I TE KOOTI WHENUA MĀORI O AOTEAROA
I TE ROHE O AOTEA
In the Māori Land Court of New Zealand
Aotea District

AP-20240000009655

WEHENGA *Under*	Section 241, Te Ture Whenua Māori Act 1993
MŌ TE TAKE *In the matter of*	Rotorangi No. 2 and Others
I WAENGA I A *Between*	PERRY DANIEL JUNIOR BRYERS Te Kaitono *Applicant*
ME *And*	BERNARD TOHERANGI BROUGHTON, DANNY BROUGHTON, KIERON JAY TE AWHE AND MARIE BROUGHTON Ngā Hunga Whaitake *Interested Parties*

Kōtitanga: *Hearing*	3 Noema 2025, 520 Aotea MB 296-307 1 Hepetema 2025, 512 Aotea MB 117-119 (Heard at Whanganui)
Whakataunga: *Judgment date*	28 January 2026

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

Tōtara wāhi rua, he kai nā te ahi

Hei tīmatanga kōrero
Introduction

[1] Perry Daniel Junior Bryers has applied to remove his Māori land interests from the Toherangi Broughton Whānau Trust ("the Trust"). The application is opposed by some trustees. One trustee, and the applicant's mother, Morania Broughton, supports the application.

[2] The issue to determine is whether the Court should allow the removal of Perry's Māori land interests from the Trust under s 241 of Te Ture Whenua Māori Act 1993 ("the Act").

Te Horopaki
Context

[3] The Trust was established by court order on 30 September 2008. At that time, Perry vested his Māori land shares in the Trust. These shares were originally derived from his grandfather, Toherangi Broughton, who gifted them to Perry's mother, Morania, before his death.

[4] Perry sought to discuss his s 241 application at a whānau hui in December 2023. An email was sent to all trustees on 22 December 2023. However, due to trustee unavailability the hui did not occur. Consequently, some trustees did not support the proposal. Perry advised that he seeks the return of his interests so they may be held absolutely for the benefit of his own whānau and tamariki.

[5] The application was heard on 3 November 2025.

Te Ture
The Law

[6] Section 241 of the Act provides the Court with jurisdiction to fully or partially terminate a range of trusts, including whānau trusts.

[7] The leading authority on partial termination is *Larkins v Kaitaia – Waiho Hutoia D2A Block*.[1] In that decision, the Māori Appellate Court considered whether or not the lower court was correct in dismissing an application for a partial termination of the trust. The Māori Appellate Court allowed the appeal and confirmed that unanimous consent is not required to partially terminate a trust. The Māori Appellate Court confirmed the following principles:

(a) a change of mind is usually an insufficient ground for termination unless there is an absence of opposition;

(b) evidence of trustees failing to adhere to the terms of trust and core accountabilities may be sufficient grounds for termination; and

(c) the power to allow a trust's partial termination is discretionary and should be invoked cautiously. The applicant has no automatic right to withdraw and must establish that the discretion to refuse termination should not be exercised.

[8] It identified key factors relevant to assessing a s 241 application:[2]

(a) The Preamble, s 2, and other matters listed in s 17 of the Act, including the extent to which termination achieves better retention, use, development and control of the land in accordance with the fundamental principles and purposes of the Act.

(b) The purposes of the trust.

(c) The extent of beneficiary and trustee consent.

(d) The impact of any termination on the remaining beneficiaries and the trust. Termination should be refused where it is likely to result in detriment or create unreasonable disadvantage to affected parties.

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1 *Larkins v Kaitaia – Waiho Hutoia D2A Block* [2013] Māori Appellate Court MB 159 (2013 APPEAL 159).

2 At [27].

(e) Any evidence of dysfunction among the trustees to justify the Court's intervention.

[9] *Larkins* emphasises a balance between individual autonomy and collective whānau benefit. That balance is relevant to these facts.

Te Tātaritanga
Analysis

[10] The way in which Perry received his shares has caused longstanding tension among the children of Toherangi Broughton. Significant shares and entire Māori land blocks were gifted to Morania, who then gifted them to Perry. He subsequently vested those shares in the Trust in 2008. I accept that removal of Perry's interests would significantly impact the Trust's viability.

[11] Initially, it appeared that trustee dysfunction was not central to the application. However, both Perry and Morania later described a history of dysfunction and whānau issues. A previous 2017 partial termination application resulted in then Judge Harvey recommending mediation. From Morania's perspective, Perry should not have to continue dealing with this raru, and partial termination would allow him to move forward for the benefit of his tamariki and mokopuna.

[12] For those opposing the application, the key issue is their belief that although Toherangi gifted significant shares to Morania, he later wanted all of his children and mokopuna to share in them. As indicated during the hearing, I cannot revisit those gifting decisions without an appropriate application. In the absence of such an application, his gifting stands. Historical perceptions of unfairness cannot be determinative, especially where Perry and Morania hold a different view. However, my position on Toherangi's gift does not predetermine the outcome of the application.

[13] In similar cases my general approach has been to grant partial or full termination, unless there are compelling reasons not to. It is rarely productive to force whānau to remain in a trust where there is ongoing raru. Provided the whānau have had a fair opportunity to express their views, the Court should be cautious about maintaining trust arrangements

against the wishes of a beneficiary. That is my starting point — but each case turns on its context.

[14] Several factors in this case cause me to pause. First, the nature and extent of Perry's interests are such that removing them would strip the Trust of entire blocks. The remaining beneficiaries would lose access to any benefit from those blocks. This weighs against the Act's principle of retaining Māori land in the hands of its Māori owners, particularly at a whānau level. It concerns me that only Perry's descendants would benefit from these blocks.

[15] Second, it is relevant that Perry, as the nephew of the other children of Toherangi, holds most of the shares. It is understandable that his aunties and uncles feel strongly about the prospect of one nephew controlling these shares exclusively. There is a clear tuakana-teina dynamic that is relevant to the decision I need to make.

[16] Third, allowing removal of Perry's interests would significantly diminish the Trust's asset base and, in effect, its long-term viability. The Trust would not necessarily end, but its ability to function meaningfully would be substantially compromised.

[17] Taken together, these factors create a different context from cases where there is considerable trustee dysfunction or where the issue is purely relational. Section 17(2)(f) requires the Court to promote practical solutions. It might be suggested that mediation or alternative dispute resolution processes would be helpful here. But in the absence of consensus those processes are unlikely to assist, as evidenced by the same issues resurfacing since the 2017 application.

[18] I am therefore faced with finely balanced circumstances. On the one hand, the Trust faces relationship challenges; on the other, granting the application would diminish the wider whānau relationship with the whenua and remove a large block of shares from the Trust. Dismissing the application, in my view, best upholds the Act's principles: recognising Māori land as a taonga tuku iho, and promoting its retention and use for the benefit of the wider whānau. These principles outweigh Perry's wish to have the gifted shares returned to him exclusively. In other words, the three factors identified – which are about core principles of the Act – outweigh the applicant's change of mind and the underlying raru. Further, the fact that the Trust has been in existence since 2008 is important because whilst there are relational

issues, the Trust has continued to survive, and it would seem unfair to unsettle something so drastically given it has withstood the passage of time. There is no evidence that the trustees are underperforming or acting in breach of their duties.

[19] For those reasons and applying the principles from *Larkins*, including the direction to be cautious, I find that Perry has not established that the discretion to refuse termination should not be exercised.

[20] I find that the principles of the Act are best furthered by maintaining the status quo.

Whakataunga
Decision

[21] The application under s 241 of the Act is dismissed.

Mauri ora.

I whakapuakina i te 4:00pm i Whanganui, I te rua tekau mā waru o ngā rā o Hānuere i te tau 2026.
Pronounced at 4:00pm in Whanganui on Wednesday this 28th day of January 2026.

A H C Warren
JUDGE