

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

AP-20240000004695

AP-20240000004688

WEHENG <i>Under</i>	Section 67, Te Ture Whenua Māori Act 1993 and Regulation 21, Māori Reservations Regulations 1994
MŌ TE TAKE <i>In the matter of</i>	Tōrere Pā Reserve and Others
NĀ <i>By</i>	RACHELL MIO Te kaitono <i>Applicant</i>

AP-20240000009688

AP-20240000009687

WEHENG <i>Under</i>	Sections 338(8) and 239, Te Ture Whenua Māori Act 1993
MŌ TE TAKE <i>In the matter of</i>	Tōrere Pā Reserve and Others
NĀ <i>And by</i>	DEPUTY REGISTRAR Te kaitono <i>Applicant</i>

Nohoanga: On the papers
Hearing

Whakataunga: 12 February 2026
Judgment date

TE WHAKATAUNGA A KAIWHAKAWĀ C M WAINWRIGHT
Judgment of Judge C M Wainwright

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

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

AP-20240000009686

WEHENG
Under

Section 239, Te Ture Whenua Māori Act 1993

MŌ TE TAKE
In the matter of

Tōrere Pā Reserve and Others

NĀ
And by

GARRY WATSON, RACHELL MIO, HEKE
COLLIER AND LAWRENCE WILLIAMS
Ngā kaitono
Applicants

AP-20250000001869

WEHENG
Under

Section 240, Te Ture Whenua Māori Act 1993

MŌ TE TAKE
In the matter of

Tōrere Pā Reserve and Others

NĀ
And by

GARRY WATSON, RACHELL MIO, HEKE
COLLIER AND LAWRENCE WILLIAMS
Te kaitono
Applicant

Hei tīmatanga kōrero*Introduction*

[1] I have received an application and affidavits filed by Garry Watson, Heke Collier, and Lawrence Williams together with a signed statement of Rachell Mio applying for my recusal on the grounds of apparent bias and conflict of interest concerning a section 67 conference that I convened at Te Kura ō Tōrere on 1 February. The applicants also filed an affidavit from Garry Watson's son Josh Watson who is not a trustee but is, I was told at the judicial conference, the secretary of the Tōrere reservations trust.

[2] These deponents take exception to the way I conducted the hui. The statements are long, but in summary they consider that:

- (a) I wrongly set aside work they had done to plan the way forward for the Māori reservations;
- (b) I wrongly failed to endorse their negative view of the two trustees who have not been meeting with them (Wency Rewi and Diana Anderson);
- (c) my comments about the caretaker nature of their tenure as trustees were wrong;
- (d) my conduct was inconsistent with the facilitative purpose of a judicial conference under section 67 of Te Ture Whenua Māori Act 1993;
- (e) I ought to have made formal disclosure of my relationship with Zahn Goldsmith, who is an uri of Ngāi Tai;
- (f) "Each of the matters relied upon is independently capable of engaging the appearance of bias. Considered cumulatively, they present a compelling basis for recusal";¹ and
- (g) I ought to recuse myself.

¹ Application for recusal on grounds of apparent bias and conflict of interest at [26].

Te horopaki*The context*

[3] On 3 October 2025, the Māori Appellate Court issued a decision concerning four Māori reservations referred to as “the Tōrere Reservations”.² The Tōrere Reservations have had internal dysfunction in recent years, which culminated in the Māori Land Court making orders to replace the trustees and set down a single terms of trust to cover all four reservations.³ The Māori Appellate Court revoked those orders, agreeing however that “we want to ensure that the Tōrere Reservations and the people of Ngāi Tai move from the current state of dysfunction to a proper footing,” and “To achieve that there must be a reset of the processes.”

[4] The Māori Appellate Court said that there was a “lack of real clarity as who is and is not a current trustee” but found on balance that six individuals “are to remain as current trustees until further order of the Lower Court, i.e. until a new election process is held and orders made.”⁴ Those individuals are: Diana Grace Anderson, Garry Watson, Heke Collier, Lawrence Paratene Williams, Ngaroma Wency Rewi and Rachell Vivian Mio.

[5] The Māori Appellate Court said:⁵

[5] We direct that the Lower Court convene a judicial conference per s 67 of the Act, whereby directions can be discussed and determined to reset the election process and the process to determine a terms of trust.

[6] For the purposes of implementing these orders, I am the “Lower Court” because I am the resident judge for Ōpōtiki. As directed, on 1 February 2026 I convened a judicial conference to discuss and determine directions to reset the election process and the process to determine a terms of trust.

[7] From the time in December 2025 when I set about arranging this judicial conference, I was met with objections from Garry Watson, Rachel Mio, Lawrence Williams and Katene Collier, whom I shall refer to as the recusal applicants.

² *Watson v Van der Broek - Tōrere Pa Reserve and Others* [2025] Māori Appellate Court 470 (2025 APPEAL 470).

³ *Mio – Torere Reserves & Others* (2024) 328 Waiariki MB 78 (328 WAR 78).

⁴ *Watson v Van der Broek - Tōrere Pa Reserve and Others*, above n 2, at [68].

⁵ At [67].

Ngā take mō te tono kia whakakorengia taku tū hei kaiwhakawā*Reasons for requesting recusal*

[8] Much of the material in the trustees' affidavits (and the affidavit of Mr Watson's son Josh who has been designated trust secretary) does not raise grounds for recusal by focussing on allegations of bias, but instead argues that the way I conducted the judicial conference was wrong. To provide context, the recusal applicants filed memoranda in January 2026 disagreeing with the process I set out in the lead-up to the judicial conference. I will not deal with those differences here, because they are not germane to the recusal application.

[9] The application for recusal against me as the presiding judge does not allege misconduct, bad faith, or actual prejudice but rather alleges apparent bias arising from my conduct at the hui on 1 February and conflict of interest or an appearance of predetermination arising from my relationship with an uri of Ngāi Tai.⁶ I will deal with these in turn.

Apparent bias and predetermination

[10] The application cites the Māori Land Court's "published recusal guidance" in support.⁷

[11] My reading of these guidelines is different from the applicants'. The guidelines emphasise the duty of the judge to sit on any matter unless real grounds for recusal exist. The test for the judge is to consider "what it is that might possibly lead to a reasonable apprehension by a fully informed observer that the judge might decide the case other than on its merits", and whether there is a "logical and sufficient connection" between those circumstances and that apprehension.⁸ Recent cases are cited in support of this test. The guidelines urge the judge to "apply the above principles firmly and fairly and not accede too readily to suggestions of bias".⁹

[12] I do not know of any circumstances that would lead an observer to apprehend that I would be biased against the recusal applicants.

⁶ These allegations are set out at [2]-[3] of the application.

⁷ His Honour Chief Judge Isaac "Recusal Guidelines" (12 December 2018).

⁸ At 1-2.

⁹ At 2.

[13] Mr Watson’s affidavit in support of the application for recusal describes why the way I conducted the hui on 1 February gave rise to “a reasonable apprehension of predetermination”.¹⁰

[14] According to the affidavit:

- (a) “Papers and written submissions prepared by the trustees and provided for the Judicial Conference were set aside and not considered”.¹¹ My declining to engage with the directions properly sought left the court without critical evidence and information necessarily to make a properly informed decision.¹²
- (b) I should have considered the application for removal of Wency Rewi and Diana Anderson as trustees, but instead I said that the application was unlikely to be heard and could be adjourned indefinitely.¹³ This “refusal gives rise to a reasonable apprehension of predetermination, in that matters central to governance integrity and procedural fairness appear to have been foreclosed without consideration”.¹⁴
- (c) At the second hui that I convened in the afternoon with the trustees, the marae committee and the trustees’ lawyers, the “active trustees” expected me to be “mediational” but instead they perceived my response to the issues they raised as “aggressive” and “dismissive” rather than “open and assuaging”.¹⁵
- (d) The recusal applicants felt that when they made “valid points in key issues such as the application of the [Māori Reservation] Regulations”. I shut down discussions in a way that Garry Watson and “Heke Collier and Katene” felt “was a cultural affront and a breach of our tikanga”.¹⁶

¹⁰ Affidavit of Garry Max Watson dated 5 February 2026.

¹¹ At [23].

¹² At [25]-[26].

¹³ Affidavit of Garry Max Watson, above n 10, at [27].

¹⁴ At [31].

¹⁵ At [32].

¹⁶ At [33].

- (e) I made statements that indicated predetermination, including that I had “connections to the place and to the people”,¹⁷ and was “aware that there had been trouble within the community for some time”. I did not allow Garry Watson to talk freely about the false accusations that had been made by others at the conference or the “physical violence perpetrated against myself and my youngest son”.¹⁸ In this context, I referred to Garry Watson making himself an enemy of the people. This reflected “a predetermined view adverse to [Garry Watson] personally”.¹⁹
- (f) I was unfair when I said I was unable to determine what Garry Watson meant by certain statements “rather than considering the statements themselves”.²⁰ “A judge’s experience cannot lawfully displace the obligations to engage with the content of submissions as made”.²¹ “This conduct gives rise to a reasonable apprehension of predetermination. If a judge asserts the authority to override a party’s expresses statement on favour of her own interpretation of what was “meant”, the parties are left without confidence that their submissions will be considered **on their merits**” (emphasis original).²²
- (g) I exceeded my authority in the conduct of the judicial conference under section 67, because the assessments I made were determinative rather than “neutral, exploratory, and non-adjudicative”.²³ My comments constituted “clear evidence of apparent bias and it prejudices my rights to natural justice”.²⁴
- (h) The matters described in the affidavit, “taken cumulatively, go beyond mere perception and prejudice our rights to natural justice and our right to be heard”.²⁵

¹⁷ At [27].

¹⁸ At [29]-[30].

¹⁹ At [31]-[32] and [40].

²⁰ At [34].

²¹ At [35]-[37].

²² At [38].

²³ At [37]-[44].

²⁴ At [44].

²⁵ At [52].

[15] As for the point in (a) above, I should say that although I did not follow the recusal applicants' suggested directions, I did read them and was glad to see that I agreed with one of their tenets – that the four reservations should begin again with their own terms of trust. I proceeded at the hui on that basis.

[16] As for the points in (e) above, I knew about the situation concerning Ngāi Tai and the reservations for a number of reasons. I explain those fully when I come to discuss other possible conflicts. However, none of that knowledge gives me a particular bias because neither Zahn Goldsmith nor I will benefit from one way forward rather than another, and nor do I have any animus against Garry Watson or the other recusal applicants.

[17] As for (g) above, the hui on 1 February was interlocutory in nature and did not decide points of law. This is evident in the minute I issued after the hui.²⁶ The minute sets out the dates for hui to consider the new terms of trust, and records the agreements made by the participants in the second hui (trustees, marae committee, lawyers) as to how they would run the business of the Māori reservations until such time as the new terms of trust were adopted and new elections held. I very deliberately focused the hui on practical matters and planning, and resisted being drawn into dealing with legal matters.

[18] As for Garry Watson's other points, I certainly was resolute in my efforts to keep the hui future-focused rather than going back into historical areas of dispute between the recusal applicants and others. It is also true that we disagreed on the appropriate approach to the judicial conference. However, the recusal applicants are mistaken in thinking that this was reflective of any bias against them. I was firm in my approach to the hui because of the need to keep things moving forward. In taking this approach, I had in mind these factors: the longstanding nature of the dysfunction in managing the Tōrere reservations; because the recusal applicants and the other two trustees are at odds the trustees cannot work as a group; the differences are strongly felt and probably immutable, and much time could be expended in fruitlessly trying to untangle them; and meanwhile, the Tōrere Reservations are not able to be managed and used as they should be. A reset is required. I explained this during the hearing.

[19] In his affidavit, Garry Watson concludes:

²⁶ 362 Waiariki MB 295-299 (362 WAR 295-299).

[19] I believe there is a logical and sufficient connection between the circumstances I describe and a reasonable apprehension of bias by a fully informed observer. This view is shared and substantiated by 3 other active trustees and the secretary of the Reservations.

[20] This assessment of Mr Watson, his son, and the other three trustees should not lightly be attributed to others present at the hui or a putative fully informed observer. I do not consider that the way I conducted the hui on 1 February would give rise to a reasonable apprehension of predetermination in an objective observer. Judges have to make decisions in the face of disagreement. At the 1 February hui, the dynamics – including the argumentative and disrespectful conduct and demeanour of Garry Watson and his son Josh – required me to be assertive in ensuring the hui followed a process that would keep things moving forward.

[21] The question for these purposes is whether my disinclination to accept the recusal applicants' submissions or to respond positively to the arguments presented, or the way that I went about conducting the meeting, conveyed to others or the putative informed observer that I might be biased or had predetermined matters. The answer to that question is no.

Conflict of interest

[22] Garry Watson's affidavit says that my "intimate relationship with Mr Goldsmith" contributes to the perception of apparent bias.²⁷ He says, "Judge Wainwright has at no time provided the information required to be given to the parties of facts that might reasonably give rise to a perception of bias or conflict of interest."²⁸

[23] I am aware that Mr Watson, like everyone else at Tōrere Pā, has known for many years that Mr Goldsmith and I live together at my orchard at Ōmarumutu. Mr Watson's submissions state that he is aware of that relationship, and he asked me on 1 February whether Zahn was still living at my place at Ōmarumutu.

[24] There were two reasons for my not making a formal statement about Zahn Goldsmith and I. First, I knew that any 'benefit' Zahn might receive through the proceedings as a member of the iwi who whakapapa to the marae reservation is sufficiently remote as not to

²⁷ At [47].

²⁸ At [50].

give rise to an apprehension of bias. I elaborate on this below. Moreover, secondly and less materially, I was aware that those present at the hui – including, obviously, the recusal applicants – knew about the relationship. A failure to disclose can only be relevant in circumstances where the information is not already known.

[25] As to conflict, Garry Watson says in his affidavit “Mr Goldsmith remains a beneficiary of the Tōrere Reservations and is directly affected by proceedings concerning their governance and administration”.²⁹

[26] It is certainly the case that Zahn Goldsmith descends from Ngāi Tai through his mother. He plays no active role at the marae, although he attends the odd event there like the kaumātua lunch at Christmas. He is not involved with the reservations trust, nor any of the urupā. His whānau have their own urupā at Tunapahore, which is not one of the Māori reservations involved in this case. Thus, Zahn Goldsmith stands to benefit from my judicial involvement only to the extent that I am able to quell the conflict that has for some years characterised the management of these Māori reservations, which of course include the marae. I am not aware that he could benefit financially from my decision in any way. In short, he is part of Ngāi Tai but not closely involved in this situation. He does not benefit from my resolving things in a particular way; he only benefits from my resolving things. When matters are resolved, the descendants of Ngāi Tai will be able to use their marae and their wāhi tapu without the background circumstance of conflict and dysfunction. This is an interest Zahn Goldsmith has in common with all of Ngāi Tai.

[27] I do not consider that these circumstances raise any conflict or apparent bias in favour of or against any of the participants in the conflict.

Other possible conflicts

[28] I had prior knowledge of the recusal applicants by virtue of their memoranda filed in January, disputing the process I set out for the section 67 conference. I also knew about the situation with Ngāi Tai and their internal difficulties generally for a number of reasons.

²⁹ At [15].

[29] First, I have an orchard at Ōmarumutu, which is the coastal settlement next to Tōrere. The residents at Ōmarumutu and Tōrere are few, and everybody tends to know everybody else's business. I am loosely connected to people in the community. I spend time there, and so am in a position to hear and see things. For example, when I went swimming in the river near the urupā called Ōwhainene, I saw a notice on the fence that said that access to the reserve requires authority via a form to be obtained from the secretary of the trust.

[30] Further, Judge Wara had approached me about the possibility of mediating the disputes at Tōrere back in 2024. The Māori Appellate Court refers to this in its judgment.³⁰ I read certain court documents at that time, which disclosed a confused situation that resulted in the mediation being postponed and ultimately abandoned. However, I was aware of the documents then being generated by and filed in the Māori Land Court. These included descriptions of what was happening with the Tōrere reservations: they were, as the Māori Appellate Court noted in its judgment, “plagued with issues regarding both process and personalities”³¹ and “apparent personality conflicts, power struggles and division”.³²

Te otinga

Conclusion

[31] The application for recusal concludes that:

[31] The undisclosed intimate relationship with an interested beneficiary, combined with the conduct at the judicial conference and the manner in which s67 powers were exercised, would lead a fair-minded observer to reasonably apprehend that the Judge may not bring an impartial mind to the proceedings.

[32] I disagree with this assessment for the reasons I have given, and I do not recuse myself from further involvement in these proceedings.

[33] The guidelines on judicial recusal to which the application for recusal refers enjoin the judge to “apply the above principles [on grounds for appearance of bias] firmly and fairly and not accede too readily to suggestions of bias”.³³

³⁰ *Watson v Van der Broek - Tōrere Pa Reserve and Others*, above n 2, at [7]-[8].

³¹ 318 Waiariki MB 1-2 (318 WAR 1-2), cited in *Watson v Van der Broek - Tōrere Pa Reserve and Others*, above n 2, at [7].

³² 318 Waiariki MB 72-75 (318 WAR 72-75) at 73-74, cited in *Watson v Van der Broek - Tōrere Pa Reserve and Others*, above n 2, at [9].

³³ His Honour Chief Judge Isaac “Recusal Guidelines” (12 December 2018).

[34] The judge, the recusal guidelines say, is to be mindful of the burden for other judges if the judge recuses him or herself unnecessarily. A judge should not recuse him or herself “merely because the issues involved in a case are in some indirect way related to the judge’s personal experience or that the judge has previously dealt with the case”. In the present situation, I am aware that not only me but also the other resident judges in Waiariki have dealt with the Tōrere reservations case. Had I not been recently appointed as resident judge for Ōpōtiki, the presiding judge would have been Judge Wara, whose decisions were the subject of the recusal applicants’ recent successful appeal, and who had much more background in this case than I do. This points to the impracticality in a jurisdiction like ours of ruling out the involvement of all judges who have previous knowledge of the case or the participants in the case.

[35] For all of these reasons, I will continue to exercise my jurisdiction as presiding judge.

I whakapuaki i te 4:00 pm i Ōmarumutu, i te 12 o ngā rā o Pēpuere i te tau 2026.

C M Wainwright
JUDGE