

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

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

AP-20240000002875
CJ 2024/23

WĀHANGA
Under

Section 45, Te Ture Whenua Māori Act 1993

MŌ TE TAKE
In the matter of

Part Rakato B Māori Reservation

NĀ
By

SHELLY MARIE PUOHOTAUA
Te Kaitono
Applicant

Nohoanga:
Hearing

10 September 2025, 2025 Chief Judge's MB 1577-1592
(Heard at Wellington via Zoom)

Whakataunga:
Judgment date

18 December 2025

TE WHAKATAUNGA Ā KAIWHAKAWĀ MĀTUA C L FOX
Judgment of Chief Judge C L Fox

Hei timatanga kōrero

Introduction

[1] This application filed pursuant to s 45 of Te Ture Whenua Māori Act 1993 (the Act) by Shelly Marie Puohotaua seeks an order under s 44 to cancel orders made at 418 Aotea MB 21-23 on 1 July 2020 and 419 Aotea MB 275-276 on 18 August 2020 concerning the replacement of trustees to Part Rakato B Māori Reservation.

Kōrero whānui

Background

[2] The Registrar's Preliminary Report and Recommendation (the Registrar's Report) dated 27 June 2025 sets out the background to the application. The Registrar's Report is reproduced in full as follows:

Te rīpoata me tana tūtohunga mā tētahi tono i raro i te wehenga 45 o Te Ture Whenua Māori Act 1993 ki te Kaiwhakawā Matua

Preliminary report and recommendation on an application under section 45 of Te Ture Whenua Māori Act 1993 to the Chief Judge

He kupu arataki

Introduction

- [1] This application filed by Shelly Marie Puohotaua ("the applicant") seeks to cancel an order appointing additional trustees at 418 Aotea MB 21-23 dated 1 July 2020 and 419 Aotea MB 275-276 dated 18 August 2020 relating to Part Rakato B Māori Reservation.
- [2] The applicant claims the order is incorrect due to a mistake, error, or omission in the presentation of the facts of the case to the Court because:
- (a) *"The trustees have misled the Court by informing them there were no objections. I as a beneficiary and other beneficiaries are now aware we were not informed of the appointment to object. We do not have any AGM minutes that approve their appointment. Requests for information have been ignored and the trustees are continuing to operate despite our efforts to address this issue. I have had to search the internet to obtain the details of their appointment."*
- [3] The applicant claims that they (beneficiaries) have been adversely affected by the order upon the grounds that they aren't able to participate in decisions being made on the whenua.
- [4] The applicant seeks to have the order cancelled, there is no explanation as to the outcome of cancelling the order, but one would suggest that the removal of the trustees is what the applicant is seeking as a final result due to the nature of the order complained of.

He kōrero tuku iho

Background

- [5] The matter was heard in Chambers at 418 Aotea MB 21-23 on 1 July 2020 and the minute is reproduced as follows:

418 Aotea MB 21

MĀORI LAND COURT

Place: Rotorua
Present: L R Harvey, Judge
 D Witoko, Clerk of the Court
Date: 1 July 2020

Panui No: 248 **Application No:** A20200003606

Subject: Part Rākato B Māori Reservation - Add Miriama Jordan Cribb and 3 others as trustees

Legislation: Section 239, Te Ture Whenua Māori Act 1993

Details of the applicant are as follows:

Applicant	Address
Miriama Jordan Cribb	13 Abbot Street, Gonville, Whanganui 4501

Miss Linika Reece, for Deputy Registrar: The Registrar has reviewed this application (in light of the Covid-19 restrictions) and has determined it to be a straight forward application that can be processed in Chambers based on the papers filed, without the need for an appearance by the applicant and any interested parties at a hearing.

Miriama Jordan Cribb has filed an application on behalf of the Part Rākato B Māori Reservation to appoint additional trustees.

Details of the Māori reservation is as follows:

Block:	Rākato
Type of Trust:	Māori Reservation
Trust Name:	Part Rākato B Māori Reservation
No of Owners: (as at 22 December 2019)	615
Area:	Total block area = 21.853 hectares Reservation area = 0.970 hectares
Location:	Poutama Road, north of Whanganui
District Council:	Whanganui District Council
LINZ Ref:	Record of Title 508092 (Wellington Registry)
Memorial Schedule Entries:	NZ Gazette No. 181 page 3739 dated 28 November 1991 – 4700m ² set aside as a Māori Reservation as a marae for the owners and their descendants. – 800m ² set aside as a Māori Reservation as a urupā for the owners and their descendants.

	NZ Gazette No. 181 page 3738 dated 28 November 1991 – 4200m² set aside as a Māori Reservation to provide access to the marae and urupā. 20 Aotea MB 193-194 dated 22 August 1991 Areas set aside as a reservation vested in trustees 223 Aotea MB 98 dated 21 January 2009 Status to be determined Māori Freehold Land CFR 508092 dated 24 December 2009 MFLR completed
Original Trustees:	20 Aotea MB 193-194 dated 22 August 1991 Ripeka Mary Green, Retihiamatikei Lorraine Cribb, Howard Moa Rozon, Teresa Henrietta Ranginui, Peggy Pikikore Pokiha, Cecelia Teterenga Whanarere, Gary William Puohotaua
Current Trustees:	330 Aotea MB 266-267 dated 17 December 2014 1. Cecelia Teterenga Whanarere 2. Howard Moa Rozon 3. Retihiamatikei Lorraine Cribb 4. Teresa Henrietta Ranginui
Beneficiaries and purpose:	Set aside as a reservation for the purposes of a marae, urupā and to provide access to the marae and urupā for the owners and their descendants.
Marae Charter:	No charter on file

An annual general meeting was held on 7 December 2019 at Poutama Road, Whanganui. Details are as follows:

Meeting notified:	Whanganui Chronicle dated 21 November 2019 and 28 November 2019 By way of Facebook on 27 October 2019 Agenda included election of trustees
Minutes of the hui filed:	Yes dated 7 December 2019
Proposed trustees:	5. Miriama Jordan Cribb 6. Anne Michelle Paranihi 7. Michelle Iatamai Cribb 8. Merengahoe Stephanie Ranginui
Trustee consent filed:	Yes
Trustees remaining:	Numbers 1-4 above

An order is sought appointing additional trustees for the Part Rākato B Māori Reservation.

Court: This application can be granted in chambers without the need for a hearing. However, should the applicant or any interested party object to this decision, they are entitled to seek a rehearing under section 43 of Te Ture Whenua Māori Act 1993 setting out the grounds relied upon. The rehearing would need to be set for a hearing at a later date.

The Court makes an order pursuant to section 239 of Te Ture Whenua Māori Act 1993 appointing numbers 5-8 above as additional responsible trustees of the Part Rākato B Māori Reservation. For the avoidance of doubt the trustees are the newly appointed trustees together with numbers 1-4 above.

If the applicant or any interested party objects to this decision they may seek a rehearing of this application setting out the grounds relied upon.

The foregoing order to issue immediately pursuant to rule 7.5(2)(b) of the Māori Land Court Rules 2011.

Copy of minute to applicant and interested parties.

L R Harvey
JUDGE

- [6] Orders were made in Chambers relating to Part Rakato B Māori Reservation – Add Miriama Jordan Cribb and 3 others as trustees.

Anne Michelle Paranihi, Merengahoe Stephanie Ranginui, Michelle Iatamai Cribb, and Miriama Jordan Cribb were appointed as additional trustees of Part Rakato B Māori Reservation.

- [7] At 419 Aotea MB 275-276 dated 18 August 2020, the applicant Miriama Jordan Cribb sought to reduce further trustees as three trustees had resigned, and one trustee had been inactive since his appointment in 1991.

Written consent was obtained from the three trustees who had resigned, the application was ordered in Chambers, reducing Cecelia Teterenga Whanarere, Retihiamatikei Lorraine Cribb and Teresa Henrietta Ranginui who had resigned, and Howard Moa Rozon who was inactive.

For the avoidance of doubt the responsible trustees are Miriama Jordan Cribb, Anne Michelle Paranihi, Michelle Iatamai Cribb and Merengahoe Stephanie Ranginui.

Ngā kōrero taunaki
Supporting or other information

- [8] The applicant has provided the following document in support of their application:

- a) A copy of 419 Aotea MB 275-276 dated 18 August 2020

Te rangahau a te kooti
Court research

- [9] Details of the trust are as follows:

Name of Trust:	Part Rakato B Māori Reservation
Type of Trust:	Māori Reservation
Block Name:	Rakato
No. of owners:	683 allocated owners as of 15 July 2025
Area:	Ahu Whenua Trust 20.883 hectares more or less Māori Reservation 0.970 hectares more or less Total 21.853 hectares more or less
Original Trustees:	20 Aotea MB 193-194 dated 22 August 1991 Ripeka Mary Green, Retihiamatikei Lorraine Cribb, Howard Moa Rozon, Teresa Henrietta Ranginui, Peggy Pikikore Pokiha, Cecelia Teterenga Whanarere, and Gary William Puohotaua
Current Trustees:	418 Aotea MB 21-23 dated 1 July 2020 and 419 Aotea MB 275-276 dated 18 August 2020 Miriam Jordan Cribb, Anne Michelle Paranihi, Michelle Iatamai Cribb, and Merengahoe Ranginui
Beneficiaries and purpose:	Set aside as a reservation for the purposes of a marae, urupā and to provide access to the marae and urupā for the owners and their descendants.
Memorial Schedule entries:	NZ Gazette No. 181 page 3739 dated 28 November 1991 - 4700m ² set aside as a Māori Reservation as a marae for the owners and their descendants - 800m ² set aside as a Māori Reservation as a urupā for the owners and their descendants

- [10] The record shows the applicant (Shelly Marie Puohotaua) had previously filed an application seeking the removal of the Part Rakato B Māori Reservation trustees under AP-2024000004878.

- [11] At 486 Aotea MB 1-29 dated 4 June 2024 a summary of the main concerns for the removal application are as follows:

- a) A special urgent hui was held on 10 March 2023. All beneficiaries had the opportunity to attend. The trustees refused to attend, and a decision was made without them.
- b) The trustees refuse to have a hui with the beneficiaries to address issues or provide information.
- c) There have been no proper elections, AGM minutes or financial reporting.

- d) The trustees are in the process of creating a charter for the marae, which the applicant states, does not have habitual consent from the council.
- e) Only a small proportion of beneficiaries have been making decisions on the whenua and excluding others by holding meetings on the land.

Ms Puohotaua's application also referred to several historical matters that span the last 33 years. This includes grievances with previous trustees, their koro's whare, the lack of amenities on the reservation and the selected area of the reservation.

During this application, a request was made from the applicant on 30 May 2024, that His Honour, Judge Warren recuse himself from hearing these matters. This was refused on the day and written reasons followed at 486 Aotea MB 31-37 dated 13 June 2024.

The trustees sought section 98C of Te Ture Whenua Māori Act 1993 to be recorded in the minute for Judge's consideration. Restriction of commencement or continuation of further applications, as a total of nine applications and counting in the last 10 months against the trust of Rakato B had been submitted, as it was the trustee's preference not to continue to reappear time and time again in matters relating to the whenua through the Māori Land Court.

At 486 Aotea MB 19 the following is recorded:

The Court: *Your grievance is really against those former trustees.*

S Puohotaua: *It is, and I'm entitled to have a grievance against them.*

The application was adjourned with directions around filing and service, and a written decision on refusing to recuse, as requested by the applicant was to follow.

- [12] At 486 Aotea MB 31-37 dated 13 June 2024 the Judgment of Judge Warren set out his reasons for refusing to recuse himself from sitting on an application filed under section 240 of Te Ture Whenua Māori Act 1993, seeking to remove all responsible trustees of the Rakato B Māori Reservation Trust.
- [13] At 487 Aotea MB 53-70 dated 17 July 2024 the Judgment of Judge Warren found the evidence before him was not a reason to remove any of the Reservation Trust trustees for cause.

The following paragraphs of the Judgment are reproduced as follows:

[69] On the evidence before me, there is no basis for the Court to take the serious step of removing any of the Reservation Trust Trustees.

[70] I find that the removal application had little chance of success, primarily because, by her own admission Ms Puohotaua's main take relates to historical (pre-2020) issues which these trustees had no direct responsibility or control over.

Section 98C Request

[71] Before dismissing the Removal Application, I need to address the request by the trustees for an order per s 98C of the Act.⁴⁵

[72] *At the end of the hearing on 4 June 2024, I was invited by the Reservation Trust trustees to make an order under s 98C of the Act. Such an order would restrain Ms Puohotaua from commencing or continuing applications on a limited or extended basis as it relates to the Reservation Trust. In this context, it seems that the trustees are seeking to refrain Ms Puohotaua from bringing any new application in relation to the Reservation Trust.*

[73] *I advised the parties at the hearing that I would consider the process to respond to such a request.*

[74] *Having reviewed s 98C of the Act and the effect an order would have on someone on the receiving end, I have concluded that I will not consider this request as part of this decision. Rather, I propose to issue a separate minute on the process that should be followed to allow me (if I am to hear it) to properly consider such a request. This is consistent with the 2 98C(5) whereby I may control my own proceedings.*

[75] *I will treat this request as a separate application and not connected to the Removal Application.*

[76] *I now formally dismiss the Removal Application.*

[77] *There will be no award of costs.*

Ngā taipitopito o ngā ōta e whai pānga ana ki te whenua e hāngai ana ki tēnei tono
Details of subsequent orders affecting lands to which this application relates

[14] There are no subsequent orders relating to the orders complained of.

Te utunga nā te putanga o te ōta
Payment made because of the order(s)

[15] There have been no payments made as a result of the orders complained of.

Ngā āhuatanga i rararu ai
Areas of difficulty

[16] No areas of difficulty.

Āe rānei, he take o tana haere ki tētahi kootitanga
Consideration of whether matter needs to go to hearing

[17] It appears that there was no mistake, error, or omission of the facts of the case to the court.

[18] The applicant's claim is based on the trustees misleading the court, and that the beneficiaries were not informed of the trustee's appointment and were not given the annual general meeting minutes approving their appointment. As beneficiaries were unaware of their appointment, they were not able to object to the order complained of within a reasonable time frame.

[19] The annual general meeting was held on 7 December 2019 at Poutama Road, Whanganui, the meeting was advertised in the Whanganui Chronicle on 21 November 2019 and 28 November 2019, also via social media (Facebook) on 27 October 2019.

- [20] Advertisement was placed in the Whanganui Chronicle 15 days prior to the AGM which does not meet clause 19(1)(a) of the Māori Reservations Regulations 1994, however advertisement via Facebook dated 27 October 2019 meets the requirements of clause 19(1)(b) of the Māori Reservations Regulations 1994. Which gave sufficient notice of the AGM for beneficiaries to attend.
- [21] The application to add trustees then further reduce trustees was determined to be a straightforward application that could be processed in Chambers based on the papers filed, without the need for an appearance by the applicant and interested parties due to the Māori Land Court Covid-19 Court protocol which was in place at the time.
- [22] The report finds no evidence which suggests the trustees have mislead the court, beneficiaries were also made aware of the annual general meeting ahead of time so had the opportunity to attend and would have been provided the information of newly appointed trustees on the day, and also the opportunity to object at the time.

I respectfully seek dismissal of this application.

- [23] The application should be set down for hearing to afford the applicant an opportunity to respond to the Report and Recommendation.

Te tūhunga hei whai

Recommendation of course of action to be taken

- [24] I recommend that:

- a) a copy of this report is sent to parties giving them an opportunity to comment or respond in writing.
- b) if there are no objections, I respectfully seek dismissal of this application.
- c) if objections are received, then the matter should be referred to Chief Judge for directions.

Ko te hātepe ture o te tono nei

Procedural history

[3] A copy of the Registrar's Report dated 27 June 2025 and notice of the hearing was sent to the applicant, and those parties we have contact details for, requesting feedback on 25 July 2025.

[4] The Court received feedback to the Registrar's Report from the applicant, Shelly Puohotaua, via email dated 26 July 2025. She raised several concerns including:

- (a) Historically, no charter has been in place since 1994;
- (b) No public notice of the trustee appointment, in breach of Regulation 4;

(c) Non-compliant AGM notice, with a private Facebook post; and

(d) Failure to maintain proper financial records

[5] Shelly Puohotaua filed a formal objection to the Registrar's Report via email dated 11 August 2025 with further submissions in support of her application. This information was also sent to the Rakato Reservation Trust for review prior to the hearing.

Te Nohonga a te Kooti

Court sitting

[6] The application was heard on 10 September 2025. The applicant's essential objection to the Registrar's Report was that she considered it did not give enough weight to the fact that her and her supporters were not given notice by the trustees of the selection of new trustees. She was not sure whether the meeting electing the new trustees was advertised. She stated she did not see the advertisement of the AGM or the facebook post as she was living in the South Island. She acknowledged the lapse of three years before taking action.

[7] The applicant also raised historical issues concerning the reservation that she wanted addressed. She also alleged discrepancies with the metadata associated with the filing of trust minutes, to which the trustees were unable to respond as they did not understand her point.

[8] I reserved my judgment.

A muri ake

Post Hearing

[9] An exchange of emails took place from 21-23 October 2025 between the applicant and the case manager. The case manager advised that all concerns would be relayed to the Chief Judge for review. I made no further directions as the hearing had been held and I had already reserved my judgment. Therefore, I have given no weight to this correspondence in this judgment.

[10] A copy of the minutes of the Court hearing recorded at 2025 Chief Judge's MB 1577-1592 dated 10 September 2025 was sent to the applicant and affected parties on 23 October 2025.

Ngā Ture
The Law

[11] The Chief Judge's jurisdiction to amend or cancel an order of the Māori Land Court is set out in s 44(1) of the Act:

44 Chief Judge may correct mistakes and omissions

(1) On any application made under section 45 of this Act, the Chief Judge may, if satisfied that an order made by the Court or a Registrar (including an order made by a Registrar before the commencement of this Act), or a certificate of confirmation issued by a Registrar under section 160 of this Act, was erroneous in fact or in law because of any mistake or omission on the part of the Court or the Registrar or in the presentation of the facts of the case to the Court or the Registrar, cancel or amend the order or certificate of confirmation or make such other order or issue such certificate of confirmation as, in the opinion of the Chief Judge, is necessary in the interests of justice to remedy the mistake or omission.

[12] In *Ashwell – Rawinia or Lavinia Ashwell (nee Russell)*, the principles to be applied in determining such applications made pursuant to s 45 were listed as follows:¹

- When considering section 45 applications, the Chief Judge needs to review the evidence given at the original hearing and weigh it against the evidence provided by the Applicant (and any evidence in opposition);
- Section 45 applications are not to be treated as a rehearing of the original application;
- The principle of *Omnia Praesumuntur Rite Esse Acta* (everything is presumed to have been done lawfully unless there is evidence to the contrary) applies to section 45 applications. Therefore in the absence of a patent defect in the order, there is a presumption that the order made was correct;
- Evidence given at the time the order was made, by persons more closely related to the subject matter in both time and knowledge, is deemed to have been correct;
- The burden of proof is on the applicant to rebut the two presumptions above; and

¹ *Ashwell – Rawinia or Lavinia Ashwell (nee Russell)* [2009] Chief Judge's MB 209 (2009 CJ 209) at [15].

- As a matter of public interest, it is necessary for the Chief Judge to uphold the principles of certainty and finality of decisions. These principles are reflected in section 77 of the Act, which states that the Court orders cannot be declared invalid, quashed or annulled more than 10 years after the date of the order. Parties affected by orders made under the Act must be able to rely on them. For this reason, the Chief Judge's special powers are used only in exceptional circumstances.

[13] Section 44 explicitly refers to situations where the Court has made an incorrect decision due to a flaw in the evidence presented, or in the interpretation of the law, and it is necessary in the interests of justice to correct its record. For this reason, s 45 applications must be accompanied by proof of the flaw identified, either through the production of evidence not available or not known of at the time the order was made or through submissions on the law.

[14] As stated in *Tau v Nga Whānau o Morven and Glenavy – Waihao 903 Section IX Block*, the Chief Judge must exercise their jurisdiction by applying the civil standard of proof of the balance of probabilities, having regard to that standard's inherent flexibility that takes into account the nature and gravity of the matter at issue.² This means that the applicant must establish on the balance of probabilities that there was a mistake or omission.

[15] The Court of Appeal has confirmed that the power under s 44(1) falls into two parts:³

The first is an evaluative decision as to whether the order made was “erroneous in fact or in law because of any mistake or omission on the part of the court or the Registrar or in the presentation of the facts of the case to the court or the Registrar.” The second is a power, which is likely in most cases to involve discretion, to “cancel or amend the order ... or make such other order as, in the opinion of the Chief Judge, is necessary in the interests of justice to remedy the mistake or omission.” We note that in making that decision, and exercising that power, the preamble to the Act and ss 2 and 17 are of particular significance.

Kōrerorero *Discussion*

[16] The issues for determination are:

² *Tau v Nga Whanau O Morven & Glenavy – Waihao 903 Section IX Block* [2010] Māori Appellate Court MB 167 (2010 APPEAL 167) at [61].

³ *Inia v Julian* [2020] NZCA 423 at [10].

- (a) Was an error made in fact or in law or in the presentation of the evidence to the Court, which led to an error in the order complained of?
- (b) If so, is it necessary in the interests of justice to remedy the error by amending or cancelling the order?

Was an error made?

[17] I do not consider that an error of fact or law was made. The application was heard in Chambers as a simple and uncontested matter because the AGM and the proposed election of trustees had been advertised to the satisfaction of the Court.

[18] The historical issues raised by the applicant have nothing to do with the issue of whether an error was made by Court.

[19] The meta data issue concerning the minutes is a red herring, as what was important for the purposes of the Court was to receive an accurate record of the AGM. The applicant has not produced any evidence that the minutes are not a true reflection of the AGM.

[20] Therefore, the applicant has not produced sufficient evidence to demonstrate an error either in the presentation of facts to the Court or in terms of the law.

Is it necessary in the interests of justice to remedy the error?

[21] As there was no error, it is not necessary to address this issue.

Kupu whakataunga
Decision

[22] The applicant has been unable to demonstrate on the balance of probabilities that an error was made.

[23] The application is dismissed.

[24] The Case Manager is directed to distribute a copy of this decision to all parties.

I whakapuaki i te 2.30 pm i Te Whanganui-a-Tara, tekau mā waru o ngā rā o Tihema 2025.
Pronounced at 2.30 pm in Wellington on this 18th day of December 2025.

C L Fox
CHIEF JUDGE