

**I TE KOOTI WHENUA MĀORI O AOTEAROA
I TE ROHE O WAIKATO MANIAPOTO**

*In the Māori Land Court of New Zealand
Waikato Maniapoto District*

AP-20260000009480

WEHENG
Under

Section 19, Te Ture Whenua Māori Act 1993

MŌ TE TAKE
In the matter of

Lot 1 Deposited Plan South Auckland 30140

I WAENGA I A
Between

BRIAN NICHOLAS AND ANDREA LAISON
ON BEHALF OF THE TAWHITINUI MARAE
RESERVE TRUST
Ngā Kaitono
Applicants

ME
And

CLAYTON HOLLOWAY AND CHARENE
HOLLOWAY
Ngā Kaiurupare
Respondents

Kōtitanga: 12 August 2026
Hearing (Heard at Tauranga)

Whakataunga: 17 August 2026
Judgment date

TE WHAKATAUNGA A KAIWHAKAWĀ A M THOMAS
Judgment of A M Thomas

Kupu Whakataki

[1] Nā Brian Nicholas rāua ko Andrea Laison tēnei tono i tuku hei māngai mō te Taratī o Tawhitinui Marae Reserve (“te Taratī Marae”). E kimi ana te tono, i tukua ai i te rā 15 o Hūrae 2026, i tētahi ōta tāria ohatata me te pānui kore; e ai ki te wehenga 19(1)(a) o Te Ture Whenua Māori Act 1993 (“te Ture”).

[2] E whai take ana te tono ki tētahi o ngā whare (“te Kāinga”) e noho nei ki 480 Old Highway Road, Whakamarama, Tauranga (“480 Old Highway Road”), arā ko tētahi wāhanga o te poraka e mōhiotia nei, ko Lot 1 Deposited Plan South Auckland 30140. E whakahaeretia ana tēnei poraka e te Taratī Marae hei papakāinga, hei wāhanga anō hoki o te Marae Reservation whānui. E kimi ana te Taratī Marae i tētahi ōta kia whakarerea a Clayton rāua ko Charene Holloway (“ngā kaiurupare”) i te Kāinga.

[3] E whakaae ana ngā hunga katoa, ko te Taratī ā-whānau o Luke rāua ko Tia Tia (“te Taratī Whānau”) te kaupuri i te Kāinga, engari ka mea atu ahau i konei, kāhore anō tērā kia mana, kīhai hoki i tukua tētahi Raihana kia Noho ki te Taratī Whānau mō te take o te Kāinga.

Introduction

[1] This is an application filed by Brian Nicholas and Andrea Laison on behalf of the Tawhitinui Marae Reserve Trust (“the Marae Trust”). The application was filed on the 15th of July 2026 and requests an urgent interim without-notice injunction under section 19(1)(a) of Te Ture Whenua Māori Act 1993 (“the Act”).

[2] The application relates to one of the dwellings (“the Homestead”) located at 480 Old Highway Road, Whakamarama, Tauranga (“480 Old Highway Road”), which is part of the block known as Lot 1 Deposited Plan South Auckland 30140. The Marae Trust administers this block as a papakāinga and a part of the Marae Reservation generally. The Marae Trust seeks orders removing Clayton and Charene Holloway (“the respondents”) from the Homestead.

[3] It is generally agreed by all parties that the Homestead is owned by the Luke and Tia Tia Whānau Trust (“the Whānau Trust”), although I note that this has not yet been formalised and neither has any License to Occupy been issued to the Whānau Trust for the Homestead.

[4] He hunga whai pānga te Taratī Whānau o te Taratī Marae, ka mutu, e tautoko ana rātou i te tono tāria.

Hātepe ture

[5] I te rā 23 o Hūrae 2026, i tū tētahi hui kaiwhakawā. I tukua ngā kupu whakahau kia mōhio ai ngā hunga katoa ki te āhua o te tono, waihoki, kia whai wāhi hoki ki te whakahoki kōrero. Nā Clayton rāua ko Charene i tuku tētahi tono whakahoki mō tētahi ōta tāria kia whakamutua tā te Taratī Marae whakaputa atu i a rāua i te Kāinga. Nā ngā hunga katoa i tuku taunaki mai, ka tū ai tētahi Kōtitanga i te rā 12 o Akuhata 2026 ki Tauranga.

[6] Nā runga anō i ngā tuhinga i tukuna mai ai ki te Kooti, tae atu ki ngā tauākī, ngā kōrero taunaki, ngā whakaahua me ngā whitiata, ka mutu ko ngā taunakitanga ā-waha i tukuna mai rā; e whakaae ana ahau, kua tukuna ki ngā hunga katoa te wā me te whai wāhitanga e tika ana kia tirohia ngā take i rārangitia ai ki ngā tono

[7] I te Kōtitanga ake, nā ēnei e whai ake nei i tuku taunakitanga hei tautoko i te tono tāria kia whakarerea ngā kaiurupare:

(a) Brian Nicholas (Chairperson of the Marae Trust);

[4] The Whānau Trust are beneficiaries of the Marae Trust and support the injunction application.

Procedural history

[5] A judicial conference was held on 23 July 2026. Directions were issued to ensure all parties were informed of the nature of the application and were provided opportunity to respond. A cross application for an injunction was filed by Clayton and Charene to stop the Marae Trust from evicting them from the Homestead. Evidence was submitted by all parties and a hearing was held on the 12th of August 2026 in Tauranga.

[6] Based on the documentation received by the Court, including statements, affidavits, photos and video footage, as well as the evidence given orally at the hearing, I am satisfied that all parties were provided reasonable notice; and had reasonable and sufficient opportunity to address the matters set out in the applications.

[7] At the hearing, evidence in support of the injunction application and removal of the respondents was provided by:

- (b) Andre Nicholas (Chairperson of the Whānau Trust);
- (c) Andrea Laison (Secretary of the Marae Trust);
- (d) Yvonne Nicholas (Trustee of the Whānau Trust);
- (e) Colleen Leef (Trustee of the Whānau Trust);
- (f) Joan Kingi (Trustee of the Whānau Trust);
- (g) Monique Nee Nee (Beneficiary of the Whānau Trust); and
- (h) Lorraine Hetaraka (Beneficiary of the Marae Trust).

[8] Koinei ngā kaikōrero i tuku taunakitanga e whakahē nei i te whakareretanga:

[8] Those who gave evidence in opposition to the removal were:

- (a) Clayton Holloway (Beneficiary of the Whānau Trust);
- (b) Charene Holloway; and
- (c) Grace Moore (Beneficiary of the Whānau Trust).

Hītoria o te Taratī Marae me te Kāinga

History of the Marae Trust and the Homestead

[9] I te tau 1987, i whakatūria ai te Taratī Marae hei wāhi mō tētahi Marae. I te tau 2002, i panonitia ai tērā aronga kia tāpirihia tētahi papakāinga hei pāinga mō te hunga whai pānga me ā rātou uri. Ko ngā tarahitī o nāianeī, ko Andrea Laison ratou ko Brenda Mareroa, ko Brian Nicholas, ko Gloria Laison, ko Jasmine Kuka, ko Veronica Waiari.

[9] The Marae Trust was established in 1987 originally for the purpose of a Marae. In 2002, the purpose was amended to include a papakāinga for the benefit of the beneficial owners and their descendants. The current trustees are Andrea Laison, Brenda Mareroa, Brian Nicholas, Gloria Laison, Jasmine Kuka and Veronica Waiari.

[10] I te tau 2005, i whakatūria te Tarati Whānau, whai muri ake i te matenga o Tiatia. Ka noho atu ko ngā tamariki a Luke rāua ko Tiatia hei tarahitī tūturu,¹ e pēnei tonu ana i te rā nei: ko Colleen Leef rātou ko Barry Nicholas, ko Ben Nicholas, ko Marie Paul, ko Joan Kingi (nee Nicholas), ko Yvonne Nicholas. O aua tamariki, kua mate mai a Barry, Ben me Marie i taua wā.

[11] He kaiwhaipānga a Clayton Holloway nō te Taratī Whānau. Ko Marie Paul tōna karani māmā. Ehara a Charene Holloway i te kaiwhaipānga nō te Taratī Whānau, engari i whakamōhio mai ia i te kōtitanga, he uri ia nā ngā waka o Tainui me Takitimu, waihoki, he whakapapa ōna ki ngā marae e whā o Pirirākau.

[12] Nā Luke rāua ko Tiatia i hanga te whare, koia hoki ko tō rāua kāinga ā-whānau. I whakatupua ā rāua tamariki katoa ki reira. Nō te matenga o ō rātou mātua, i whakaaetia e ngā tamariki ka noho te Kāinga hei whare taupua mō ngā whānau i ngā wā e hiahiatia nei e rātou te noho ki reira, kāhore ōna kainoho tūturu.² Engari i te kōtitanga, i whakaaetia te āhua o tā Marie, te karani māmā o Clayton, noho ki reira tae atu ki tana matenga, arā he noho tūturu te āhua. I noho atu a Faith, te māmā

[10] The Whānau Trust was established in 2005, following the passing of Tiatia. The children of Luke and Tiatia were appointed as trustees,¹ they remain today: Colleen Leef, Barry Nicholas, Ben Nicholas, Marie Paul, Joan Kingi (nee Nicholas) and Yvonne Nicholas. Of those children, Barry, Ben and Marie have since passed away.

[11] Clayton Holloway is a beneficiary of the Whānau Trust. His grandmother is Marie Paul. Charene Holloway is not a beneficiary of the Whānau Trust, however, she provided evidence at the hearing that she is a descendant of Tainui and Takitimu waka and has whakapapa to all four Pirirākau marae.

[12] The Homestead was built by Luke and Tiatia and it was their whānau home. All their children were raised there. When both parents had passed away, the children agreed that the Homestead would become a casual dwelling for whānau to stay in when they needed to, there would be no permanent occupancy.² However, it was agreed at the hearing that Marie, Claytons grandmother, lived there permanently for some years prior to her passing. Clayton

¹ One sibling, Robert Nicholas, passed away prior to his parents and therefore was not appointed Trustee.

² Written evidence of Joan Kingi and confirmed orally by Yvonne Nicholas at the hearing.

o Clayton, rāua ko Clayton ki te Kāinga hei kaitiaki mō Marie i aua taima rā.

[13] Hei tā ngā tāpaetanga a Clayton, i noho ia ki te Kāinga mō ngā tau maha e tautiaki nei i tōna kuia, i te whare anō hoki.

[14] Kāhore rawa atu te Taratī Marae i tuku i tētahi Reihana kia Noho ki te Taratī Whānau, ki tētahi atu kaiwhaipānga rānei mō te take o te Kāinga, mō tētahi atu whare rānei e noho nei ki 480 Old Highway Road,³ kua whakawhirinaki kē rātou ki te whakaaetanga ōpaki i puta ake i te wā o tā Luke me Tiatia hanga atu i te Kāinga ki runga i te poraka. E whakaae ana ngā Taratī e rua kia whāia ngā kōrerorero ki te whakatau i ngā take noho mō 480 Old Highway Road.

Ko ngā take

[15] Nā te wehenga 19(1)(a) o te Ture i tuku te mana ki te Kōti kia whakaaetia ngā ōta ki te aukati i tētahi noho hara tūturu kua pā kē, e whakaarotia rānei ana ka pā, i te tūkino rānei ki te whenua Māori, ki te whenua tāpui Māori anō hoki. He whakaoranga te ōta tāria kei te mana kōwhiri o te Kōti ki te tuku mēnā ka whakaae ia, nā runga anō i ngā taunakitanga, he tino take tēnei kia whakamātau atu. Ko te tino take i tēnei

and his mother, Faith, cared for Marie at the Homestead during this time.

[13] It is Claytons evidence that he lived at the Homestead for many years looking after his grandmother and the whare itself.

[14] The Marae Trust has never issued a License to Occupy to the Whānau Trust or any other beneficiaries for the Homestead or any other dwelling located at 480 Old Highway Road,³ rather, they have relied on an informal agreement of right to occupy that existed since Luke and Tiatia built the Homestead on the block. Both Trusts agreed at the hearing that they wish to begin discussions to formalise the occupation issues for 480 Old Highway Road.

The issues

[15] Section 19(1)(a) of the Act empowers the Court to grant injunctions to prevent actual or threatened trespass or injury to Māori land or a Māori reservation. An interim injunction is a discretionary remedy that may be granted by the Court if it is satisfied on the evidence, that there is a serious question to be tried. The serious question in this case is a claim of actual trespass by two individuals on a Marae Reservation.

³ There are currently 3 separate dwellings.

kēhi, ko te kerēme e noho hara ana tētahi tokorua ki te Marae Reservation.

[16] Nō reira, me mātua tahuri ahau ki te pātai, mēnā rānei he noho hara tūturu ki konei, ki te whakaaetia tērā, me tuku rānei i te whakaoranga tāria.

Kōrerorero

Noho hara ana?

[17] Kua mana ā-ture te tūranga e mea ana, mutu ana te whakatūranga o tētahi whenua tāpui, ā, kua kopoua nga tarahitī; kei ērā tarahitī te mana ki te whakatau i ngā tāngata e tika ana kia noho ki te whenua. E whai ana ahau i ngā kitenga o te Kōti Pira Māori i *Eriwata*.⁴

Trustees are empowered and indeed required to make decisions in relation to the land, and they are often hard decisions. Their power and obligation to manage the land cannot be overridden by any owner or group of owners or even [the court], so long as the trustees are acting within their terms of trust and the general law, and it reasonably appears that they are acting for the benefit of the beneficial owners as a whole. Decisions to be taken for the land are to be the decisions of the trustees. They decide who can enter and who can reside there, and how the land is managed.

[18] Kāhore tētahi e tohe ana, e whakahē ana i te mana o te Taratī Marae me ngā tarahitī ki te tuku i ngā whakataunga mō te whenua. E māraakerake ana te kite atu, kei a te Marae Taratī taua mana kia whakatauria te hunga noho. Nō reira, ko te pātai kē ka whiua, e noho mana

[16] I must therefore firstly consider whether there is actual trespass and if there is, should injunctive relief be granted.

Discussion

Trespass?

[17] It is trite law that once a reservation has been established and trustees have been appointed, those trustees have the authority to decide who occupies the land. I adopt the findings of the Māori Appellate Court in *Eriwata*.⁴

[18] There is no argument here questioning the authority of the Marae Trust and the trustees to make decisions in relation to the land. It is clear that the Marae Trust has the authority to decide who occupies the land. The question then is whether Clayton and Charene are

⁴ *Eriwata v Trustees of Waitara SD s6 and 91 Land Trust* (2007) 15 Aotea Appellate MB 192-197 (15 WGAP 192-197) at 193.

kore ana a Clayton rāua Charene ki te Kāinga, arā, kāhore te Taratī Marae i whakaae. Ka mea atu au i konei, kāhore he whakaaetanga. Ka whakawhirinaki ahau ki ēnei:

(a) I te rā 21 o Noema 2025 ki tētahi hui mō te Taratī Whānau, i whakaaetia ai tā ngā kaiurupare noho ki te Kāinga mō tētahi wā whakamātautau o te 3-6 marama, me te herenga kia kaua e kai tarukino. Kāhore te Taratī Whānau i whakamōhio atu, i kimi whakaaetanga rānei i te Taratī Marae;

(b) I te takiwā o te rā 27 o Hānuere 2026, i kōrero atu te Kaunihera ā-rohe ki te Taratī Marae mō ētahi āwangawanga i puta ake i tā tētahi tahu i ngā ahi tāoke. Kua mārama ake tātou, nā ngā kaiurupare ngā ahi i toutou;

(c) I te mutunga o Hānuere me te tīmatanga o Pēpuere 2026, i whakaputaina motuhaketia e te Taratī Whānau ngā pānui noho hara e rua e meinga ana me puta ngā kaiurupare i te Kāinga. I pērā nā runga anō i ngā

occupying the Homestead without lawful authority, being the approval from the Marae Trust. I find that approval is not here in this case. I rely on the following:

(a) At a Whānau Trust hui held on 21 November 2025, approval was given to the respondents to occupy the Homestead for a trial period of 3-6months during which the condition of no drug use was to be adhered to. The Whānau Trust did not advise, or seek approval from, the Marae Trust;

(b) On or about the 27th of January 2026, the Marae Trust were contacted by the local Council regarding concerns of slow burning toxic fires. It has been established that the fires were lit by the respondents;

(c) At the end of January and the beginning of February 2026, two separate trespass notices were issued by the Whānau Trust requesting the respondents to vacate the Homestead. This was based

āwangawanga mō ā rāua kai tarukino, ngā whanonga whakataki me te whakatuma, ka mutu, te hauora me te haumarutanga o te hunga katoa e noho nei ki te papakāinga, tae atu ki te hunga whaipānga e whakaaro ana ka haumaruru kore ā rātou tae atu ki reira. I whakahoe ngā kaiurupare kia wehe;

(d) I te Maehe o 2026, i inoi atu te Taratī Whānau kia āwhina te Taratī Marae i tā rātou whakarere atu i ngā kaiurupare i te Kāinga;

(e) I te rā 19 o Mei 2026, i tae atu ētahi upoko o te Taratī Mare me te Taratī Whānau ki te Kāinga me te inoi atu kia wehe ngā kaiurupare i te Kāinga. I whakautuhia tēnei inoi ki te tūkino. I whakahoe ngā kaiurupare ki te wehe;

(f) I ngā marama e whā i whai atu, i tae atu ētahi anō taukomekome ki te Taratī Marae mō ngā kaiurupare. I inoi atu te Taratī Marae me te Taratī Whānau ki ngā pirihimana, ki te

on concerns they had regarding drug use, aggressive and threatening behaviour and overall, the health and safety for those that shared the living space on the papakāinga and other beneficiaries of the Whānau Trust who no longer felt safe visiting the Homestead. The respondents refused to leave;

(d) In March 2026, the Whānau Trust requested assistance from the Marae Trust to remove the respondents from the Homestead;

(e) On 19 May 2026, representatives of the Marae Trust and Whānau Trust attended the Homestead and requested the respondents vacate the Homestead. This request was met with aggression. The respondents refused to leave;

(f) In the months to follow, there have been numerous complaints received by the Marae Trust regarding the respondents. The Marae Trust and Whānau Trust have

Taraipiunara Tenancy anō hoki
kia āwhinatia ā rātou whakarere
i ngā kaiurupare;

sought police assistance and
Tenancy tribunal assistance to
remove the respondents;

(g) Kāhore tētahi o te Taratī Marae,
o te Taratī Whānau; me ā rāua
kaiwhaipānga anō hoki i tuku
taunakitanga mai e tautoko ana i
tā ngā kaiurupare noho tonu ki
te Kāinga.

(g) No evidence has been
provided from either the
Marae Trust or the Whānau
Trust and their beneficiaries
that anyone supports the
respondents continued
occupation at the Homestead.

[19] E whakaae ana ahau, e noho mana
kore ana a Clayton rāua ko Charene ki te
whenua, kāhore ngā tarahitī i whakaae atu.

[19] I am satisfied that Clayton and
Charene are occupying the land without the
authority of the trustees.

He whakaoranga tāria?

Injunctive relief?

[20] Nā runga i taku kitenga, he tino
take tēnei kia whakamātautau, arā te kite
atu i te noho hara, e tika ana kia
whakaarohia te tika o te whakamahi i tōku
ake mana ki te tuku whakaoranga tāria. I a
au e pērā ana, me tahuri atu ki te
kauhanganui o haratau.

[20] Having found that there is a serious
question to be tried, and that trespass is
established, I must determine whether to
exercise my discretion to grant injunctive
relief. In doing so, I must consider where
the balance of convenience lies.

[21] I taku tahuri ki tērā, me taurite atu i
te tūkinō e tau pea ai ki runga i a Clayton
rāua ko Charene ki te whakamanatia te ōta
tāria, me te tūkinō e tau pea ai ki runga i te
Taratī Whānau me āna kaiwhaipānga, ki te
whakakāhore ahau i te tono tāria.

[21] That requires a balancing of what
would be the injustice caused to Clayton
and Charene if the injunction is granted, set
against the injustice to the Marae Trust and
its beneficiaries, if the injunction is
refused.

[22] I taku arotake i te kauhanganui o haratau, me te manatika whānui o tēnei kēhi, e tika ana ki ahau kia whai whakaaro ki ēnei mea matua e whai take nei, i taku arotake ki ngā hiahia o Clayton rāua ko Charene:

- (a) Ka mate rāua i te wehe i te Kāinga me te kimi i tētahi anō wāhi noho;
- (b) I mea atu a Clayton, ki te wehe rāua, ka rongo rāua i ngā taumahatanga ā-kareāroto, ā-pūtea, ā-hinengaro anō hoki, ka mutu, ka noho wehewehe rawa atu te whānau; ā
- (c) I mea atu a Clayton, ka noho wehewehe ia i tōna kāinga ā-whānau me te whenua.

[23] I taku arotake ki ngā hiahia o te Taratī Marae me āna kaiwhaipānga, koinei ngā mea matua e whai take nei hei whakaarotanga mōku:

- (a) Ko te tahu ture kore nei i ngā ahi, tērā pea e takakino ana;

[22] In assessing the question of the balance of convenience, and the overall justice of the case, I consider the following factors to be relevant when considering the needs of Clayton and Charene:

- (a) They will be required to vacate the Homestead and find somewhere else to live;
- (b) Clayton suggests that if they are required to leave, it will cause emotional, financial and mental harm; it will also cause further division in the whānau; and
- (c) Clayton suggests that he will be disconnected from his whānau home and the whenua.

[23] In considering the needs of the Marae Trust and beneficiaries, I consider the following factors to be relevant:

- (a) Unauthorised, and potentially harmful, burning of fires;

- | | |
|---|---|
| <p>(b) Ko te whakaturuki ture kore i ngā taiepa roherohenga me ngā rākau e tū nei ki runga i te papakāinga;</p> | <p>(b) Unauthorised destruction of boundary fences and trees situated on the papakāinga;</p> |
| <p>(c) Ko te kuhu ture kore atu ki ētahi atu kāinga e noho nei ki te papakāinga;</p> | <p>(c) Unauthorised access on to other papakāinga dwellings;</p> |
| <p>(d) Ko te mahi whakahorohoro e whakatuma ana, e kiriweti hoki ana, tae atu ki ngā mahi whakaweti nā ngā kaiurupare ki ngā kaiwhaipānga me ngā tarahitī e noho nei ki te papakāinga;</p> | <p>(d) Aggressive and volatile confrontation, including threats, from the respondents to beneficiaries who live on the papakāinga including the trustees;</p> |
| <p>(e) I whakaputaina atu te āwangawanga i ētahi atu o ngā kaiwhaipānga e noho tūturu nei ki te papakāinga mō te hauora me te haumarutanga o ngā tangata e noho ana ki roto i ō rātou whare, tae atu ki ngā mokopuna nohinohi e rua. I mea atu rātou, e whakaarohia ana kia hūnuku whare ki te noho tonu ngā kaiurupare ki te Kāinga;</p> | <p>(e) Other beneficiaries who live permanently on the papakāinga have expressed concern for the health and safety of the people that live in their home, including their two young mokopuna. They have indicated that they are considering moving away from the papakāinga if the respondents remain at the Homestead;</p> |
| <p>(f) Ehara i te mea he nui ake te mōtika a Clayton kia noho ki</p> | <p>(f) Clayton has no greater right to occupy the Homestead</p> |

te Kāinga i ēra atu o ngā
kaiwhaipānga;⁵ ā

than any other beneficiary;⁵
and

(g) Mai i te timatatanga o te
nohoanga i te Noema o
2025, i raruraru te āheinga o
ngā tarahitī ki te
whakahaere i te whenua hei
pāinga mō ngā
kaiwhaipānga me ā rātou
uri.

(g) The occupation began in
November 2025 and since
then has interfered with the
trustees' ability to manage
the land for the benefit of the
beneficial owners and their
descendants.

[24] E mārāma ana ahau i te
taumahatanga e tau ai ki runga i a Clayton
rāua ko Charene inā hoki, ka mate rāua ki
te hūnuku atu i te whare i whangaia rāua i
ēnei marama e 8-9. E mihi hoki ana ahau
ki ngā mahi i oti ai i a Clayton ki te
whakapai i te Kāinga me ētahi o ngā wāhi
whenua ki roto i te taratī.

[24] I accept that there would clearly be
hardship to Clayton and Charene as they
will be required to move out of a whare that
they have been living in for the past 8-9
months. I also acknowledge that Clayton
has been doing some maintenance of the
Homestead and areas of the whenua within
the reservation.

[25] Engari, ka ki ake ahau i konei, ka
tau te kauhanganui o haratau ki te taha o te
Taratī Marae me ōna tarahitī, ka mutu, te
āheinga ki te whakahaere me te pūmau i te
mana ki runga i te whenua hei pānga mō te
katoa o te hunga whaipānga.

[25] However, I find that the balance of
convenience lies with the Marae Trust and
the trustees, and their ability to manage and
control the land for the benefit of all
beneficiaries.

[26] Hei whakamutu ake, i ngā wā
katoa, me tahuri te Kooti ki te kaupapa
whānui o te Ture.⁶ Mā ēnei wehenga e
whakaputa ngā take o te

[26] Finally, the Court must at all times
take into account the overall kaupapa of the
Act.⁶ These sections express a theme of
retention, use, development and control of

⁵ Evidence provided at the hearing indicated approx. 400 beneficiaries to the Whanau Trust alone

⁶ Preamble, s 2 and s 17 of the Act.

whakapūmautanga, o te whakamahi, o te whakapakari, o te whakahaere anō hoki i te whenua Māori mā te Māori hei taonga tuku iho. Ka mea atu ahau, i tēnei horopaki, e tautoko ana te kaupapa o te Ture i tētahi ōta tāria, tā te mea e takahia ana ngā mātapono o te whakamahi, te whakapakari me te whakahaere e tā ngā kaiurupare noho mana kore, noho tautoko kore anō hoki.

Whakataunga

[27] E ai ki te wehenga 19(1)(a) o Te Ture Whenua Māori Act 1993, e whakamanahia ana tētahi ōta tāria mō tētahi wā e whakahē nei i tā Clayton rāua ko Charene Holloway. Me puta rāua i te Kāinga me te kawe atu i ā rāua rawa whaioro katoa i mua i te mutunga o ngā rā 21 mai i tēnei whakataunga.

[28] E ai ki te tikanga 7.5 (2)(b) o ngā Māori Land Court Rules 2011, me tuku ēnei ōta inaia tonu nei.

[29] Ka toai noa ahau i te kōrero, he ōta tāria ēnei mō tētahi wā, arā ko te 12 marama (nā runga i te hiahia o te Taratī Marae) kia whai wā ai rātou ki te hui tahi me te Taratī Whānau mō te take o ngā nohoanga ki 480 Old Highway Road. Mēnā rānei ka whakaae ngā hunga ki tā Clayton rāua ko Charene hoki atu ki te Kāinga hei te wā tītoki, kei a rātou tērā me

Māori land by Māori as taonga tuku iho. I consider the kaupapa of the Act supports the granting of an injunction in this case as the principles of use, development and control is being impeded by the unlawful and unsupported occupation of the respondents.

Decision

[27] Pursuant to section 19(1)(a) of Te Ture Whenua Māori Act 1993, an interim injunction order is granted against Clayton and Charene Holloway. They are to vacate the Homestead and remove all personal property within 21 days of the date of this decision.

[28] The orders are made for immediate release as per rule 7.5(2)(b) of the Māori Land Court Rules 2011.

[29] I reiterate that these are interim orders and will remain in place for 12 months (as sought by the Marae Trust) to enable negotiations to occur with the Whānau Trust regarding occupation at 480 Old Highway Road. Whether or not parties agree that Clayton and Charene can once again occupy the Homestead at a later date, will depend on the negotiations, however,

te āhua o te noho tahi, engari kāhore tā rāua noho ki te kāinga e whakaaetia ana mō ngā marama e 12.

they are not permitted to occupy the homestead for a period of 12 months.

[30] Mō ngā take i rārangitia ai ki runga, ka whakakorehia te tono whakahoki kia tuku ōta tāria.

[30] It is for the above reasons, that the cross application filed for injunction must fail.

[31] Hei whakakapi ake, e marama ana ahau kua whai take tēnei whakataunga ki ngā hunga katoa e whakapapa nei ki te whenua, ki te Marae me ngā whare e noho ana ki roto i te papakāinga whānui. E mihi ana anō hoki ki a Clayton rāua ko Charene me tō rāua hiahia ki te kimi āwhina mai i ngā rōpū whakapiki pāpori kia tahuri ai rāua ki te whakatika i ētahi o ngā āwangawanga i puta ake i tēnei whakahaerenga ā-ture; me te manako nui ka haere tonu tērā hiahia me te tautoko o te whānau i tae atu ki te Kōti ki te tuku āwhina, ki te tuku aroha anō hoki ki a Clayton rāua ko Charene.

[31] Finally, I want to recognise the impact this decision has on all parties and those connected to the whenua, the Marae and the numerous whare on the papakāinga site as a whole. I commend the recent efforts of Clayton and Charene in seeking assistance through social organisations to address some of the concerns that have arisen through the course of these proceedings; and hope that those efforts will continue with the help of the whānau that attended Court to show their support and aroha to Clayton and Charene. Kia kaha rā koutou katoa i ēnei rangi, i ēnei marama kei te tū mai nei.

I whakapuakina i Kirikiriroa i te rā tekau ma whitu o Ākuhata i te tau 2026.

Pronounced in Hamilton, on this 17th day of August 2026.

A M Thomas
JUDGE