

**I TE KOOTI WHENUA MĀORI O AOTEAROA
I TE ROHE O TĀKITIMU***In the Māori Land Court of New Zealand
Tākitimu District***AP-20230000021742****WEHENGĀ**
Under

Section 289, Te Ture Whenua Māori Act 1993

MŌ TE TAKE
In the matter of

Pakowhai 5C1

NĀ
*By***TANIA TE WHANAUPANI MAAKA**
Te Kaitono
*Applicant***AP-20230000021231****NĀ**
*By***SHELLY EARL TE UKI, CARL TE UKI AND
NICOLE LUGT**
Ngā Kaitono
*Applicants***Kōtitanga:**
*Hearing*7 April 2021, 89 Tākitimu MB 125-131
2 November 2022, 10 Tākitimu MB 10-16
2 December 2025, 126 Tākitimu 289-309
(Heard at Hastings)**Whakataunga:**
Judgment date

22 April 2026

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

Hei tīmatanga kōrero*Introduction*

[1] Pakowhai 5C1 is a four-hectare parcel of Māori freehold land located on the Heretaunga Plains, near Whakatu (“the block”). It is situated between Farndon Road on the western boundary and the old channel of the Ngaruroro River (Clive River) to the eastern boundary. Pakowhai 5C1 Trust (“the Trust”) administers the block on behalf of 45 owners, who collectively own 1,585 shares.

[2] Two owners seek to partition their interests from the block:

- (a) Tania Maaka owns 237.5 shares (14.98%) in the block and is a trustee of the Trust. She is also a trustee of Tihema & Paul-Utiera Whānau Trust, which owns 33.928 shares (2.14%). Tania seeks to partition her interests and the Tihema & Paul-Utiera Whānau Trust’s interests from the block to enable her to live on whānau land and provide a base for her siblings and children.
- (b) Shelly Te Uki, Carl Te Uki, and Nicola Lugt together own 237.5 shares (14.98%) in the block. They seek to partition their interests from the block to enable their whānau to build housing on the land.

[3] I note that the application filed for the Te Uki whānau (“the Te Uki whānau application”) appears to seek a combined partition under s 298 of Te Ture Whenua Māori Act 1993 (“the Act”). Having examined the application and the relevant provisions, I confirm that this is an application for partition under s 289 of the Act (similar to Tania Maaka’s application).

[4] I must decide whether to grant these partition applications.

Whakarāpopototanga*Summary*

[5] The partition applications are declined.

Kōrero whānui*Background*

[6] The Court accepted Tania Maaka's partition application on 3 March 2021. On 7 April 2021, this application was heard by Judge Harvey (as he then was).¹ He adjourned the application, directing a facilitated owners' hui to be held to discuss the proposal to partition or an occupation order as an alternative.

[7] The owners' hui was held on 29 July 2022, via Zoom. It was advertised in the *Hawke's Bay Today* on 16 and 23 July 2022. Notices were sent by the Court via post on 14 July 2022 to the six parties it had contact details for on file. Email notice was also sent on 19 July 2022 to 12 people for whom the Court had email addresses.

[8] The facilitator's report was received on 7 September 2022. It outlined that there were six owners present (or representatives for six owners), making up 13% of the block's owners and 62% of its shareholding. According to the report, the owners present would likely support a partition or occupation order being granted in favour of Tania.

[9] I heard Tania's partition application on 2 November 2022.² In that hearing, Shelly Te Uki advised that she and her whānau intended to partition their interests from the block as well. At Tania's suggestion, I adjourned her application pending receipt of a further partition application from Shelly in relation to the block. I also directed the Deputy Registrar to facilitate a hui to discuss development options for the block.

[10] As anticipated, the Court received the Te Uki whānau application on 23 April 2023.

[11] There followed some inactivity. On 3 March 2025, I directed the partition applicants to confirm whether they wished to continue pursuing their applications, particularly in light of Cyclone Gabrielle, which tore through the rohe on 14 February 2023. I also directed the applicants to file confirmation from the appropriate Council that it remains possible to build houses on the block. I further directed the Deputy Registrar to engage a facilitator to call a further hui of owners to consider development options for the block.

¹ 89 Tākitimu MB 125-131 (89 TKT 125-131).

² 10 Tākitimu MB 10-16 (10 TKT 10-16).

[12] On 3 April 2025, confirmation from the Hastings District Court that the block remains Category 1 (unaffected by Cyclone Gabrielle) was filed with Court.

[13] On 3 June 2025, I issued directions:

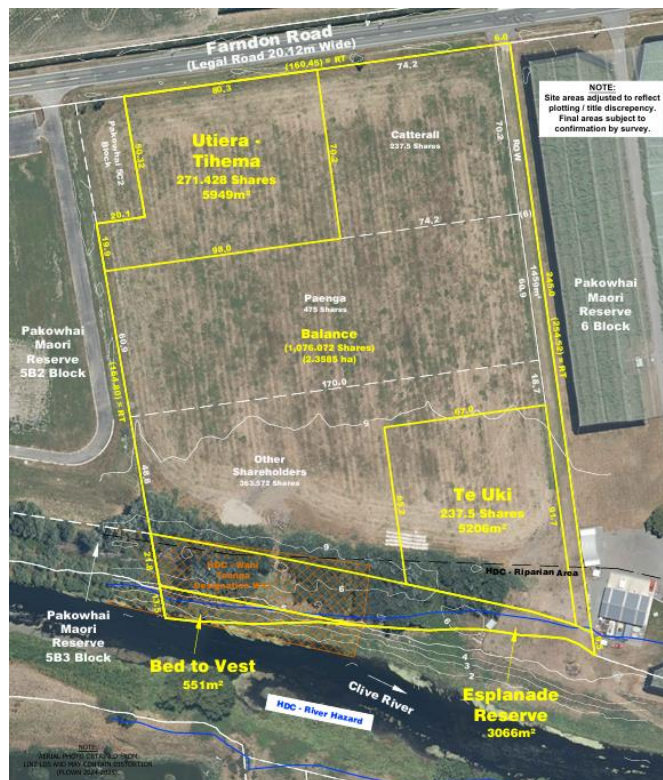
- (a) Referring the applications to the Registrar per s 40(1)(b) of the Act for inquiry and report for local investigation on the most appropriate partition plan for the block, based on the sketch plan filed with the Court. The local investigation was to be undertaken by a surveyor through the production of a draft scheme plan. The surveyor was to identify the area of the block that can be used effectively, as the block adjoins a river, which may deem part of the block unsuitable for housing.
- (b) Seeking evidence from Shelly Te Uki confirming a sufficient degree of support for her application among the owners in the form of consents of owners and/or minutes of meetings of owners.

[14] In response, the Court received a draft scheme plan prepared by a local surveyor and minutes of a shareholders' meeting held on 27 July 2025. The 27 July 2025 hui was attended by three owners (6.7% of the ownership) representing 8.78% of the block's shareholding. No objections to the Te Uki whānau application were recorded in the minutes for this hui, although concerns were raised by Celeste Blain.

[15] On 10 September 2025, I instructed the Pae Tukutuku to set these applications down for hearing at the next available court sitting in Hastings. I also directed the applicants to provide the following information:

- (a) an updated draft scheme plan that takes into account the area of the block that is subject to riparian and wāhi taonga overlays under the Hastings District Plan; and
- (b) confirmation of whether any rules or regulations impact on the ability to create a new proposed accessway, as the first draft plan proposed two rights of way – one existing, and a new proposed accessway.

[16] On 30 September 2025, an updated draft scheme plan was filed with the Court. A map of the block showing the proposed partition sites is depicted below:



[17] A hearing was held on 2 December 2025, at which both applications were discussed in detail.³

[18] During the hearing, Tania confirmed that new calculations for the area of the proposed partition sections excluded areas subject to riparian and taonga overlays under the Hastings District Plan. She also confirmed that the scheme plan, filed on 30 September 2025, now proposes a right of way through the existing accessway. A new accessway off Farndon Road is therefore no longer required.

[19] The Court also heard from Celeste Jones and Shivaun Nepia, who both expressed opposition to partitioning the block. Shivaun is a trustee of the Trust. Both Celeste and Shivaun are trustees of Ngaware Te Rangiiirunga Cooper Whānau Trust, which owns 26.122 shares (1.65%) in the block. They opposed the partition as a matter of principle and because:

³ 126 Tākitimu 289-309 (126 TKT 289-309).

- (a) The proposed area allocated to “other shareholders” may not be buildable.
- (b) The proposed allocation of interests of the owners of Pakowhai 5C2 would be situated separate from that block, as the partition site sought by Tania and her whānau is situated beside Pakowhai 5C2.
- (c) There was a lack of notice about the proposed partition, and owners were not provided sufficient opportunity to discuss and consider it.
- (d) The proposed allocation of the new blocks was not appropriate, although no alternative allocations were suggested.

[20] Having considered the opposition expressed at hearing, Shelly, for the Te Uki whānau, maintained:

- (a) Discussions on the proposed partition have been ongoing for at least five or six years, and meetings have been called to discuss it. Shelly noted that at the July 2025 owners’ hui, Celeste Jones advised that she was going to notify Shelly of any shareholders that may have questions about the partition, but no such information had been provided since the hui.
- (b) The land is currently not being utilised in any other way. She suggested that if the partition did not happen, the block would continue to lay idle.
- (c) The Te Uki whānau do not have intentions to sell the land. Rather, they intend for their tamariki and mokopuna to utilise it for years to come.
- (d) The interests of other shareholders were considered throughout the process, including ensuring they had adequate access to the remainder of the block, should the partition proceed.
- (e) Future partitions and papakāinga remain options for other shareholders. Shelly suggested that their partition may pave the way for others to follow.

- (f) The Te Uki whānau seek the site allocated at the southern side of the block because they were told by their Nanny Rose that this was the portion of land set aside for their whānau.

[21] Tania, for her whānau, maintained that extensive research on the block has been undertaken in planning the proposed partition. She asserted that remaining shareholders were also considered and that they will have access to their land shares for building homes and/or to seek papakāinga support.

[22] At the end of the hearing, I indicated that I could either determine the applications based on the information already before the Court or adjourn the applications to allow a further opportunity for owners to be made aware of the applications and express their views on them. The applicants confirmed their preference for me to decide their applications based on the information already before me. I therefore reserved my decision.

[23] On 4 December 2025 Lynette Waimaria Paenga advised the Court that she, Vincent Ramai Paenga and Cameron Hamuera Paenga did not support the partition applications and sought further time to allow more discussion between the owners. Their total shareholding amounts to almost 30%.

Te ture *The law*

[24] To grant a partition application, I must first be satisfied that:⁴

- (a) the owners have had sufficient notice of the application, and sufficient opportunity to discuss and consider it;
- (b) there is a sufficient degree of support for the application among the owners, having regard to the nature and importance of the matters; and
- (c) the partition is necessary to facilitate the effective operation, development, and utilisation of the land.

⁴ Te Ture Whenua Māori Act 1993, ss 288(2) and 288(4)(a); and *Hammond – Whangawehi 1B3H1* (2007) 34 Gisborne Appellate MB 185 (34 APGS 185) at [16]-[17].

[25] If those threshold requirements are satisfied, I must have regard to the following mandatory considerations:⁵

- (a) the opinion of the owners as a whole;
- (b) the effect of the partition on the interests of the owners; and
- (c) the best overall use and development of the land.

[26] Finally, I may exercise my discretion to order a partition if it would achieve the principal purpose of Part 14 of the Act, which is “to facilitate the use and occupation by the owners of land owned by Maori by rationalising particular landholdings and providing access or additional or improved access to the land”.⁶

[27] In exercising my discretion, I must also have regard to the Preamble and ss 2 and 17 of the Act.⁷

[28] The threshold for granting a partition is high. As the High Court in *Brown v Māori Appellate Court* notes:⁸

[52] The high threshold imposed by s 288(2) and (4) in the case of partition is consistent with the overall policy of the Act. Partition does not only separate land. Nor does it seem to me to be adequate to describe it, as Chief Judge Durie does in the Maori Appellate Court, as a mechanism for separating people. Partition which excludes owners separates those owners (and their descendants) from the land. In a statute which seeks to promote retention of land as taonga tuku iho for the owners, their whanau, hapu and their descendants, it is understandable that Parliament should require the Court to be satisfied that a partition proposal has “a sufficient degree of support . . . among the owners” and that it be “necessary to facilitate the effective operation, development, and utilisation of the land”. So too, it is consistent with the overall policy of the legislation that the Court should have to further assess the matters specified in s 287 and retains a general discretion, particularly if not satisfied that the principal purpose of Part XIV will be achieved if the order is made in the “manner sought”.

⁵ Te Ture Whenua Māori Act, s 288(1).

⁶ Section 286(1); and *Hammond*, above n 4, at [19].

⁷ *Hammond*, above n 4, at [20], citing *Brown v Māori Appellate Court* [2001] 1 NZLR 87 (HC) at [66].

⁸ *Brown v Maori Appellate Court*, above n 7, at [52].

[29] Similarly, the Māori Appellate Court in *Reid v The Trustees of Kaiwaitau 1 Trust – Kaiwaitau 1* observed the necessarily high threshold for granting partition orders under the Act:⁹

[15] It can be seen at once that partition is treated under the Act as being the utmost gravity - akin in some ways to alienation. This sea change in attitude from the Māori Affairs Act 1953 to Te Ture Whenua Māori Act 1993 reflects an acceptance by the legislature that title fragmentation through partition is contrary to Māori economic and cultural interests and should not now be encouraged if there are reasonable alternatives to it. The bar has been set intentionally high.

[30] Partition is therefore a step of last resort.¹⁰

Ngā take

The issues

[31] The issues to determine are as follows:

- (a) Have the owners had sufficient notice of these applications, and sufficient opportunity to discuss and consider them?
- (b) Is there sufficient support for the partitions?
- (c) Is partition necessary?

[32] If these issues are resolved in favour of the partitions, I am required to consider the applications against the opinion of the owners, the effect of the partitions on the interests of the owners, and the best overall use and development of the block. I am also required to determine whether to exercise my discretion to grant a partition considering the purpose of Part 14, the Preamble, and ss 2 and 17 of the Act.

⁹ *Reid v The Trustees of Kaiwaitau 1 Trust – Kaiwaitau 1* (2006) 34 Gisborne Appellate MB 168 (34 APGS 168) at [15].

¹⁰ See *Gillies v Lucas – Waipuka No 2C No 1 and Others* (2025) 124 Tākitimu MB 51 (124 TKT 51) at [16]-[18]; Judge Harvey's comments during the hearing of 2 June 2021 concerning *Gillies v Lucas*: 90 Tākitimu MB 215-225 (90 TKT 215-225) at 220-221; and *Morrison – Moteo Hapua Te Pirau 1C 4B* (2024) 113 Tākitimu MB 193 (113 TKT 193) at [32] and [35].

Ngā herenga tauārai*The threshold requirements*

Have the owners had sufficient notice of the applications, and sufficient opportunity to discuss and consider them?

[33] Tania’s application was filed in 2021. An independently facilitated owners meeting was held in 2022 to discuss it. It was widely advertised. It has been heard in Court on three occasions. Although it was not specifically discussed at the owner’s hui on 27 July 2025, it was nonetheless part of the background to that hui. Taking these factors into account, I am satisfied that the owners have had sufficient notice of Tania’s application and sufficient opportunity to discuss and consider it.

[34] The Te Uki whānau application was filed in 2025. An owners’ hui was held on 27 July 2025 to discuss it. That hui was widely advertised. The application was then heard in court on 2 December 2025. I am satisfied that the owners have had sufficient notice of this application and sufficient opportunity to discuss and consider it.

[35] At the 2 December 2025 hearing, Shivaun Nepia (who is a trustee of the Trust) and Celeste Jones indicated that they had not received notice of the applications. The file includes an email from Shivaun to Tania dated 13 August 2020 in which Shivaun indicates support for Tania’s application. The file does not contain any evidence of direct contact between Tania and Celeste Jones. However, I note public notice of Tania’s partition was given on 8 and 15 March 2021. In relation to the Te Uki whānau application, the minutes of the 27 July 2025 hui indicates that “Celeste Blain” attended that meeting and expressed concerns about the partition on behalf of the Ngaware Te Rangiirunga Cooper Whānau Trust. If Celeste Jones and Celeste Blain are the same person, then Celeste was aware of this application and had an opportunity to express a view on it.

Is there sufficient owners support for the partitions?

[36] Overall owner support and opposition to the partitions is summarised in the tables below.

Tania Maaka’s application (AP-20230000021742)			
	Total	Support	Oppose
# shareholdings	1,585	542.857	501.112
% shareholdings	100%	34.25%	31.62%

# owners	45	5	4
% owners	100%	11.11%	8.89%

Shelly Te Uki, Nicole Lugt, and Carl Te Uki's application (AP-20230000021231)			
	Total	Support	Oppose
# shareholdings	1,585	271.428	501.112
% shareholdings	100%	17.12%	31.62%
# owners	45	4	4
% owners	100%	8.89%	8.89%

[37] Support for the partition sought by Tania and her whānau is detailed as follows:

#	Owner/Shareholder in support	# shares	% shares
1	Tania Te Whanaupani Maaka	237.5	14.98%
2	Coral Catterall	237.5	14.98%
3	Tihema & Paul-Utiera Whānau Trust	33.928	2.14%
4	Debra Elaine Te Paea	16.9645	1.07%
5	Solomon Hoani Utiera	16.9645	1.07%
TOTAL		542.857	34.25%

[38] It is not clear whether Carl Te Uki, Nicola Lugt and Shelly Te Uki support Tania's application. Their father, Godfrey Te Uki, indicated support for Tania's partition in 2021. Now that Carl, Nicola and Shelly Te Uki have succeeded to their father's shares, and given that they seek their own partition, I assume they support Tania's partition. This would take the number of shareholders who support Tania's application to eight (representing 14.98% of the shareholders by number) and the associated supporting shareholding to 49.22%.

[39] Opposition to the partition sought by Tania and her whānau is detailed as follows:

#	Owner/Shareholder in opposition	# shares	% shares
1	Ngaware Te Rangirunga Cooper Whānau Trust (Celeste Jones and Shivaun Cooper)	26.122	1.65%
2	Lynette Waimaria Paenga	158.33	9.99%
3	Vincent Ramai Paenga	158.33	9.99%
4	Cameron Hamuera Paenga	158.33	9.99%
TOTAL		501.122	31.62%

[40] The independent facilitator's report of the owners meeting held on 29 July 2022 recorded that Lynette Waimaria Paenga, Vincent Ramai Paenga and Cameron Hamuera Paenga supported Tania's partition. However, on 4 December 2025 Lynette Waimaria Paenga advised the Court that she, Vincent and Cameron did not support the partition applications and sought further time to allow more discussion between the owners. Based

on this communication, the Court considers that Lynette Waimaria Paenga, Vincent Ramai Paenga and Cameron Hamuera Paenga oppose both partition applications.

[41] Support for the partition sought by the Te Uki whānau is detailed as follows:

#	Owner/Shareholder in support	# shares	% shares
1	Tihema & Paul Utiera Whānau Trust	33.928	2.14%
2	Carl Te Uki	79.1667	4.99%
3	Nicola Jean Lugt	79.1667	4.99%
4	Shelly Earl Te Uki	79.1666	4.99%
TOTAL		271.428	17.12%

[42] It is not clear whether Tania supports the Te Uki whānau application. Of course, Tania was prepared to adjourn her application to allow them to file theirs, which suggests that Tania supports the Te Uki whānau partition in principle. If Tania's personal shareholding is included in the assessment of support for this partition, shareholding support increases to 32.11%.

[43] It is also not clear whether Coral Catterall supports the Te Uki whānau application. The minutes of the 27 July 2025 owners meeting indicate that Coral appointed a proxy to represent her at that meeting but the appointed proxy did not attend that meeting. I assume that Coral Catterall neither supports or opposes the Te Uki whānau application.

[44] Opposition to the partition sought by the Te Uki whānau is detailed as follows:

#	Owner/Shareholder in opposition	# shares	% shares
1	Ngaware Te Rangirunga Cooper Whānau Trust (Celeste Jones and Shivaun Cooper)	26.122	1.65%
2	Lynette Waimaria Paenga	158.33	9.99%
3	Vincent Ramai Paenga	158.33	9.99%
4	Cameron Hamuera Paenga	158.33	9.99%
TOTAL		501.122	31.62%

[45] Section 288(2)(b) requires a 'sufficient degree' of owner support for the partition. There is no pre-determined figure amounting to a 'sufficient degree of support'.¹¹ Sufficiency of support is not simply a matter of arithmetic.¹² Rather, it is assessed on a case

¹¹ *Whaanga v Niania – Anewa Block* [2011] Māori Appellate Court MB 428 (2011 APPEAL 428) at [51].

¹² *Neal – Taiharuru 4C3C* (2016) 132 Taitokerau MB 97 (132 TTK 97) at [30]-[31].

by-case basis with regard to the nature and importance of the matter.¹³ On this point, the Māori Appellate Court has noted:¹⁴

[38] Clearly, the Court must tackle each of the three steps separately. However, the steps overlap in terms of the evidence that applies to each. For example, the evidence of the “degree of support” is largely the same evidence that goes to the assessment of the opinion of the owners. Importantly, the evidence that goes to “the nature and importance of the matter” for the purpose of s 288(2)(b) must, by definition, include the various evidence that relates to the application: that is, the evidence that goes to whether the partition is “necessary to facilitate the effective operation, development, and utilisation of the land”; “the effect of the proposal on the interests of the owners”; “the best overall use and development of the land”; and the Court’s ultimate exercise of discretion. Our point is that the assessment under s 288(2)(b) requires the Court to consider the evidence in its entirety.

[46] That said, support for the partition would generally need to outweigh opposition unless other factors are at play.¹⁵ The Māori Appellate Court has stated:¹⁶

[62] As these judgments show, in most circumstances where an application for partition is opposed the support for the application will need to outweigh the opposition before there can be said to be ‘sufficient support’ for the partition in terms of s 288(2)(b). The principal circumstances where support might still be found to be sufficient despite those in support of the partition holding a smaller shareholding or being lesser in number to those opposed to it are where there are intractable differences between owners and a partition is the only means by which these differences might be overcome.

[47] Participation by the owners is relatively low. At most, only 12 (26.67%) of the owners (by number) have expressed a view on the partitions. This is a relevant consideration when assessing the level of support for the partitions.

[48] Majority support for the partitions is not required. Many partitions have been granted by the Court with less than majority support. However, the support and opposition for these partitions is finely balanced. Shareholding support for Tania’s application (assuming the Te Uki whānau support it) is almost 50%, but there is also significant shareholding opposition (31.62%). I acknowledge that support for Tania’s application outweighs the opposition, but the opposition remains significant. Shareholding support for the Te Uki whānau application

¹³ *Reid*, above n 9, at 172.

¹⁴ *Whaanga*, above n 11, at [38] (footnotes omitted), citing Te Ture Whenua Māori Act, ss 287-288.

¹⁵ *MacDonald v MacDonald – Wairau Block XII 6C2C* [2016] Māori Appellate Court MB 370 (2016 APPEAL 370) at [58]-[62], citing *Marsh – Karu o Te Whenua B2B5B1 Block* (1996) 19 Waikato Maniapoto Appeal MB 40 (19 APWM 40) at [46], *Reid*, above n 9, at 172 and *Ngatai v Charmaine – Matakana 1A7A Block* (2007) 21 Waikato Maniapoto Appellate MB 147 (21 APWM 147) at [10]-[11].

¹⁶ *MacDonald*, above n 15, at [62].

is less than shareholding opposition. In my view, there is not a sufficient level of support for these partitions, particularly because partition is a serious step of last resort. I also take into account the relatively low owner participation rate – while shareholding support for Tania’s application may outweigh opposition, 33 of the 45 owners have not expressed a view. I am not satisfied that the level of support in these instances is sufficient, having regard to the nature and importance of these matters.

[49] Because the level of support is a threshold issue, both partition applications fail on this point. However, in case I am wrong on this assessment, I turn now to consider the final threshold issue.

Are the partitions necessary to facilitate the effective operation, development, and utilisation of the land?

[50] Whether partition is “necessary” should be construed as what is “reasonably necessary” – meaning “closer to that which is essential than that which is simply desirable or expedient”.¹⁷ In considering whether partition is necessary, I must assess whether there are reasonable alternatives to partition provided by the Act or elsewhere.¹⁸

[51] Partition is a last resort. There are other alternatives. They include the granting of a licence to occupy to an owner by the trustees of the Trust or the granting of an occupation order to an owner by the Court. There is no evidence before the Court that either of these options, or any others, have been pursued by the applicants.

[52] That said, while each of these alternatives is available in theory, in practice they have limitations. A licence to occupy is usually only granted for a specified term, the duration of which may be insufficient to invest the necessary (and often significant) capital to establish buildings and infrastructure to facilitate occupation. An occupation order must be granted by the court, and sometimes can be of limited duration as well. When the highest and best use of land is housing, partition is often the only way to ensure that land is utilised for that purpose. Partition often provides the necessary certainty to invest in housing infrastructure.

¹⁷ *Brown*, above n 7, at [50].

¹⁸ *Hammond*, above n 4, at [23]-[24], citing *Reid*, above n 9, at [13]-[15].

[53] In the present case, the block has not been utilised for its highest and best use, namely residential housing, to date. The land is currently idle. Partition could unlock the potential of the block to house its owners. If the support threshold test had been met, I would have determined that partition would have been necessary to facilitate the effective operation, development, and utilisation of the block.

Ngā whakaaro whakature

The mandatory considerations

[54] Given the support threshold test is not met, I need not consider the other mandatory considerations. I do so now, in case I am wrong in my assessment that there is insufficient support among the owners for the partitions.

What is the opinion of the owners as a whole?

[55] I have assessed the opinion of the owners as a whole in the context of assessing whether there is sufficient support for the applications.

What is the effect of the partitions on the owners?

[56] Partitions in favour of Tania and the Te Uki whānau would have allowed them to establish housing on their respective areas. The rest of the block would have remained available for that purpose for the other owners. The rest of the block could also have been accessed through the proposed accessway, meaning it would have remained available for use and development.

What is the best use and development of the land?

[57] As noted, the best use and development of this block is for residential housing. Partition would have meant that the block, at least in part, would have been used for that purpose. This would have leaned towards approval of the partition applications.

Te kōwhiringa kia wāwāhi ai*The discretion to grant a partition*

[58] Even if I had been satisfied that the threshold tests had been met, I still would have retained a discretion to decline these partition applications. In exercising this discretion, I would have regarded the purpose of Part 14 and the general purpose and Preamble of the Act. I turn to that assessment now in case I am wrong in my assessment that there is insufficient support among the owners for the partitions.

[59] The principal purpose of Part 14 of the Act is to facilitate the use and occupation by the owners of land owned by Māori by rationalising particular landholdings and providing access or additional or improved access to the land. The proposed partitions would have facilitated housing and occupation by the owners on the block. This is consistent with the purpose of Part 14 of the Act.

[60] The Preamble of the Act recognises that land is a taonga tuku iho and that it is desirable to promote the retention of that land in the hands of its owners, their whānau, and the hapū. It is also desirable to facilitate the occupation, development and utilisation of that land for their benefit. If the partitions were granted, the block would have been retained by its owners. Tania and the Te Uki whānau would have retained interests in their partition areas and the other owners would have retained interests in the remainder. The applicants have not expressed an intention to sell the partitioned areas, rather they wish to retain them to house their whānau. Thus, the block would have remained in the hands of its owners if the partition applications were granted. As noted, I would have also determined that partition would have been necessary to facilitate housing on the block, meaning that the partitions would have been consistent with the Preamble and, as a result, s 2 of the Act.

[61] Had I determined that there was sufficient support for the partitions, I would have exercised my discretion in favour of granting them.

Te whakataunga*Decision*

[62] The partitions are declined and the applications are dismissed.

[63] There appears to be consensus among the owners that the block should be used for papakāinga. There is not consensus as to how that should be done. The Court encourages the owners of the block to reach consensus on this. Mediation through Part 4A of the Act may provide a pathway forward.

I whakapuaki i te 2.00 pm i Te Whanganui-a-Tara, i te 22 o ngā rā o Āperira i te tau 2026.

D H Stone
JUDGE