

I TE KOOTI WHENUA MĀORI O AOTEAROA
I TE ROHE O TE TAITOKERAU

In the Māori Land Court of New Zealand
Taitokerau District

AP-20250000006617

WEHENG <i>Under</i>	Section 19, Te Ture Whenua Māori Act 1993
MŌ TE TAKE <i>In the matter of</i>	Hauai 2D8
I WAENGA I A <i>Between</i>	HENRY (HENARE) PADDY HETA Te kaitono <i>Applicant</i>
ME <i>And</i>	VICTORIA ELLEN HETA Te kaiurupare <i>Respondent</i>

Kōtitanga:
Hearing

16 June 2025, 299 Taitokerau MB 44-52
 18 February 2026, 308 Taitokerau MB 231-261
 (Heard at Kaikohe)

Kanohi kitea:
Appearances

L Foley and D Stoevelaar for Hauai Ahu Whenua Trust

Whakataunga:
Judgment date

27 March 2026

TE WHAKATAUNGA A KAIWHAKAWĀ M P ARMSTRONG
Judgment of Judge M P Armstrong

(Ka haere tonu ngā taipitopito kēhi ki te whārangi kei raro)
(Proceedings continued overleaf)

(Ngā taipitopito kēhi e toe ana)
(Proceedings continued)

AP-20250000006255

WEHENG <i>Under</i>	Section 19(1)(a), Te Ture Whenua Māori Act 1993
MŌ TE TAKE <i>In the matter of</i>	Hauai 2D8
WAENG <i>And between</i>	VICTORIA ELLEN HETA Te kaitono <i>Applicant</i>
ME <i>And</i>	HENRY (HENRY) PADDY HETA AND KATHERINE RAUE Ngā kaiurupare <i>Respondents</i>

AP-202500000015453

WEHENG <i>Under</i>	Section 19, Te Ture Whenua Māori Act 1993
MŌ TE TAKE <i>In the matter of</i>	Hauai 2D8
WAENG <i>And between</i>	BETTY LEONIE ORMSBY AND DEBBIE DENISE PEACOCK ON BEHALF OF THE HAUAI AHU WHENUA TRUST Ngā kaitono <i>Applicants</i>
ME <i>And</i>	HENRY (HENARE) PADDY HETA, KATHERINE RAUE AND VICTORIA ELLEN HETA Ngā kaiurupare <i>Respondents</i>

:

Hei tīmatanga*Introduction*

[1] Hauai 2D8 is a block of Māori freehold land approximately 25 hectares in size. It has 234 owners who hold shares as tenants in common. The land is administered by the trustees of the Hauai Ahu Whenua Trust.

[2] In 2001, one of the owners, Jim Heta, moved a garage onto the land. He and his wife Bella lived there for many years. Sadly, both have passed away. Te Ture Whenua Māori Act 1993

[3] Their son Henry (Henare) Heta is now living in the garage. On occasion, Katherine Raue has been living with him. Henry and his sister, Victoria Heta, dispute who should have rights to the family home. They have filed applications seeking injunctions against each other requiring the other to vacate.

[4] In the background, the trustees of the Hauai Ahu Whenua Trust have attempted to resolve this issue with Henry and Victoria. Those attempts have been unsuccessful. The trustees now seek an injunction requiring Henry and Katherine to vacate the land, and to remove their possessions and chattels.

[5] In this judgment, I determine whether to grant an injunction, and if so, against who. Before doing that, I address a number of interlocutory matters that arose during these proceedings.

Ko ēhea nga tono e whakatau ana?*Which applications am I deciding?*

[6] Victoria filed her injunction application before the trustees did. Initially, the trustees intended to support her application though they later considered it necessary to file their own. I raised this with Victoria at the hearing. She confirmed that she supports the trustees' application and is no longer seeking to progress her own. Her application can be dismissed.

[7] As such, I am deciding whether to grant an injunction:

(a) Against Victoria being Henry's application; or

- (b) Against Henry and Katherine being the trustees' application.

I tono a Mr Heta kia whakatarewa, me te whāwhanui i te wā hei tuku taunakitanga anō.

Mr Heta requested an adjournment and an extension of time to file further evidence

[8] I heard these applications on 18 February 2026. Katherine spoke on Henry's behalf. During her submission, she sought an adjournment. After hearing from the parties, I directed Henry and the trustees to file further evidence. The day before Henry was due to file his further evidence, he sought an extension through counsel. I granted a short extension. I now address whether I should grant the adjournment and why I granted a short extension.

Should I grant an adjournment?

[9] An adjournment is not granted as of right. The power to adjourn is discretionary. I have to take into account what is fair and balance the interests of both sides. Ultimately, I have to consider whether an adjournment is necessary to do justice between the parties.¹

[10] Henry and Victoria's injunction applications were first called on 16 June 2025.² Henry failed to attend that hearing. Judge Isaac adjourned the applications, but he put Henry on notice that if he failed to attend the next hearing, the applications could be heard in his absence. Those applications were then set down to be heard on 18 February 2026.

[11] On 3 December 2025, the trustees filed their application seeking an urgent injunction against Henry. I directed that the trustees' application be heard on 18 February 2026, along with Henry and Victoria's applications.

[12] On 10 December 2025, Henry sent an email to the Registrar advising that he is not available on 18 February as he would be in Australia. He asked for the hearing to be rescheduled. The Registrar advised that:

- (a) He had to serve his request on all other parties so that they could respond;
- (b) He may want to file evidence supporting his request; and

¹ *Taueki v Horowhenua II Part Reservation Trust* (2016) 2016 Māori Appellate Court MB 184.

² 299 Taitokerau MB 44-52 (299 TTK 44-52).

- (c) Even if he is in Australia, he could attend the hearing online using AVL (video conferencing).

[13] Henry did not respond to the Registrar.

[14] On 17 December 2025, I issued a minute addressing this request which said:³

- [5] I am issuing this minute to make it clear to Mr Heta that, at present, the hearing on 18 February 2026 is going to proceed. If he seeks an adjournment, then I issue the following directions:
- (a) Mr Heta must file with the Court a formal request seeking an adjournment by **16 January 2026**. That request should:
 - i. Set out why he cannot attend the hearing in person;
 - ii. Set out why he cannot attend the hearing online using video conferencing; and
 - iii. Include any evidence supporting his request.
 - (b) Mr Heta must also serve a copy of his request, and any supporting documents, on Victoria Heta and the trustees of the Hauai Ahu Whenua Trust, by **16 January 2026**. Proof of service is to be provided to the Registrar.
 - (c) Victoria Heta and the trustees of the Hauai Ahu Whenua Trust are to file and serve any response by **30 January 2026**; and
 - (d) I will decide whether to grant a further adjournment.
- [6] Given that an adjournment has already been granted, and Judge Isaac's comments, there will have to be compelling reasons to justify a further adjournment.
- [7] I emphasise once again that unless I grant a formal adjournment, the hearing on 18 February 2026 will proceed.

[15] By email dated 13 February 2026, the Registrar advised as follows:

On 18 December 2025, I received an email from Mr Heta that stated the following:

This is to advise the Court, in regard to the Minute that I just received, that I have postponed my trip to Australia to accommodate the Court fixture on 28 February 2026 and i confirm that I will be in attendance.

Please accept my apologies for not notifying the Court sooner, the other parties are intimidating and threatening contractors delivering a

³ 305 Taitokerau MB 109-110 (305 TTK 109-110).

cabin and container, electricians, etc, denying me and Katherine Raue access to basic resources in order to force us out (having burned down our house), doing my best to write all this up and file it on all parties.

Henare Heta

This email was not served upon all parties.

Further to the above and on 7 January 2026, I was advised by the counter staff that Katherine Raue (respondent and partner to Mr Heta) came into the offices whilst I was on a break. She advised that Mr Heta would be in Australia on the date of hearing and that she wanted to attend in person. The information services team, noted that both her and Mr Heta would need to contact the case manager for the application to advise of this and Mr Heta would need to provide a signed letter explaining this. Ms Raue left, and returned with a handwritten note from Henare Heta. The team pointed out to Ms Raue that the letter was unsigned and would need to be signed by Mr Heta before it was accepted. Ms Raue left the MLC offices and did not return.

On the same date, I called and spoke with Mr Heta on his cellphone and subsequently advised him of this interaction with Ms Raue seeking confirmation as to whether or not [he] was needing to seek an adjournment as his email dated 18 December 2025, advised that he would be in attendance.

During that conversation, Mr Heta appeared hesitant and unaware that Ms Raue had been into the offices, he indicated that he would be attending the hearing. Mr Heta was reminded of the directions issued and for the need to adhere to these should he wish to request an adjournment.

[16] On 17 February 2026, the day before the hearing, Henry sent a further email to the Registrar stating:

Katherine Raue and I have been disadvantaged by the respondents in regard to filing responses to their applications by the unlawful actions of the respondents, who are suspected of the arson of our dwelling, numerous assaults, the vandalism of our vehicles and property, the unlawful interference preventing the delivery of our temporary shelter, the reconnection of the electricity following the arson, and the repeated trespasses and assaults on us by the respondents, and the recent extreme weather conditions.

At this point we seek an adjournment because of the above circumstances and the unlawful actions of the respondents. There is no disadvantage to the respondents from the granting of an adjournment.

[17] At the hearing on 18 February 2026, Katherine said that Henry is seeking an adjournment to give them a reasonable opportunity to provide their evidence to the Court. When I asked her why Henry had not complied with my directions of 17 December 2025 when seeking an adjournment she said:⁴

⁴ 308 Taitokerau MB 231-261 (308 TTK 231-261) at 256.

He did request an adjournment. I was with him when he filed those papers in the Court along with the application for the occupation order. We're just asking that the Court not grant permanent injunctions against he or I until we've had a reasonable opportunity to respond to these allegations.

[18] Adjournments are not granted as of right. I have to consider what is necessary in order to do justice to both sides. Henry failed to appear at the first hearing. Judge Isaac granted an adjournment but warned him that if he failed to appear again the application may be determined in his absence. When the February hearing was set down, Henry immediately sought another adjournment. I then issued my directions setting out clear steps that he had to take if he sought an adjournment. Henry did not take those steps. Instead, he told the Registrar that he would attend the hearing. Katherine then told counter staff that Henry was seeking an adjournment. This was at odds with what he had already told the case manager. It is not clear if she was doing this with his knowledge or consent. It was not until the day before the hearing that Henry then sent a further email seeking an adjournment. Once again, the steps I set out in my December directions were not complied with.

[19] It is not in the interests of justice to grant a further adjournment. I set out in clear and unequivocal terms what Henry would need to do if he sought an adjournment. He did not comply with those steps. Instead, he waited until the last moment to seek an adjournment.

[20] I also consider he has had sufficient time to prepare. The trustees sought an urgent hearing of their injunction application. Despite that, I set it down on 18 February 2026 so that Henry would have over two months to prepare. While these applications have a long background, the questions I have to decide are fairly narrow. At the hearing, Katherine addressed me on those issues and responded to my questions on Henry's behalf. Following the hearing, Henry instructed counsel and she filed further submissions supporting Henry and Katherine.⁵ They have had ample opportunity to put their case forward.

[21] Henry has also frequently filed and re-filed extensive documents with the Court throughout this proceeding. From the number and size of the documents filed, there isn't any indication that he has been prevented from preparing or filing documents.

⁵ I refer to this below.

[22] There is no proper basis to grant a further adjournment of this proceeding. The delay from a further adjournment would prejudice the trustees who have been waiting for their application to be determined which they say is urgent.

[23] The request for a further adjournment is declined.

Why did I grant an extension of time?

[24] During the hearing, Katherine argued that four of the trustees had resigned, and the others had not complied with the rotation provisions in the trust order. She submitted that as a result, the trustees were not “lawfully constituted”. After hearing from the parties, I adjourned the applications and issued the following directions:

- (a) The trustees were to file and serve their response to those two issues within 7 days;
- (b) Henry was to file and serve his response on those issues within a further 7 days; and
- (c) The trustees were to file and serve any reply within a further 7 days.

[25] The trustees filed their response on time as directed. Henry was due to file his response by 4 March 2026. On 3 March 2026, Dr Paul filed a memorandum advising that she had recently been instructed by Henry. She sought an extension to this filing deadline in order to review the proceedings. The trustees opposed the extension. I granted an extension for Henry to file his response by 6 March 2026 and for the trustees to file any reply by 13 March 2026, with reasons to follow.

[26] There weren’t proper grounds to grant an extension at all. When I set down the filing deadlines at the hearing, Katherine and Henry agreed with those deadlines. The fact that they waited until the eleventh hour to instruct counsel was their choice and does not justify an extension. I also directed them to address two discrete issues, the trustee resignations and whether the rotation provisions in the trust order had been complied with. I did not open the door for them to file further evidence at large. Katherine told me at the hearing that she

already had the minutes which show that four of the trustees have resigned. Fourteen days was more than enough time to prepare and file the material on those issues.

[27] Although Dr Paul filed her memorandum on 3 March, this was not referred to me until after 3pm on 4 March. If I declined an extension in those circumstances, Henry may not have been able to file any response by the deadline due at 5pm that day. That is the only reason I granted a short extension to ensure that he could respond.

He aha ngā take?

What are the issues?

[28] In order to obtain an injunction, the applicant must demonstrate:⁶

- (a) An action in trespass; and
- (b) That the Court should exercise its discretion to grant the injunction.

[29] The following questions arise:

- (a) Can the trustees bring this application?
- (b) What does the evidence show?
- (c) Is there a trespass?
- (d) Should I exercise my discretion to grant an injunction?
- (e) If I do grant an injunction, who should it be against and on what terms?

E āhei ana rānei ngā tarahitī ki te tuku i tēnei tono?

Can the trustees bring this application?

[30] Katherine argues that four of the trustees have resigned, and the others have not complied with the rotation provisions in the trust order. She submits that as a result, the trustees are not “lawfully constituted”. Dr Paul supports this in her submission.

⁶ *Peihopa v Peihopa - Kaikou H* [2021] Maori Appellate Court MB 180 (2021 APPEAL 180) at [3].

[31] Part 4 of the trust order for this trust provides that one third of the trustees must retire each year. Those retiring can stand for re-election.

[32] Judge Wara replaced the trustees on 17 June 2020. The trustees accept that an AGM was not held in 2021 and 2022.

[33] An AGM was held in 2023 and 2024. A number of the existing trustees resigned and elections were held. On 23 April 2025, Judge Williams granted orders appointing replacement trustees based on those elections. The orders were conditional on the incoming trustees completing the Court's trustee training programme.⁷ It appears there was a delay completing those steps, but those orders are now final.⁸

[34] Of the nine trustees appointed in 2020, six have been replaced. The remaining three: Betty Ormsby, Glenys Papuni and Patricia King, were re-elected in 2023. Katherine and Henry argue that those AGMs were not valid but the orders have already been granted. If they say those orders are wrong then they must challenge it by appeal or otherwise. I cannot look behind those orders for the purpose of this proceeding.

[35] The current trustees have been confirmed by Court order and have standing to bring this application.

He aha ngā taunakitanga e whakaatu ana?

What does the evidence show?

[36] On 7 March 2001, a former trustee Mr Te Haara sent a letter to Jim Heta which said:

In our telephone conversation today, you expressed a wish to put a garage on skids on the Hauai flat, because of the ill health of your wife, and winter coming on.

As one of the Kaumatua of Ngati Kuta and Ngati Rangi, I felt obliged to agree to your request for this year, but expressed hope that this matter can be concluded as soon as possible, by meeting with the Heta family, at Kaimarama.

[37] Jim then placed the garage on the land. The evidence shows that Jim later discussed this matter with the trustees and came to some form of agreement about remaining on the land. Unfortunately, that agreement was not confirmed in writing. There is now a dispute

⁷ 292 Taitokerau MB 195-205 (292 TTK 195-205).

⁸ 310 Taitokerau MB 196-199 (310 TTK 196-199).

over what was agreed. The trustees say that they agreed that Jim could live there for life. Their trustee minutes and correspondence support that view. That form of occupation right is a license.

[38] Henry and Katherine agree that Jim had a license to live on the land though they say it was not restricted to a life interest. They don't have any written documents supporting their view.

[39] Jim lived in the garage up until his death. On 15 May 2014, Glenys Papuni, the chairperson of the trust, wrote to Jim's wife Bella. That letter says:

This letter is to formally acknowledge the conversations and consultations that have been had with you, Uncle Jim and your whanau and the Hauai Ahu Whenua Trust regarding your occupancy of Hauai whenua.

As previously agreed the Hauai Trust occupancy was granted for Uncle Jim's lifetime, which was generous, given that the original agreement for occupancy with Uncle Ching was for 6 months.

The trust wishes to extend this for your lifetime on condition that all building ceases and 3 months after your death all buildings and implements will be relocated and or removed and the whenua will be returned to its original status before your occupancy.

If you wish any further discussion with the Trust please feel free to contact the writer on [phone number removed for privacy].

Please sign below to acknowledge this agreement if you are happy with the conditions.

[40] At the foot of the letter it says:

I, Bella Heta, agree with the conditions set out above.

[41] Below that, the letter is signed 'B.H Heta' and dated 18 May 2014.

[42] Bella lived in the garage up until her death. As noted, Henry moved into the garage after his mother passed away.

[43] On 1 October 2024, the trustees wrote to Henry. They referred to the agreement reached with Bella and asked to meet with him "[i]n the spirit of resolving this matter" to discuss the removal of the family home and vacating the land. They say that they attempted

to deliver the letter personally to Henry but he refused to accept it. They left the letter at his door.

[44] The trustees then invited Henry to attend a trustee meeting to discuss the matter. On 22 November 2024, the trustees wrote to Henry advising that if he can't attend the meeting:

...we invite you to share your whakaaro and solutions in writing. We'll ensure your letter is presented at the hui on Tuesday so your voice is heard.

[45] According to the trustees, Henry did not engage. Henry says this is not correct and that he asked to postpone the meeting.

[46] Following this, the trustees contacted Victoria. She did engage with them. While it appears that too has had its challenges, the trustees are continuing to work with Victoria to find a solution to this issue.

[47] The trustees also say that Henry has been collecting money from people who have been using the land as a carpark. Henry does not dispute this. He says the carpark was established by his mother and has nothing to do with the trust. He claims that his mother had sole discretion over spending that money. He further says that, following his mother's death, he has "faithfully" received and recorded the money from the car park.

E haere pokanoa ana rānei?

Is there a trespass?

[48] In order to demonstrate an action in trespass the applicant must show that they are entitled to possession of the land.⁹ Where land is vested in the trustees of an Ahu Whenua Trust, they are entitled to possession. They decide who can enter the land, and who can occupy it.¹⁰ That applies to the trustees of the Hauai Ahu Whenua Trust. They are entitled to possess the whole of this land subject to any occupation rights granted by the trustees or the Court.

[49] Katherine says that a license was granted to Henry's father and was succeeded to by his mother. She says that Henry is now seeking to succeed to his father's shares in the land

⁹ *Tauaki v Horowhenua*, above n 1, at [17]-[22].

¹⁰ *Eriwata – Waitara SD Section 6 ad 91 Land Trust* (2005) 155 Aotea MB 269 (155 AOT 269) at 273.

and to the license. Katherine is not asserting that she has any independent occupation rights, she is relying on Henry's rights.

[50] There was some dispute over the exact terms of Jim's license. However, what is clear is that he lived on the land for the rest of his life. The trustees say the agreement with him was for a life interest only. Henry and Katherine say it was for something more. I prefer the evidence from the trustees. They have clear written records supporting their position. Although there is a lack of contemporaneous documents from the time the agreement was reached, the records they do have are consistent.

[51] Even if the agreement between Jim and the trustees was not expressly for a life interest, there is no dispute that he was granted a license. A license is personal to the parties, it does not create an interest in the land and it cannot be succeeded to.¹¹ This can be contrasted with an occupation order which allows succession by statute.¹² As such, whatever license Jim had, it expired on his death.

[52] The trustees then granted a new license to Bella. That is confirmed in their letter of 15 May 2014. That letter expressly states that it was for her lifetime only. Henry and Katherine dispute whether proper agreement was reached. They say that Bella either didn't sign the letter, or if she did, she was coerced into doing so. There is no objective or cogent evidence supporting either assertion. Even if there was, this means the license set out in that letter would be invalid and so Bella had no written license to occupy the land. At most, she would have had a bare license from the trustees allowing her to live there. A bare license can be revoked at any time.¹³

[53] Bella has now passed away. Once again, any license she had has expired. Henry can apply to succeed to his father's shares in the land, but he cannot succeed to either license. Even if he becomes an owner, as he does not hold any occupation rights, the trustees are still entitled to possession of the land.

¹¹ See *Baikie v Fullerton-Smith* [1961] NZLR 901 (CA) at 906 and *Telecom Auckland Ltd v Auckland City Council* [1999] 1 NZLR 426 (CA).

¹² Te Ture Whenua Māori Act 1993, s 109A.

¹³ *Trustees of the Paraire Whānau Trust v Paraire – Part Mangatawa 10 Block* (2015) 105 Waikato Maniapoto MB 67 (105 WMN 67).

[54] Katherine argues that Henry has applied for an occupation order. Even if he has, per s 328(2)(a) of the Act, the Court cannot grant an occupation order without the trustees' consent. If he has filed an application seeking an occupation order it cannot succeed. This cannot create a right of possession to displace that of the trustees.

[55] In summary, the trustees are entitled to possession of the land, Henry is not. The trustees can demonstrate an action in trespass against him.

[56] As Henry is not entitled to possession, he cannot demonstrate an action in trespass against his sister. His application must fail.

Me whai whakāro au ki te whakahei ōta whakatāpu?

Should I exercise my discretion to grant the injunction?

[57] As Henry and Katherine are trespassing, the starting point is that the trustees are entitled to an injunction to prevent that trespass from continuing. However, I still have to consider whether I should exercise my discretion to grant one.¹⁴

[58] This is not a small trespass that can be compensated by a small monetary payment. Henry is living permanently on the land. Katherine is living there intermittently. The trustees are entitled to clear and free possession of that land. An award of damages is not suitable in lieu of an injunction.

[59] I also consider that the trustees have acted honourably and reasonably. They granted a license to Henry's father. They then granted a new license to his mother for her lifetime. They honoured those licenses. When his mother died, the trustees attempted to engage with Henry, and later his sister, to try and resolve the issue. The correspondence from the trustees to Henry and Victoria concerning this show a genuine attempt by the trustees acting in good faith to come to an agreement.

[60] Henry and Katherine have made multiple allegations of inappropriate and criminal behaviour. It is not always clear who those allegations are against. Some are against the trustees, but most are against Victoria or other whānau members. The trustees deny all allegations against them. There is no objective or cogent evidence supporting those

¹⁴ *Peihopa v Peihopa*, above n 6.

allegations. I do not find any disentitling conduct that would prevent the trustees from obtaining injunctive relief.

[61] I also consider that Henry and Katherine have not acted reasonably. The trustees make a number of allegations of inappropriate, and criminal, behaviour against Henry and Katherine. Henry and Katherine deny all allegations against them. Ultimately, it is not necessary to resolve that. If a party has committed criminal behaviour then that should be reported to the Police. While I haven't made findings on those allegations, I consider that both Henry and Katherine have been very strident in their position. They have repeatedly argued they are entitled to occupy this land when they have no legal basis to do so. They have both been completely dismissive of trustee authority over the land. That has been demonstrated in the documents they filed and the submissions they made in this proceeding.

[62] I also take into account that Henry has received funds from the car park and he has not accounted to the trustees for that. Henry does not deny this, he says he was entitled to do so. Henry has no right to occupy this land, he certainly has no right to collect money from people who are parking on it. The trustees are not seeking an order to recover those funds from Henry, however, this is further evidence of the strident and dismissive behaviour that Henry has shown towards the trustees. His conduct does not dissuade me from granting an injunction.

[63] Dr Paul argues that Henry has lived on this land for over 10 years and Katherine has lived there for 2 years but she has a long association with the area. She submits that an injunction requiring them to vacate would cause disproportionate hardship to them. In *Peihopa v Peihopa*, the Maori Appellate Court considered what constitutes disproportionate hardship through granting an injunction.¹⁵ They referred to the following examples which were not oppressive:

- (a) The removal of a shareholder (owner) from a block;
- (b) The removal of an owner of a block who had lived there for his whole life with his father, on the passing of his father; and

¹⁵ *Peihopa v Peihopa*, above n 6.

- (c) The removal of baches from a block.

[64] Whether an injunction will cause disproportionate hardship will depend on the particular circumstances of the case. The examples referred to in *Peihopa* demonstrate that any hardship Henry and Katherine may suffer through the grant of an injunction is not disproportionate. Any injunctive relief will cause some distress and inconvenience. That is the nature of an injunction order. However, in this case, that is not oppressive.

[65] Finally, I consider that granting an injunction here promotes the kaupapa of the Act. An injunction will provide vacant possession which will assist the trustees to facilitate the use and development of that land for the benefit of the owners.

[66] I consider I should exercise my discretion to grant an injunction.

He aha te ōta whakatāpu me tukuna e au?

What injunction should I grant?

[67] As I am going to grant the injunction, I have to consider what terms I should impose and against who.

[68] The trustees seek an injunction requiring both Henry and Katherine to vacate the land. In their application, the trustees name both Henry and Katherine in the subject matter, but later state that they are seeking an injunction against the “respondents”. The affected parties listed in the application only names Henry and Victoria.

[69] This is not significant. The application is clear that the trustees are seeking an injunction against Henry. As above, Katherine does not assert her own independent right to occupy the land. She relies on Henry’s claimed right. This means she is Henry’s invitee. Per rule 9.7(2) of the Maori Land Court Rules 2011, I can order that an injunction binds an invitee even though only the respondent is named in the application. As such, I am going to grant an injunction requiring both Henry and Katherine to vacate the land.

[70] The trustees also seek an order requiring Henry and Katherine to remove their possessions from the land. That includes any chattels that are not fixed to the land. As the trustees are seeking a permanent injunction requiring Henry and Katherine to vacate, and

not return, it is appropriate that they should take their belongings with them. I will include that in the injunction.

[71] Finally, I have to consider how long they should have to vacate. The trustees initially asked that they vacate within seven days. In a final written submission, the trustees maintain that seven days is appropriate for Katherine, given that she does not live permanently on the land. The trustees recognise that Henry has lived there for a lengthy period, and so they leave it to me to consider whether Henry may require further time to vacate.

[72] I agree that seven days is sufficient time for Katherine to vacate the land. She has only stayed on the land intermittently. She must have alternative accommodation. Seven days is enough time for her to gather her belongings and return to that alternative accommodation.

[73] I consider that seven days is not sufficient for Henry to vacate. He has lived on the land for a long period, albeit without the trustees' approval. He will require time to find suitable alternative accommodation and to remove all of his belongings from the land. Requiring him to do that in seven days could be oppressive. Instead, I consider twenty one days provides sufficient time to make those arrangements.

Whakataunga *Decision*

[74] Application AP-2025000006255 by Victoria Heta, and application AP-2025000006617 by Henry Heta, are dismissed.

[75] Per s 19(1)(a) of Te Ture Whenua Maori Act 1993, I grant a permanent injunction against Henry (Henare) Paddy Heta, and Katherine Jane Raue on the following terms:

- (a) Henry Heta must vacate the land and remove all of his possessions including any chattels that are not fixed to the land within 21 days of this judgment;
- (b) Katherine Raue must vacate the land and remove all of her possessions within 7 days of this judgment;

- (c) Henry Heta and Katherine Raue cannot re-enter Hauai 2D8 without first obtaining permission in writing from the trustees of the Hauai Ahu Whenua Trust.

[76] If the trustees seek costs, I direct as follows:

- (a) The trustees are to file and serve submissions on costs within one month;
- (b) Mr Heta is to file and serve submissions in response within one further month;
and
- (c) The trustees are to file any submissions in reply within a further fourteen days.

[77] I will then decide costs on the papers.

I whakapuakina i te 12:00pm i Whangārei, rua tekau ma whitu o ngā rā o Maehe i te tau 2026.

Pronounced at 12:00pm in Whangarei, this 27th day of March 2026.

M P Armstrong
JUDGE