapū Electorates to take place before the commencement of the Election Period;
 - c. the communication from Te Korowai to Uri was in line with the requirements of the Deed and it allowed for Uri to register and raise any issues with both the Te Korowai office and electionz.com;

- d. that the whānau members identified by Mr Adamson have not been treated inequitably when they have attempted to register and vote in the Election;
- e. even if there had been any issues in the registering of the Uri identified by Mr Adamson there is no way for the ERC to know who they would have voted for or if their votes would have materially affected the result of the Election;
- f. the invalid votes were blank and therefore did not affect the result of the Election;
- g. the votes for this voting process were tallied and a result document was generated on 18 August 2020 with the Ōkahu-Inuawai Hapū Electorate Election results having a difference of 10 votes or less between the lowest polling successful candidate and the highest polling unsuccessful candidate.
As is standard electionz.com policy, any results with a margin of 10 or less are automatically re-counted and the supporting reconciliations checked. The Returning Officer carried out the re-count the Ōkahu-Inuawai Hapū Electorate and checked the supporting reconciliations on 18 August 2020. With the internet voting file, the file was loaded into a spreadsheet format and the votes for each candidate and resolution option tallied and checked against those created from the main vote processing system. For the hard copy voting papers, separate software was used to view images of the scanned voting papers grouped for each candidate. By manually checking each image, the Returning Officer confirmed that valid votes had been cast and that the tallies listed in the result document were correct. There were no variances found in either the internet voting or paper-based vote processing tallies. The result document was released to the candidates on 19 August 2020.
- h. there is insufficient evidence of a failure in the Electoral Process for the Ōkahu-Inuawai Election to be considered invalid/void;
- i. the ERC is satisfied that the 2020 Trustee Election was generally carried out in accordance with the requirements of the Deed and accepted best practice for election management and that the declared result was valid; and
- j. the successful candidates for the Ōkahu-Inuawai (Me Etehi Atū) hapū election were John Henry Te Urikore Katene Hooker and Ngawai Hernandez-Walden.

6. Recommendations for General Review of Electoral System

Active reminders to Uri to act early to ensure their vote can be successfully cast

- 6.1 Uri need to continue to be actively and repeatedly encouraged to submit requests for changes to Hapū Electorates and attend to the administration of their voting well in advance of the advertised deadlines.

Processing of requests for Hapū Electorate changes after deadline

- 6.2 It appears that either the TikiOS platform or supporting administrative procedures allow Uri to attempt to change their Hapū Electorate after the advertised deadline for changing Hapū Electorates. In two cases during the current review, Uri were notified that their request (although received after the deadline) for changing Hapū Electorate would be processed.

Notices to include to check email filters and to contact office by phone if any issues

- 6.3 During this review, the issues of email ballot papers not being received was brought to light. The ERC suggests that for future votes there needs to be notifications reminding Uri to check their email filters and junk or spam inboxes and if they have not received the expected correspondence to contact the office via telephone to seek to resolve those issues or to contact the election helpline for assistance.

The ERC received legal advice from Marie Callander of Auld Brewer Mazengarb & McEwen about the Deed and the process matters.

A handwritten signature in black ink that reads "William Edwards". The signature is written in a cursive style with a large initial 'W'.

Dr Will Edwards

Chairman - Te Korowai o Ngāruahine Trust Electoral Review Committee

15 October 2020