

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

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

AP-20260000011359

WEHENG
Under

Sections 19(1)(a) and 18(1)(c)(d), Te Ture Whenua
Māori Act 1993

MŌ TE TAKE
In the matter of

Whawhakanga 1B Ahu Whenua Trust

I WAENGA I A
Between

ANDREW HART, BEN TAWHAI, DONNA
WALSH, EILEEN KURU AND RICKY KURU
AS TRUSTEES OF THE WHAWHAKANGA 1B
AHU WHENUA TRUST
Ngā kaitono
Applicants

ME
And

HARRIET KURU, EILLEEN KURU AND KATE
KURU
Ngā kaiurupare
Respondents

Kōtitanga: On the papers
Hearing

Kanohi kitea: P Harman for the Applicants
Appearances

Whakataunga: 20 August 2026
Judgment date

TE WHAKATAUNGA A KAIWHAKAWĀ D H STONE
Judgment of Judge D H Stone

Hei tīmatanga kōrero*Introduction*

[1] The Court has received today applications pursuant to ss 18(1)(a), 18(1)(c) and 19(1)(a) of Te Ture Whenua Māori Act 1993 (“the Act”) in relation to the Whawhakanga 1B block (“the block”). The applications are filed by the chairperson of the Whawhakanga 1B Ahu Whenua Trust (“the Trust”).

[2] The applications include an application for an injunction per s 19(1)(a). In summary, the applicant says that the respondent is responsible for grazing 40-50 horses on the block and the Trust has not authorised that activity on the block.

[3] Per r 9.5(2) of the Māori Land Court Rules 2011 (“the Rules”), the Registrar has properly referred the injunction application to me without delay for directions. The applicant seeks urgency per r 9.6 of the Rules. The application is accompanied by an affidavit by the Trust chairperson, Mr Ricky Kuru. Rule 9.6(1) of the Rules has been complied with.

[4] Before dealing with the injunction application, I record that I acted as mediator for earlier proceedings relating to the block. Because the injunction application is specific, discrete and not related to the mediation or the outcomes reached, I consider I am able to determine the injunction application. I reserve the position in relation to the substantive applications – I may need to recuse myself from hearing those applications given my earlier involvement in the mediation.

Kōrerorero*Discussion**Service*

[5] Rule 9.6(2) of the Rules requires the applicant to send to the respondent by ordinary post a copy of the application and supporting documents, together with a notice stating that the application was filed on 20 August 2026 in the Tākitimu office of the Court and that urgency has been sought. I direct the applicant to comply with that requirement today.

Determination of the urgent injunction application without notice to the respondent

[6] Counsel for the applicant, Mr Harman, seeks that the injunction application be heard urgently and on a without notice basis per r 9.6(3) of the Rules. The Rules do not set out that grounds on which an application can be determined without notice. Rule 7.23(2) of the High Court Rules 2016 sets out a two stage test.¹ First, one of the following relevant grounds must exist:

- (a) that requiring the applicant to proceed on notice would cause undue delay or prejudice to the applicant;
- (b) that the application affects only the applicant;
- (c) that the application relates to a routine matter;
- (d) that an enactment expressly permits the application to be made without serving notice of the application;
- (e) that the interests of justice require the application to be determined without serving notice of the application.

[7] I am satisfied that one or more of these grounds applies. There is apparent prejudice to the lessee of the block if determination of the application is delayed, as the horses on the block are adversely impacting on the lessee's rights. This could result in claims against the trust by the lessee. I also consider it is in the interests of justice that the application be determined without notice, as timely resolution is important.

[8] Second, rule 7.23(2) of the High Court Rules 2016 also requires an applicant to make all reasonable inquiries and take all reasonable steps to ensure that the application and supporting documents contain all material that is relevant to the application, including any defence that might be relied on by any other party and any facts that would support the position of any other party.

¹ Where the Māori Land Court Rules 2011 do not address an issue, the High Court Rules 2016 can provide guidance: see for example *Heteraka v Auckland Council – Allotments 170-176 Parish of Manurewa* (2017) 158 Taitokerau MB 248 (158 TTK 248).

[9] On this point, I note the following:

- (a) The applicant has filed a copy of the lease of the Whawhakanga 1B Block, which clearly shows that the Trust has leased the block to Waihau Farming Limited. There is affidavit evidence to confirm that unauthorised horses are being permitted to graze on the leased area. There is also affidavit evidence indicating that this grazing is adversely affecting the lessee's rights.
- (b) There is also evidence that the purported owner or agent of the horses, Harriett Kuru, has been asked to remove the horses from the block. On Thursday 6 August 2026 Senior Constable John Singer personally delivered a notice to Harriett, Kate and Eileen Kuru to cease and desist allowing the activity of horses to roam and feed on the block and to remove the horses within seven days.
- (c) The applicant has not raised any defence that might be relied on by the respondent. It appears that the applicant considers there is no defence.
- (d) Counsel for the applicant has communicated with counsel for the respondent from an earlier proceeding in this Court. That counsel (for the respondent) has indicated that they do not have instructions to act for the respondent.

[10] I am satisfied that the applicant has made all reasonable inquiries and taken all reasonable steps to ensure that the application and supporting documents contain all material that is relevant to the application, save for the nature of any defence that may be relied on.

[11] Turning to any likely defence, it would seem that two possible defences could be relied on. First, that the horses are not grazing on the part of the block that is leased. Second, that the horses do not belong to or are not the responsibility of the respondent. I proposed to deal with these potential defences through the orders that I grant. If those orders are limited to the area of the block that is leased to Waihau Farming Limited and only apply to horses that belong to or are the responsibility of the respondent, this will provide for the potential defences. On this basis, I am satisfied that I can grant the orders without notice.

Determination of the urgent injunction application on the papers

[12] I am also prepared to grant the orders on the papers. Of course, the right to be heard is a fundamental aspect of natural justice. In this situation, however, because I have determined that the application can be heard without notice, the only person who would be heard is the applicant. I am satisfied that the applicant has supplied all relevant information to the Court. Moreover, the applicant has not sought to be heard. Counsel for the applicant has requested for the orders to be issued.

The injunction

[13] Turning now to the injunction itself, the applicant seeks an injunction per s 19(1)(a). This subsection deals with permanent injunctions. Counsel for the applicant, however, appears to seek an interim injunction. He refers to the interim injunction grounds of (a) is there a serious question to be tried, (b) where does the balance of convenience lie and (c) what is the overall justice of the case? I therefore treat the injunction application as a request for an interim injunction per s 19(1)(b), pending determination of the substantive applications per ss 18(1)(a) and 18(1)(c) of the Act.

[14] I am satisfied that there is a serious question to be tried. There appears to be a valid lease over the block, granted by the trustees of the Trust. Those trustees have not authorised any other person to use the block. No person is entitled to use the block for grazing horses without the lessee's consent. The lessee clearly does not consent. If that is correct, the persons responsible for grazing the horses on the block would be committing a trespass. There is a serious question to be tried here.

[15] The balance of convenience lies in granting an interim injunction. The evidence indicates that the horses are eating food (grass) that is intended to be eaten by the lessee's stock. Every day that happens is less grass for the lessee's stock. I accept that there is a degree of inconvenience in having to remove the horses, but that inconvenience is outweighed by the loss of feed for the lessee. It is also relevant that the Trust served notice on the respondent on 6 August 2026 to remove the horses from the block. If the respondent is responsible for the horses and they are grazing on the block, she has had time to remove them.

[16] The overall justice of the case points to the granting of the injunction. The trustees of the Trust have not authorised the grazing of horses on the block. They have asked for the horses to be removed. Because the horses remain, the overall justice is to take steps to remove the horses. Although the respondent has had time to remove the horses from the block, I am mindful that the muster of 40-50 horses may take time. The applicant seeks orders requiring the horses to be removed by 5pm Sunday 23 August 2026. I grant orders to that effect but grant leave to the respondent to seek more time if that is reasonably required.

[17] Finally, the applicant seeks orders to allow the applicant or its representatives to take custody of the horses if they are not removed by 5.00pm Sunday 23 August 2026. I am not prepared to grant that order at this stage. I grant leave to the applicant to seek such an order, if it becomes necessary.

Ngā ōta
Orders

[18] Per s 19(1)(b) of Te Ture Whenua Māori Act 1993, I grant the following order:

- (a) To the extent that the respondent owns or is responsible for any horses that are currently grazing on the Whawhakanga 1B block within the area that has been leased to Waihau Farming Limited (“the leased area”), she is to remove those horses from the leased area by **5.00pm on Sunday 23 August 2026**.

Kupu whakahau
Directions

[19] The references to ss 18(1)(a) and 18(1)(c) of the Act are made on the application. The application was filed on form 16A. This is the correct form for injunctions, but not for substantive proceedings.

[20] The applicant is therefore directed to refile the applications per ss 18(1)(a) and 18(1)(c) of the Act on the proper forms and with the necessary accompanying documentation. I direct counsel for the applicant, in refiling those applications, to indicate whether my earlier involvement in mediation regarding this block would preclude me from hearing the substantive applications.

I whakapuakina i te 1.00pm i Te Whanganui-a-Tara, i te 20 o ngā rā o Ākuhata i te tau 2026.
Pronounced at 1.00pm in Wellington on Thursday this 20th day of August 2026.

D H Stone
JUDGE