

**I TE KOOTI WHENUA MĀORI O AOTEAROA
I TE ROHE O AOTEA**

*In the Māori Land Court of New Zealand
Aotea District*

AP-20240000012452

WĀHANGA <i>Under</i>	Section 289, Te Ture Whenua Māori Act 1993
MŌ TE TAKE <i>In the matter of</i>	Hautu B1A1 and Others
I WAENGA I A <i>Between</i>	PETER BLOOR ON BEHALF OF THE KINGI TEHEREKIEKIE WHĀNAU TRUST Ngā Kaitono <i>Applicants</i>

Nohoanga:	3 March 2025, 503 Aotea MB 287-301
Hearing	9 May 2025, 510 Aotea MB 180-199 (Heard at Whanganui)

Whakataunga:	18 September 2025
<i>Judgment date</i>	

TE WHAKATAUNGA A KAIWHAKAWĀ A H C WARREN
Judgment of Judge A H C Warren

Kua hinga he totara i te Waonui a Tāne

[1] Siblings of the Grace whānau want to partition their Māori land, so that each of them can have their own autonomy to build homes and retire on their ancestral land. The land was left to them by their late father, Kingi Grace. Prior to his passing, Kingi left separate land blocks to two of his three sons, for their individual housing needs, but he did not do that for his three daughters or son Matthew. Rather, Kingi left the balance of his land to all of his children, including the Hautu blocks. Some of those blocks which are vested in the Kingi Teherekiekie Whanau Trust (Whanau Trust). He also left a life interest in the family home and surrounding land to his surviving wife, Brenda Grace.

[2] The three daughters of Kingi Grace being; Deborah, Ann, and Winsome would each receive approximately 4.2 hectares located off 27 Grace Road if the partition was granted. A cottage located at 92 Grace Road was given to Kingi's son Matthew "for use" in 2011. The combined partition would cut off the cottage from the parent title and add more land being approximately 1.5 hectares more or less, to comply with the Local Authority. In that sense, I am being asked to create four separate lots by way of a hapū partition with two parent titles remaining.

[3] At the hearing on 9 May 2025, I indicated that I would grant a combined hapū partition with respect to the following blocks, all being Māori freehold land – Hautu B1A1, Hautu B1A2, and Lot 1 Deposited Plan 81584 and Part Hautu 3F 4B 2A block (the Hautu blocks) – per s 288 of Te Ture Whenua Māori Act 1993 (the partition application).

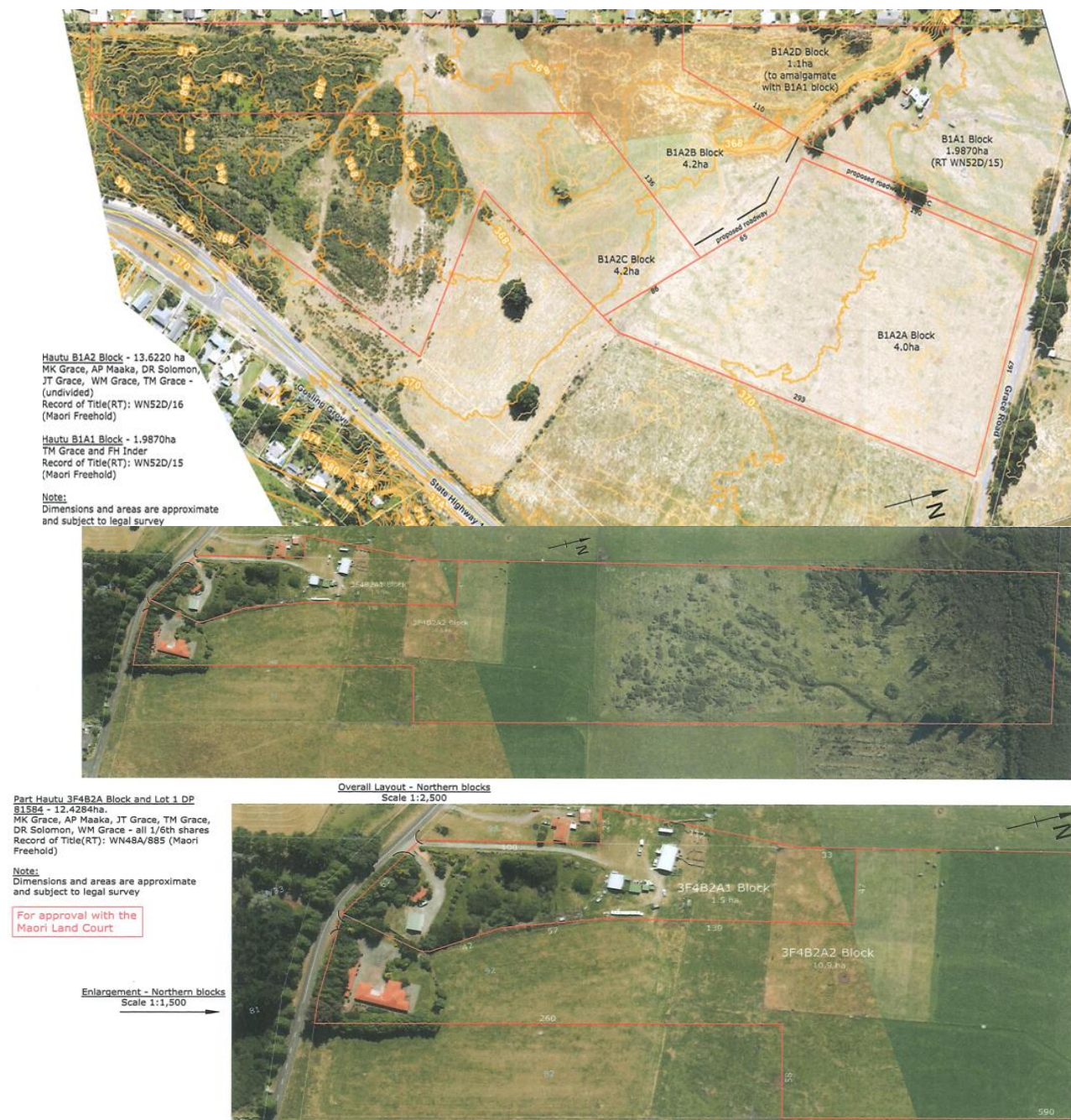
[4] I now formally record my reasons for granting the partition and issue formal orders.

[5] The partition application was filed by the late Peter Bloor on behalf of the Whanau Trust and the Grace whānau. It was initially heard in Whanganui on 3 March 2025 and adjourned to a further online hearing on 9 May 2025.

[6] The owners held five specific hui to discuss the partition application and as a result all siblings, and thus the Whanau Trust, agreed to the proposal.¹

¹ First meeting – The hui was held Sunday 13 February 2022. Those in attendance were: Matthew Grace, Ann Maaka, Deborah Grace and John Grace.

[7] The proposed partitions are depicted as follows:



Second meeting – Sunday 9 July 2023. The hui was held at 28 Ferguson Avenue, Westshore. Those in attendance were: Matthew Grace, Ann Maaka, Deborah Grace, Winsome Grace, and John Grace (via online attendance).

Third meeting – 30 April 2023. The hui was held at 80 Eriksen Road, Napier on Sunday 30 April 2023. Those in attendance were: Matthew Grace, Ann Maaka, Deborah Grace, Winsome Grace, and John Grace (via online attendance).

Fourth meeting – on 25 February 2024 the hui was held those in attendance were: Matthew Grace, Ann Maaka, Deborah Grace, Tamaio Grace a.k.a. Tom Grace (via online attendance), and John Grace (via online attendance). All whānau agreed to approve draft plans of Chad Keir of Plateau Consultants Ltd.

Fifth meeting – 21 April 2024. The hui was held at 28 Ferguson Avenue, Westshore. Those in attendance were: Matthew Grace, Ann Maaka, Deborah Grace, Tamaio Grace a.k.a. Tom Grace (via online attendance), and John Grace (via online attendance). Discussions took place in regards to the proposed partitions, including the request of John Grace for a section to add to the section already in his possession. Whānau agreed to go back to Chad Keir at Plateau Consultants Ltd to amend the proposed partition.

[8] The applicants submit that the purpose of the combined hapū partition is to provide an area of land for each of Kingi's three daughters by which they would receive approximately 4.2 hectares each (to comply with the local authority's minimum area for housing in Tūrangi) and a lot for Matthew. The proposed partitions and appellations, subject to a survey, were submitted in summary as follows:

- (a) It is proposed to partition Hautu B1A2 to create four land blocks, described as follows:
 - (i) Hautu B1A2A, directly off Grace Road, with an area of approximately 4.0 hectares to be vested in Ann Grace.
 - (ii) Hautu B1A2B, including a roadway to the side of B1A2A, with an area of approximately 4.2 hectares, to be vested in Debbie Grace.
 - (iii) Hautu B1A2C, including a roadway through B1A2A and B1A2B, with an area of approximately 4.2 hectares, to be vested in Winsome Grace-Williamson.
 - (iv) Hautu B1A2D, including a roadway to the side of B1A2A, with an area of approximately 1.1 hectares, to remain in the Kingi Teherekiekie Whānau Trust.
- (b) The applicants also put forward a proposed roadway for 27 Grace Road, Tūrangi which will provide access to the partitioned Hautu B1A2B, Hautu B1A2C, and Hautu B1A2D blocks from Grace Road.
- (c) The second plan shows the proposed partition for the Lot 1 Deposited Plan 81584 and Part Hautu 3F 4B 2A block, located at 92 Grace Road, Tūrangi. This block contains 12.4284 hectares, and is currently vested in Brenda Grace as a life tenant, with all of Kingi's children the underlying owners. The applicants propose to partition the land into two blocks:

- (i) Hautu 3F4B2A1, with an area of approximately 1.5 hectares, to be vested in Matthew Kingi Grace.
- (ii) Hautu 3F4B2A2, with an area of approximately 10.9 hectares, along with the family home to remain vested in Brenda Grace as a life tenant.

[9] In support of the partition application, I received the following evidence before the 9 May hearing:

- (a) Owner and Trustee consents.
- (b) Minutes of owner and whānau meetings.
- (c) Both proposed partition plans prepared by Chad Keir of Plateau Consultancy Ltd dated 15 July 2024.
- (d) Summary of valuation prepared by Keys Valuers Limited dated 2 August 2024.
- (e) Minutes of a meeting of Matthew Grace and Ann Maaka with the Taupō District Council, Chad Keri, and Joanna Lewis, dated 2 August 2023.
- (f) Certificates of title for the Hautu blocks.

[10] On 6 February 2025, I issued a direction that a copy of the partition application and the hearing pānui be sent to Brenda Grace, as the surviving spouse of Kingi Grace, given that she currently holds the life interest in Lot 1 Deposited Plan 81584 and Part Hautu 3F 4B 2A. At that point Brenda had not provided support for the partition application. She had concerns about the protection of her life interest rights and what she described as a lack of planning with respect to the future of the Hautu blocks.

[11] After the 3 March 2025 hearing I issued a direction confirming that whilst I was satisfied with the support and notice of the partition application, being the prerequisites in

s 288(2)(a) and (b) of Te Ture Whenua Māori Act 1993 (the Act), I wanted specific submissions on the question of whether the proposed partition was “necessary” in terms of s 288(4) of the Act. In effect the ‘necessity’ question, together with Brenda’s position, were the only live issues leading into the May 2025 hearing. At the hearing any opposition by Brenda dissipated given that she was satisfied that her interest as a life tenant in Lot 1 Deposited Plan 81584 and Part Hautu 3F 4B 2A would not be impacted by granting of the partition.² She took no issue with the slight change in size of the block that would remain in her name as the life tenant.

[12] That then just left the question of whether the hapū partition is necessary to facilitate the effective operation, development, and utilisation of the Hautu blocks. The question of “necessity” was defined in *Brown v Māori Appellate Court* as “reasonably necessary” which should be interpreted as “closer to that which is essential than that which is simply desirable.”³

[13] The Act has set a deliberately high threshold for the granting of a partition, yet not so high as to make it impossible to grant. The necessity test is much more than what is desirous but stops short of being essential. The facilitation of the effective operation, development and utilisation however must be closer to that which is essential. How much closer, in my view, depends on a range of factors, including the assessments made about the prerequisites in s 288(2)(a) and (b) of the Act; the context at the time of the application; and whether that context furthers or undermines the principles of the Act. The issue of context is critical when assessing whether a partition meets the principles of the Act, given the timeless reminder in *McGuire* that “statutes are to be interpreted as ‘always speaking’”.⁴ In other words, what might not have met the necessity test yesterday, does not mean it will not meet it today.

[14] The context here is that four of the six Grace siblings are looking to secure their retirement options by each having the ability to build and live on their ancestral lands, opportunities that two of their brothers received. Living on the land can occur without the need to partition the land, but the fact that there has already been a partition to the benefit of

² 510 Aotea MB 180-199 (510 AOT 180).

³ *Brown v Māori Appellate Court* [2001] 1 NZLR 87 (HC) at [51].

⁴ *McGuire v Hastings District Council* [2000] UKPC 43 at 589.

their two brothers raises a question of fairness and effectively created an imbalance within this whānau. Section 17(2)(e) of the Act requires the court to achieve fairness amongst owners of Māori land. Here the sisters and Matthew, have not had the benefit of their own partitioned lot. Some of their brothers have.

[15] A major argument for partitioning relates to the ability to have a secure title, in theory making it easier to get bank finance. This is particularly relevant given that the siblings are heading towards retirement or are there already. I did not receive any expert evidence to support the general submissions about the challenges of getting bank finance to build based on an occupation order or multiply owned land generally, but Mr Bloor, has considerable experience in this field and I give some weight to his views expressed at the May hearing.

[16] The current use of Hautu blocks is for grazing purposes and that the current zoning rules would not allow for multiple houses to be constructed on a single title, unless of course a papakāinga was approved. In that sense, I accept that using the Hautu blocks for housing whānau would be far more productive than its current use and of course that aligns with the views of all current owners. In that sense building and living on the Hautu blocks would be a better use and development of the land.

[17] I explored with Mr Bloor the option of a papakāinga, and he rightfully acknowledged that this was an option, yet raised some reservations about long-term funding in the current economic climate. Further, I acknowledge that this option would potentially create an imbalance between the siblings who have had the benefit of partitions and those that now seek one.

[18] Finally, the court has reiterated in several partition decisions, where the purpose to partition is to build a retirement home or similar, that given the current economic climate, the cost of living, and the increase in property values across the country in recent years, any opportunity for the court to facilitate the ability to build and live on one's land, must be seriously considered, especially for those in their retirement years.⁵ The fact that it is also ancestral land brings together both the fiscal (because the land is usually debt-free) and the

⁵ *Trinder – Kopu – Mangati B2B* (2024) 485 Aotea MB 55 (485 AOT 55); *Neal – Taiharuru 4C3C* (2016) 132 Taitokerau MB 97 (132 TTK 97); and *Ashmore v Armstrong – Te Huruhi 12B* (2021) 232 Waikato Maniapoto MB 219 (232 WMN 219).

intangible benefits (ahi kaa) of living on land that the applicants whakapapa to. Or in legislative terms, development coupled with retention of a taonga tuku iho.

[19] The fact that there is 100% owner support and five well-run hui is a solid starting point when considering the much tougher necessity test. By adding the context that I have addressed above, particularly around the fact that the other siblings have had the benefit of their own lots, I find that the partitions are necessary for the long-term use and development of the Hautu blocks.

[20] The context as described is consistent with the purpose of Part 14 of the Act and protects the retention of Māori land in the hands of its owners, given that there is no issue with the court imposing a restriction on alienation per s 304 coupled with a legitimate and best use development of their taonga tuku iho.

[21] The applicants only applied for partition orders, and therefore their request to amalgamate a further 1.1 hectares, into Hautu B1A1 at 53 Grace Road, which is currently owned by Tamaio Marshall Grace and Frances Helen Inder, is not being addressed here, as the application was not made.

[22] For the reasons given I make the following orders pursuant to Te Ture Whenua Māori Act 1993:

- (a) Per s 37(3) and s 241 partially terminating the Kingi Teherekiekie Whanau Trust with respect to those parts of Hautu B1A2 to be partitioned as set out below. That will leave a residue of approximately 1.1 hectares in the Hautu B1A2 block, that will remain vested in the Whanau Trust.
- (b) Section 289 partitioning the lands known as Hautu B1A2, and Lot 1 Deposited Plan 81584 and Part Hautu 3F 4B 2A, as follows:
 - (i) An area comprising of 4.0 hectares of the Hautu B1A2 block, as generally set out at paragraph [8](a)(i) and subject to survey, in the name Ann Grace, as per their proportions, to be called

Hautu B1A2A or such other appellation as the Surveyor-General approves.

- (ii) An area comprising of 4.2 hectares of the Hautu B1A2 block, as generally set out in paragraph [8](a)(ii) and subject to survey, in the name of the Debbie Grace, as per their proportions, to be called Hautu B1A2B or such other appellation as the Surveyor-General approves.
- (iii) An area comprising of 4.2 hectares of the Hautu B1A2 block, as generally set out in paragraph [8](a)(iii) and subject to survey, in the name of Winsome Grace-Williamson, as per their proportions, to be called Hautu B1A2C or such other appellation as the Surveyor-General approves.
- (iv) An area comprising of 1.1 hectares of the Hautu B1A2 block, as generally set out in paragraph [8](a)(iv) and subject to survey, in the name of the trustees of the Kingi Teherekiekie Whānau Trust, jointly no survivorship, to be called Hautu B1A2D or such other appellation as the Surveyor-General approves.
- (v) An area comprising of approximately 10.9 hectares of the Lot 1 Deposited Plan 81584 and Part Hautu 3F 4B 2A block, as generally set out in paragraph [8](c)(i) and subject to survey, to remain vested in Brenda Grace for life or until remarriage and be called Hautu 3F4B2A2 or such other appellation as the Surveyor-General approves.
- (vi) After the above partition in (v), the remainder area comprising approximately 1.5284 hectares of the Lot 1 Deposited Plan 81584 and Part Hautu 3F 4B 2A block, as generally set out in paragraph [8](c)(ii) and subject to survey, in the name of Matthew Kingi, as per their proportions, to be called Hautu

3F4B2A1 or such other appellation as the Surveyor-General approves.

- (c) The orders at (a) above are conditional on the applicants completing and filing a ML plan surveyed by Land Information New Zealand within 12 months of the date of this decision. The plan must show a satisfactory survey plan setting out the partition areas, which must set out the location and terms of any easements required to properly give effect to the partition, including any proposed accessways. The plan shall be undertaken at the cost of the applicant.
- (d) Further, if the orders made at (v) and (vi) above relating to the Lot 1 Deposited Plan 81584 and Part Hautu 3F 4B 2A block, require either an order for amalgamation or a boundary adjustment then leave is reserved for applications to be filed.
- (e) The partition orders above is restricted per s 304 whereby the partitioned land cannot be sold otherwise than in accordance with s 304.
- (f) Section 131 determining that all partitioned areas shall remain Māori freehold land.

[23] I will address the s 18(a) application filed by the Deputy Registrar with respect to Lot 1 Deposited Plan 81584 and Part Hautu 3F 4B 2A block in due course. That application remains live but will not impact the orders made in this decision.

I whakapuaki i te 3.00 pm i Kirikiriroa, e tekau ma waru o te rā o Hepetema i te tau 2025.

Pronounced at 3.00 pm in Hamilton on this 18th day of September 2025.

A H C Warren
KAIWHAKAWA
JUDGE