

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

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

AP-20250000003562

AP-202300000033991

WĀHANGA
Under

Sections 289 and 328, Te Ture Whenua Māori Act
1993

MŌ TE TAKE
In the matter of

Punakitere 4J2B2H2

NĀ
By

DEAN MOON
Te kaitono
Applicant

Nohoanga:
Hearing

7 August 2025, 293 Taitokerau MB 178-196
(Heard at Kaikohe)

Whakataunga:
Judgment date

14 November 2025

TE WHAKATAUNGA A KAIWHAKAWĀ W W ISAAC
Judgment of Judge W W Isaac

Hei tīmatanga kōrero

Introduction

[1] Before the Court are applications for an occupation order and a partition order by Dean Moon in respect to 3140 m² on Punakitere 4J2B2H2.

[2] The applications were heard at the Māori Land Court in Kaikohe on 28 July 2025, at which time it was agreed that the Court would deal with the occupation order application in the first instance, and that the partition application would be adjourned to await the outcome of the occupation order application.

Te kēhi a te Kaitono

The case for the applicant

[3] Dean Moon has filed an application for an occupation order in respect to the 1 share Dean Moon has in Punakitere 4J2B2H2, which equates to 3140 m².

[4] The applicant has filed a plan of the area sought and has advertised and held a hui at Te Iringa Marae on 12 October 2024 at which 22 owners were present.

[5] At the hui, a motion to grant permission to the applicant to obtain the occupation order was moved by Sophie Radovanovich and seconded by Iritoka Willis.

[6] Tessa Reihana, who is not an owner, objected to the application, stating that Wiremu and Ripeka Reihana are the ratepayers. Also, Richard Noble from the Patutai Rongo Reihana Whānau Trust abstained from voting and filed a notice of intention to appear to oppose the application.

[7] The owners supporting the application amount to 14 (including one whānau trust) out of 59 owners, collectively owning 5.2821 shares out of 35.786, which is 14.76% of the shareholding.

[8] It would appear that all the owners at the hui and at court supported the applicant with the exception of the Patutai Rongo Reihana Whānau Trust.

[9] It was further evident that the applicant worked on the block and also helped to support the local marae and whānau members.

Te kēhi a te Taratī o te Whānau Patutai Rongo Reihana

The case for the Patutai Rongo Reihana Whānau Trust

[10] Wiremu Reihana and Richard Noble spoke at the hearing for the Patutai Rongo Reihana Whānau Trust.

[11] The essence of their objection to the application is that it did not follow the correct process in terms of Te Ture Whenua Māori Act 1993, the Māori Land Court Rules 2011 and the Māori Occupation Orders Regulations 1994. When asked whether they would oppose the application if the correct process was followed, they answered that they would not oppose the application.

Te Ture

The Law

[12] The usual process for a person seeking an occupation order is as follows:

- (a) Check whether the applicant's shareholding equates to an area that could be occupied on the land.
- (b) Prepare a sketch plan that shows where their occupation area will be and any access requirements.
- (c) Publish a notice calling a meeting of owners.
- (d) At the meeting, explain the proposal and ask whether the owners support the application. Ensure the owners understand that the occupation order may pass by succession or may be made for a specified term or until the occurrence of a specified event.
- (e) Record the support of the owners.
- (f) Get the permission of any trustees or incorporations who manage the land.
- (g) File an application with the Māori Land Court.

[13] The application must meet the requirements of the Māori Land Court Rules 2011 and Maori Occupation Orders Regulations 1994, set out below. Importantly, it must include a

sketch plan, it must provide evidence of how many other owners support the application, and the applicant must notify those who opposed the application of the hearing details.

[14] The Māori Land Court Rules 2011 provide:

13.15 Application for occupation order

(1) An application under section 328 of the Act for an occupation order must—

- (a) be in form 40; and
- (b) comply with the requirements of the Maori Occupation Orders Regulations 1994; and
- (c) include or be accompanied by the following:
 - (i) a sketch plan indicating—
 - (A) the location of the proposed occupation site, its proposed area, the position and length of its boundaries, and its position within the block marked by reference to boundaries, fences, areas of other occupation, or other landmarks and the approximate distances from them; and
 - (B) the position of any access track or road to the occupation site marked by the same references as in rule 13.15(1)(c)(i)(A); and
 - (ii) a statement of the term for which the order is sought; and
 - (iii) evidence to satisfy the Court that—
 - (A) there is a sufficient degree of support for the application among the owners of the land; and
 - (B) the owners understand that an occupation order may pass by succession or may be made for a specified term or until the occurrence of a specified event.

(2) The application is not required to be notified under rule 4.13 but the applicant must notify the time, date, and place of the hearing of the application—

- (a) to any person who voted against the proposal or dissented or objected to it during the course of consultation; and
- (b) otherwise as directed by a Judge.

[15] The Maori Occupation Orders Regulations 1994 provide:

3 Application for occupation order

(1) Every application for an occupation order shall include,—

- (a) the full name of the applicant; and
- (b) particulars of the applicant's beneficial interest, or entitlement to succeed to the beneficial interest, in the land to which the application relates; and
- (c) where the application relates to the site of an existing house, the names and addresses of the persons who occupied the house immediately before the making of the application; and
- (d) the names and addresses of any mortgagee or other chargeholder in relation to the land to which the application relates; and
- (e) the names and addresses of any lessees or other occupiers of the land to which the application relates.

(2) Every application for an occupation order in relation to any land shall be accompanied by—

- (a) a sketch plan giving full details of the parent block and showing the location and boundaries of the land to which the application relates and the location of the house or the proposed house; and
- (b) where the land to which the application relates is land in respect of which a trust is constituted under Part 12 of the Act or land vested in a Maori incorporation, the written consent of the trustees or the written consent of the management committee of the Maori incorporation, as the case may require; and
- (c) particulars of the title to the land to which the application relates and, where that land is subject to the Land Transfer Act 2017, a current copy of the record of title.

5 Notice of application

(1) The applicant shall—

- (a) where the land to which the application relates is land in respect of which a trust is constituted under Part 12 of the Act, send a copy of the application to the trustees; and
- (b) where the land to which the application relates is land vested in a Maori incorporation send a copy of the application to the Maori incorporation; and
- (c) give to the owners of the land to which the application relates such notice of the application, whether by way of public notice in a newspaper or otherwise, as the Maori Land Court directs; and
- (d) comply with any other directions given to the applicant by the Maori Land Court.

(2) Nothing in this regulation limits the provisions of Part 3 of the Maori Land Court Rules 1994 (SR 1994/35).

[16] The Court then has a discretion whether to grant the occupation order. I must have regard to the opinions of the owners as a whole, the effect of the proposal on the interests of the owners of the land, and the best overall use and development of the land. I must be satisfied that the owners have had sufficient notice and sufficient opportunity to discuss and consider the application; that the owners understand certain things about occupation orders; that there is a sufficient degree of support for the application; and that the applicant's shares justify the occupation order.

[17] Sections 328 and 329 provide:

328 Occupation orders

(1) The Maori Land Court may, in its discretion, make, in relation to any Maori freehold land or any General land owned by Maori, an order vesting in—

- (a) the owner of any beneficial interest in that land; or
- (b) any person who is entitled to succeed to the beneficial interests of any deceased person in that land; or
- (c) any beneficiary of a whanau trust that holds a beneficial interest in that land,—

exclusive use and occupation of the whole or any part of that land as a site for a house (including a house that has already been built and is located on that land when the order is made).

(2) Where the land that will be affected by the order is—

- (a) land in respect of which a trust is constituted under Part 12; or
- (b) land vested in a Maori incorporation,—

the court shall not make the order without the consent of the trustees or of the management committee of the incorporation, as the case may require.

(3) Notwithstanding any rule of law, an order under subsection (1) shall not be deemed to be a partition, development, or subdivision of the land to which the order relates.

(4) In making an order under subsection (1), the Maori Land Court may specify—

- (a) that the occupation order is for a specified period; or
- (b) that the occupation order ends on the occurrence of a defined event.

329 Matters to be considered

(1) In deciding whether or not to exercise its jurisdiction to make any occupation order, the Maori Land Court shall have regard to—

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

(2) Notwithstanding subsection (1), the Maori Land Court shall not make any order, unless it is satisfied—

(a) that the owners of the land to which the application relates have had sufficient notice of the application and sufficient opportunity to discuss and consider it; and

(aa) that the owners of the land to which the application relates understand that an occupation order—

(i) may pass by succession; and

(ii) may be for a specified term or until the occurrence of a defined event:

(b) that there is a sufficient degree of support for the application among the owners, having regard to the nature and importance of the matter:

(c) that, in the circumstances, the extent of the beneficial interest in the land held by the person in whose favour the occupation order is to be made, or to which that person is entitled to succeed, justifies the occupation order.

Kōrerorero

Discussion

[18] Having regard to the objection raised, the first question to be considered is whether or not the applicant has followed the correct procedure as set out in the legislation referred to above.

[19] On 20 September 2024, Mr Moon advertised a ‘Punakitere 4J2B2H2 shareholders meeting’ in the Northern Advocate. The hui was to be held on 12 October 2024 at Te Iringa Marae, giving owners three weeks’ notice. The intention to discuss an occupation order was advertised.

[20] The shareholder meeting minutes filed record 20 people in attendance. The sketch plan was presented and circulated, and shareholders were advised that the occupation order will pass by succession. Following discussion, a resolution to grant an occupation order in favour of the applicant was passed at the meeting.

[21] The application filed by the applicant is in the correct form: form 40. It contains his full name, the details of his beneficial interest, and all other information requested in the form. It is accompanied by a sketch plan and a statement of the term sought. It is also accompanied by evidence of the notice given before the meeting, meeting minutes, and an attendance list.

[22] Based on the legislation set out above and what the applicant has done, it would appear the applicant has complied with the correct process.

[23] It is now for the Court to consider the matters set out in s 329 before a final decision can be made.

[24] As to the opinion of the owners, it would appear that there is general support for the applicant. He is well supported in the community of this land and has worked and developed this land. They also assist in community and whānau matters. In short, s 329(1) has been complied with.

[25] As to s 329(2)(a), details have already been given as to notice and the opportunity to discuss the proposal and it appears s 329(2)(a) has also been complied with.

[26] In relation to s 329(2)(b), as to whether there is a sufficient degree of support for the proposal, the Noble whānau only opposed the application as to process, not substance. As set out above, the process has been complied with. Therefore, the Noble whānau's opposition has been resolved, as agreed at the Court sitting. Accordingly, I find that there is a sufficient degree of support for this application.

[27] In relation to s 329(2)(c) and the extent of the applicant's beneficial interest, Mr Moon holds 1 share in the block which is equivalent to an area of 3140 m². The beneficial interest in the land held by Mr Moon warrants the grant for the area of land sought.

Whakataunga *Decision*

[28] Having regard to the above, pursuant to s 328 of Te Ture Whenua Māori Act 1993, I make orders as follows:

- (a) Granting an occupation order in favour of Dean Moon over an area of approximately 3140 m², as depicted on the sketch plan set out in Appendix 1, on the following terms:
 - (i) Dean Moon shall meet any rates or other charges levied in respect of the said area; and
 - (ii) The orders may pass on succession; and
- (b) Granting Dean Moon, his invitees, agents and workers a right of access over the balance of the land as detailed in the sketch plan, for the purpose of access to and from the said area.

[29] As this order has been made, there is no need to consider the application for partition. That is now dismissed.

[30] A copy of this decision is to go to all parties.

I whakapuaki i te 1.00 pm i Kihipene, te 14 o ngā rā o Noema i te tau 2025.

Pronounced at 1.00 pm in Gisborne on this 14th day of November 2025.

W W Isaac
JUDGE

APPENDIX 1: SKETCH PLAN OF THE AREA OF THE OCCUPATION ORDER

