

**I TE KOOTI PĪRA MĀORI O AOTEAROA
I TE ROHE O AOTEA**

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

AP-20250000013125

APPEAL 2025/23

WĀHANGA
Under

Section 58, Te Ture Whenua Maori Act 1993

MŌ TE TAKE
In the matter of

Moutere 8B2 Sec 1 Lot 3 Deposited Plan 20707
and Moutere 8B2 Sec 1 Lot 5 Deposited Plan
20707

I WAENGA I A
Between

ROUND CORNER LIMITED
Kaitono pira
Appellant

ME
And

DEPUTY REGISTRAR
Kaiurupare pira
Respondent

Nohoanga:
Hearing

10 February 2026, 2026 Māori Appellate Court MB 139-156
(Heard at Whanganui)

Kooti:
Court

N R Milner (Presiding)
W W Isaac
M P Armstrong

Kanohi kitea:
Appearances

C Bidois for Appellant

Whakataunga:
Judgment date

19 March 2026

TE WHAKATAUNGA Ā TE KOOTI
Reserved Judgment of the Court

Copies to:

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Hei tīmatanga kōrero

Introduction

[1] Moutere 8B2 Sec 1 Lot 3 (Lot 3) and Moutere 8B2 Sec 1 Lot 5 (Lot 5), are two adjoining blocks of land located in Otaki. Round Corner Limited, an incorporated company, purchased both blocks in 2021.

[2] On 14 August 2025, Judge Thomas determined that both blocks are Māori freehold land. She also dismissed an application by Round Corner to change the status of the land to General land.¹ Round Corner appeal that decision. In this judgment, we decide whether to uphold the appeal.

He aha te kaupapa o te Māori Freehold Land Registration Project?

What is the Māori Freehold Land Registration Project?

[3] Land in New Zealand is administered under the land transfer registration system commonly known as the ‘Torrens system’. This requires interests in land to be registered against the title to that land under the Land Transfer Act 2017.² Land Information New Zealand (LINZ) is the government department responsible for administering the land title registration system.

[4] The Māori Land Court is a court of record.³ It grants various orders that affect interests in Māori freehold land under Te Ture Whenua Māori Act 1993.⁴ The Court also maintains a record of those orders.

[5] Unfortunately, in the past there wasn’t a consistent practice of aligning the records, and processes, concerning Māori freehold land between LINZ and the Court. This meant that in some cases, Court orders were granted but not registered against the title, and in other cases, interests were registered against the title without first being approved by the Court. Where that occurred, the records held by LINZ and the Court concerning Māori freehold land could be drastically different.

¹ *Round Corner Ltd - Lots 3 and 5 Deposited Plan 20707* (2025) 510 Aotea MB 97 (510 AOT 97).

² Or its predecessor legislation.

³ Te Ture Whenua Māori Act 1993, s 6.

⁴ Or its predecessor legislation.

[6] To address this, in 2005 the Ministry of Justice and LINZ launched the Māori freehold land registration project (MFLR). This initiative aimed to register outstanding Court orders concerning Māori freehold land against the title so that the records held by the Court and LINZ would align. The project focussed on orders that affected the ownership, and status, of the blocks. To further promote consistency, LINZ also implemented a system in the Landonline electronic database called the ‘Māori land flag’. This is a warning device to notify users seeking to register interests against the title that the land in question is, or may be, Māori freehold land.

I ahatia?

What has happened here?

[7] Both of these blocks were originally Māori freehold land. Between 1989 and 2000, various interests were registered against the titles to these lands but were not confirmed by the Court. This includes various transfers of ownership by way of sale.

[8] In 2007, the Registrar identified that both of these blocks required further investigation as part of the MFLR project. On 17 January 2007, Court staff noted on the memorial schedule for both blocks that the land is General land. There was no determination by a Judge that these blocks were General land.

[9] In the lower Court, Oliver Bailey, a current Deputy Registrar, provided an explanation for these entries. Mr Bailey was not involved in making those entries or the MFLR project itself. Rather, he inquired into the process carried out by the MFLR project team. Mr Bailey advised:

Where there was no indication on the title that the land parcel in question could be Māori land, either in the Court’s records or in LINZ’s records, and where there had been a change in ownership to non-Māori owners that made the land appear to be General land, the order for a determination of status was not made by the Court and the Court simply noted at the time that the parcel was now General land, such as by recording this in the Memorial Schedule, even though the Court has not made an order determining it as such. While this was an assumption, it was part of the process the MFLR team were instructed to follow in order to complete the project within its five-year timeframe.

These lands (i.e. those where the determination was not made during the 2005-2010 MFLR project due to the above reasons) were then noted in a list of blocks yet to be determined, requiring further research by a Deputy Registrar who had the skills to complete that research, as opposed to MFLR team who at the time were not given in-depth training on land status and research.

[10] On 9 September 2015, a senior Deputy Registrar, Caroline Green, filed an application to determine the status of both blocks. This followed further research that Ms Green undertook concerning the history of both blocks. Mr Bailey told the lower Court:

The application filed in 2015 was therefore the next step by the Deputy Registrar to determine the status, and as noted on the Registrar's memo filed with the application was part of the work tidying up the loose ends from the MFLR project. Regrettably, the noting of General land remains on the memorial schedule since it was put there in 2007, and the Court made no effort to put a caveat on the title or indicate the status was uncertain in any way.

[11] When the entries were made on the memorial schedule in 2007, and when the application was filed in 2015, both blocks were owned by Kevin and Shirley McNeil. It appears that Court staff never notified the McNeils of the entries in 2007, or the application in 2015. The 2015 application then lay dormant in the Court registry for several years.

[12] On 8 March 2021, Round Corner Limited purchased both blocks. As with the earlier transfers, the purchase was registered on the titles but not confirmed by the Court.

[13] It was not until 2023 that the application to determine status was progressed before the Court. Round Corner was notified of the application in late 2023. They then appeared on the application and argued that the land was General land. They also filed an application, as an alternative argument, to change the status to General land.

[14] As noted, Judge Thomas determined that both blocks are Māori freehold land. She also declined the application to change the status to General land.

He aha ngā take e pīratia nei?

What are the issues on appeal?

[15] Round Corner argue that:

- (a) The Registrar is estopped from bringing the application to change the status of the land;
- (b) If estoppel does not apply, the Registrar wrongly filed the application per s 131 of the Act when it should have been filed per s 133 of the Act;

- (c) Even if the application to determine status was properly made, both blocks are General land;
- (d) If all of the above arguments fail, then the status of the land should be changed to General land.

[16] Mr Bidois, for the appellant, submits that Judge Thomas erred rejecting these arguments. We consider these issues in turn.

Kua aukatihia te Kairēhita?

Is the Registrar estopped?

[17] Mr Bidois argues that having represented that the land was General land through the entries on the memorial schedule, the Registrar is prevented from bringing the application to determine status by the doctrine of estoppel.

[18] We note from the outset that we have serious concerns over what occurred here. We were surprised to learn that Court staff had noted on the memorial schedule that the land is General land when no such determination had been made by a judge. We were even more surprised to hear that MFLR staff were instructed to take this approach. We do not know who made that decision or where this instruction came from. We do not know if this was a nationwide approach in the MFLR project or if this was specific to the Aotea district. This is the first time we have heard of this despite the large number of applications that have come before the Court as a result of the MFLR project. Clearly this approach was wrong and this entry should not have been made unless a formal status order had been granted. Despite that, there are a number of difficulties with the argument that Mr Bidois now makes.

[19] When claiming equitable estoppel, the party alleging an estoppel must demonstrate that:⁵

- (a) A belief or expectation has been created or encouraged through some action, representation, or omission to act by the party against whom the estoppel is alleged;

⁵ *The Cornwall Park Trust Board Inc v Chen* [2013] NZHC 1067; *Nicholas v Te Amo* [2023] NZCA 22; *Thompson – Succession to Walter William Wihongi* (2015) 117 Taitokerau MB 245 (117 TTK 245).

- (b) The belief or expectation has been reasonably relied upon by the party alleging the estoppel;
- (c) Detriment will be suffered if the belief or expectation is departed from; and
- (d) It would be unconscionable for the party against whom the estoppel is alleged to depart from the belief or expectation.

[20] In the lower Court, Judge Thomas found that the Registrar cannot be estopped from performing an administrative procedure or function of the Court which in this case is filing an application to determine the status of the land.⁶ Before us, Mr Bidois argued that the Registrar filing an application is not an exercise of a statutory obligation and so is not immune to estoppel. Mr Bidois referred to s 131 of the Act, and states while this provides the Court with a discretion to determine status, there is no “statutory duty” requiring the Registrar to bring such an application.

[21] Rule 14.2 of the Māori Land Court Rules 2011, provides that the Registrar may apply to Court for an order to determine the status of land. Although these rules are secondary or subordinate legislation, and do not have the same status as the primary legislation of the Act, it is still clear that the Registrar was carrying out part of its administrative function by bringing this application. Rule 14.2 also provides the Registrar *may* bring such an application. This gives the Registrar the discretion, but not an obligation, to make such an application. We do not see this as significant. It would be impractical to impose an obligation on the Registrar to file a status application for all land blocks. While this power is discretionary, it is sourced in the Rules and is part of the Registrar’s administrative function. We agree with Judge Thomas that the Registrar cannot be estopped from carrying out an administrative function of the Court.⁷

[22] We also consider that the elements of estoppel have not been made out. We accept that the note on the memorial schedule could create a belief or expectation that these blocks

⁶ *Round Corner Ltd – Lots 3 and 5 DP 20707*, above n 1, at [30].

⁷ See *Khoury v Waitakere City Council* HC Auckland CP886/91, 6 August 1997 and *Ahitapu v Trustees of Rawhiti 2B2 – Rawhiti 3B2* (2000) 5 Taitokerau Appellate MB 209 (5 APWH 209).

are General land. However, we are not satisfied that Round Corner actually relied on that entry when purchasing the land.

[23] In the lower Court, one of the directors for Round Corner, Mr Rudings, deposed evidence on the purchase of these blocks. He said:

We have also queried the lawyer who acted on the sale and purchase. He has advised that there was nothing on the certificates of title to suggest that the Land could potentially be Māori freehold land.

We have also been advised that, at the time of purchase, the Ministry of Justice website showed the Land had General land status. Annexed marked “G” is a copy of the Māori Land Online printout showing the Land still had General land status.

...

Our lawyers have advised us that the Land was not “flagged” as Māori freehold land in Land Online when they did their pre-purchase checks.

[24] Judge Thomas questioned Mr Rudings about this. He confirmed that he did not access the Māori Landonline records nor did he see the note on the memorial schedule prior to purchasing the land. He simply instructed his lawyer to undertake due diligence prior to the purchase.

[25] The lawyer who acted in the purchase did not give evidence. Mr Bidois told Judge Thomas that he spoke to the conveyancing solicitor about this purchase.⁸

C Bidois: And what I was told, Your Honour, is that they didn’t actually check Māori Land Online because there was no reason to. So, the practitioner goes on to the LINZ website, to Land Online and the land is either flagged as Māori Freehold land or it isn’t. If it is flagged, what that means is the land is Māori freehold land or potentially Māori freehold land and one must make further inquiries.

...

C Bidois: When that flag is not present, and this is what I was told had happened, so that inquiry wasn’t made, that inquiry – ordinarily the first place you go is now Pātaka Whenua, but then Māori Land Online.

[26] Judge Thomas found:⁹

⁸ 500 Aotea MB 1-24 (500 AOT 1-24) at 7.

⁹ *Round Corner Ltd – Lots 3 and 5 DP 20707*, above n 1, at [32].

The evidence clearly shows that it was the LINZ title that was relied upon by the applicant's solicitors in purchasing the land blocks in 2021. At no point did they rely on the Māori Land Court records.

[27] There was no challenge to that finding of fact. In the notice of appeal and Mr Bidois' submissions, he argues that for estoppel to arise, the representation relied upon does not need to be made to the proponent directly and it is sufficient if the proponent relies on the representation as conveyed by an intermediary. However, there is no evidence here to demonstrate that Round Corner or its solicitor relied on the note on the memorial schedule at all, whether through an intermediary or otherwise.

[28] Nor is there any cogent evidence to show why these blocks were not flagged by LINZ as Māori freehold land in Landonline. In the lower Court, Mr Bidois questioned Mr Bailey about where a party can go to find out the status of a particular parcel of land. Mr Bailey confirmed that the two sources of this information is LINZ and the Māori Land Court. Mr Bailey also confirmed that LINZ sources its information from the Māori Land Court.¹⁰ It appears that Mr Bidois relies on this exchange to infer that LINZ did not flag these blocks as Māori freehold land because of the note on the memorial schedule. We do not consider this provides a sufficiently probative foundation to make such a finding.

[29] There was no evidence from the Registrar-General, or a subordinate within LINZ, on how they determine whether or not to flag land as Māori freehold land. Mr Bailey is a Deputy Registrar with the Court. We are not aware of any expertise he has on LINZ processes. The only evidence from LINZ is a print-out from their website that was filed which refers to the Māori land flag warning device. This print-out provides very general information and does not indicate why there was no flag for these blocks.

[30] We accept the general proposition that LINZ would consider Māori Land Court records when assessing status and determining whether to flag a particular parcel of land. We also consider it highly likely that they would rely on their own records too.

[31] There is no evidence of what LINZ relied on when deciding not to flag these blocks. It is possible that they relied on the note on the memorial schedule but we don't know. We

¹⁰ 500 Aotea MB 1-24 (500 AOT 1-24) at 9-10.

don't know when LINZ decided that these blocks would not be flagged, before or after the entries were made on the memorial schedule in 2007.

[32] We also know that both of these blocks were sold to Slavo Jagusic in 1999. Both blocks were then sold to Mr and Mrs McNeil in 2000. Both of those transfers were registered against the title but were not confirmed by the Court. Both of those transfers occurred before the note was made on the memorial schedule in 2007. It is possible that it was those earlier transfers that occurred without Court approval that led to these blocks not being flagged by LINZ. The onus is on Round Corner to demonstrate this in evidence. They have not done so.

[33] Finally, Round Corner has to demonstrate that they will suffer detriment and that the Registrar is acting unconscionably. Those elements must relate to the action that they are seeking to estop, in this case the filing of an application to determine the status of these blocks.

[34] Responsibly, Mr Bidois confirmed that the Court is not estopped from hearing this application. Rather, he submits that the Registrar was precluded from bringing the application in the first place.

[35] The Registrar filed this application in 2015. That was seven years before Round Corner purchased the land. It is difficult to see how Round Corner can mount an estoppel argument against the Registrar concerning an application filed long before it had any interest in this land.

[36] More importantly, the Registrar was not acting unconscionably by bringing this application. The Registrar filed this application as part of the MFLR project. This was a nationwide initiative to align Court and LINZ records concerning Māori freehold land. Determining the status of relevant lands, and registering those status orders on the title, seeks to resolve the very problem that Round Corner has encountered after purchasing these blocks. The Registrar was not acting in a way to try and defeat or undermine their interest in the land. This was a nationwide initiative intended to provide certainty on the status of land to owners and potential purchasers at large.

[37] Mr Bidois argued that this application was not filed as part of the MFLR project, because that initiative ran from 2005 to 2010, whereas this application was filed in 2015. The Registrar's application expressly states that it was filed as a result of the MFLR project. While it was intended that the initiative would be completed within 5 years, the reality is that there are still a number of complex applications arising from the MFLR project that are still before the Court to this day.

[38] Finally, the act of filing the application did not alter in any way Round Corner's interest in the land. There is no argument that they do not own the land even though their purchase was not confirmed by the Court. It is the Court that determines what the status of the land is. Round Corner appeared before the lower Court and presented evidence and submissions before that decision was made. It suffered no detriment from the application being filed.

[39] For these reasons, we agree with Judge Thomas that the claim of equitable estoppel cannot succeed.

Kua tukuna e te Kairēhita te tono hē?

Did the Registrar file the wrong application?

[40] Mr Bidois argues that the Registrar filed the wrong application. He says the application was brought per s 131 of the Act when it should have been brought per s 133. He also argues that Judge Thomas failed to address this argument.

[41] We accept that Mr Bidois raised this in the lower Court and that Judge Thomas did not expressly address it in her decision. Despite that, there is still no proper basis to overturn her decision based on this argument.

[42] Section 131 of the Act concerns an application to determine the status of the land. Section 133 of the Act concerns an application to change the status from General land to Māori freehold land. Mr Bidois argues that the note entered in the memorial schedule by the Registrar already determined that these blocks are General land. He submits that, as a result, an application had to be brought to change that status. That is not correct.

[43] Per s 131 of the Act, the status of the land is determined by a status order. The entry on the memorial schedule by the Registrar was not a status order. Prior to Judge Thomas' decision, the status of these blocks had never been properly determined. The Registrar took the appropriate step by filing the application per s 131 of the Act to seek a formal decision on the matter.

[44] This ground of appeal must fail.

He aha te tūnga taitara o ngā poraka?

What is the status of the blocks?

[45] Judge Thomas found that both of these blocks were originally Māori freehold land, and that the various interests registered against the titles, including several transfers, did not alter that status.

[46] Round Corner did not expressly appeal that finding. Rather, in the notice of appeal they allege that Judge Thomas erred by failing to determine whether the land was General land. This was not a standalone ground of appeal but was raised as an argument in support of the earlier ground of appeal that the Registrar filed the wrong application.

[47] In his submissions before us, Mr Bidois argued that the transfer of Lot 5 to Maiangi Fyfe in 1989 was a transfer of fee simple ownership other than by Court order and per s 2(2)(f) of the Māori Affairs Act 1953, Lot 5 would have become General land from the date of that transfer. There is no similar argument in relation to Lot 3.

[48] Round Corner did not properly appeal the finding that these blocks are General land. Rather, they raised this in support of their argument that the Registrar filed the wrong application. Even then, the notice of appeal pleads that Judge Thomas failed to determine whether the land was General land. That is not correct. She made a clear finding on that.

[49] Given the deficiencies in the pleading, it is not strictly necessary to respond to Mr Bidois' argument about the dealing with Lot 5 in 1989. Despite that, we still address this as there is a clear and succinct answer.

[50] Section 2(2)(f) of the Māori Affairs Act 1953 states that:

Māori freehold land the legal fee simple in which has been transferred otherwise than by an order of the Court or of a Registrar shall, except where it appears on the face of the instrument of transfer that the land has remained Māori freehold land, be deemed to be General land...

[51] Mr Bidois submits that the transfer of Lot 5 in 1989 was not confirmed by an order of the Court or the Registrar and so that block became General land. That is not correct.

[52] The dealing registered against the title to Lot 5 in 1989 was not a transfer. Auta Hoone was an owner in Lot 5. When Ms Hoone passed away, an application for transmission was submitted with LINZ to transmit her interest to Maiangi Fyfe as the executrix of her estate. This transmission was registered against the title. This is not a transfer of the legal fee simple title as contemplated by s 2(2)(f) of the 1953 Act. Ms Hoone was the owner, and after her death she was still the owner albeit through her estate. The title was transmitted to Ms Fyfe as the representative of her estate. This is not a transfer of ownership as such and so s 2(2)(f) does not apply. Mr Bidois does not rely on any other transfers to trigger s 2(2)(f) of the 1953 Act.¹¹

[53] We agree with Judge Thomas that both of these blocks are Māori freehold land.

Me panoni ngā poraka ki te whenua Tianara?

Should the blocks be changed to General land?

[54] In *Te Whata – Waiwhatawhata 1B2B6*,¹² the late Judge Ambler identified the following principles concerning an application to change the status of land from Māori freehold land to General land:

- (a) The PCA is entitled to be given formal notice of the application and hearing.
- (b) The application is considered in two steps. First, the Court must assess whether each of the five statutory preconditions set out in s 136 have been met. Once an applicant has satisfied the Court that those

¹¹ Even if he did, we note the finding in *Moore – Lot 30 Deposited Plan 40840 being Part Oakura F2A* (2020) Māori Appellate Court MB 209 (2020 APPEAL 209), that a transfer in violation of the Māori Affairs Act 1953 does not automatically trigger a change of status per s 2(2)(f) of that Act.

¹² *Te Whata – Waiwhatawhata 1A2B6, Lot 1 DP 168554* (2008) 125 Whangarei MB 294 (125 WH 294).

threshold requirements can be met, the Court must then consider whether to exercise its discretion in favour of the change of status. In doing so the Court will measure the application against the principles of the Act, in particular the preamble, ss 2, 17, and the removal of the statutory right of first refusal reserved to the PCA.

- (c) Applications must be supported by full and cogent evidence. An applicant must demonstrate that specific plans for the land can be more effectively achieved if the land were General land.
- (d) Each application should be considered on its own merits. The Court must measure the personal situation and desire of the applicant in assessing the application.
- (e) The opposition or lack of opposition of the PCA is a factor to be taken into account. The financial ability, or lack of it, of the current generation of PCA to exercise the right of first refusal will not be determinative.
- (f) A mortgagee sale of the land does not result in an automatic change of status of Māori freehold land by operation of law.

[55] In exercising its discretion, the Court must take into account the kaupapa of the Act as expressed in the preamble, ss 2 and 17. In particular:¹³

- (a) Those with rights or interests in the land go beyond the beneficial owners themselves to whānau, hapū and descendants of the owners.
- (b) Māori land is a taonga tuku iho and should be retained within the kin group if possible.
- (c) Owners should as far as possible be empowered to develop, manage, utilise and control their own land.

¹³ *Te Whata – Waiwhatawhata 1A2B6, Lot 1 DP 168554*, above n 12.

- (d) A change of status is possible but only in a limited range of situations in which the application is in some material way outside the ordinary run of cases or that it is sufficiently distinctive.
- (e) Status change will be difficult to achieve where the sole purpose of the application is to sell the land or to achieve a better sale price, particularly when assessed against the kaupapa of the Act. In terms of the two-step process, although a change of status for the sole purpose of sale may satisfy s 136(d), the major hurdle is the Court's discretion. The Court must exercise its discretion as far as possible having regard to the kaupapa of the Act. The primary objective of the Act is the retention of Māori land. Sale of land is not an objective.

[56] In this case, the requirements in s 136(a)-(c) and (e) are met. The questions are:

- (a) Whether the land can be managed or utilised more effectively as General land; and if so
- (b) Whether the Court should exercise its discretion to grant a change in status.

[57] Judge Thomas was not satisfied that these blocks can be managed or utilised more effectively as General land. Round Corner argue she erred making that finding.

[58] Mr Rudings said their intentions are to build a mixed retail and residential development across these blocks, and a third adjoining block that Round Corner also owns. This proposed development would include commercial units on the ground floor and residential units on the upper floor. He says that the land can be managed or utilised more effectively as General land as Māori land status will result in:

- (a) A loss of land value;
- (b) A loss of security value;
- (c) A loss of development options; and

- (d) A loss of saleability.

[59] Martyn Craven, a registered valuer, gave expert evidence in the lower Court. He said:

- (a) The costs, delays and uncertainty of giving notice to the preferred class of alienee, and seeking confirmation from the Court, concerning any sale of land, means that the sale price must be reduced to attract purchasers;
- (b) Māori freehold land status remains a significant impediment to raising mortgage finance;
- (c) It is unlikely that sufficient funding could be obtained for the proposed development if these blocks are Māori freehold land.

[60] Mr Rudings said that, as part of the development, the units would be marketed with separate titles under the Unit Titles Act. Interestingly, none of Mr Rudings, Mr Bidois or Mr Craven say that the Unit Titles Act does not apply to Māori freehold land. They simply say that they don't know. It is difficult to see how the Court can be satisfied that the land can be managed or utilised more effectively as General land when there is no evidence, or submission, that they cannot develop it in that way now with its current status. Even if the Unit Titles Act does not apply to Māori freehold land, there is no evidence to demonstrate that the land could not be developed using an alternative means that is available such as a combined partition and / or the grant of leasehold estates. While Round Corner do not need to demonstrate that there is no option other than status change,¹⁴ any reasonable alternative that can achieve the plan while the land is Māori freehold land is still relevant when assessing whether a change in status allows the land to be managed or utilised more effectively.

[61] It is also significant that Round Corner does not intend to sell the land.¹⁵

Mr Bidois: Are there any plans at present to sell the land?

M Rudings: No, none whatsoever. It was never our intention to buy the land with the view of selling it. Everything we do as a family is for long term investment.

¹⁴ *Property Ventures Ltd v Parata — Ngarara West B3B* (2007) 16 Whanganui Appellate MB 1 (16 WGAP 1).

¹⁵ 500 Aotea MB 1-24 (500 AOT 1-24) at 12.

[62] An applicant must demonstrate that specific plans for the land can be more effectively achieved if the land were General land. As selling is not part of their specific plan, the evidence around a loss of saleability has limited, if any, weight.

[63] The only remaining argument is the difficulty of raising finance. On this issue, we accept Mr Craven's evidence that, generally, Māori freehold land may offer a lower level of security than General land. This can affect the amount of funding available when securing funding against Māori freehold land.

[64] However, there is no cogent evidence to demonstrate that the level of funding available while this land is Māori freehold land is insufficient to fund the proposed development. Mr Craven's evidence is at a very general level that a higher level of funding is available in relation to General land as opposed to Māori freehold land. He says it is unlikely that sufficient funding could be obtained for the proposed development if these blocks are Māori freehold land but there is no specific or cogent evidence to demonstrate that. For example, there is no evidence of the potential cost of this development, the level of funding available as Māori freehold land and the level of funding available as General land. Applications must be supported by full and cogent evidence.

[65] We are aware of the historical difficulties of obtaining finance against Māori freehold land. However, there have been significant advancements in the banking sector concerning this. In 2022, the Reserve Bank of New Zealand released an issues paper on improving Māori access to capital.¹⁶ That paper promoted improving the ability to use whenua Māori as loan collateral. A number of the major retail banks have released new lending policies which are specifically tailored to secure funding against Māori freehold land.¹⁷ That is not to say that all hurdles concerning lending against Māori land are now addressed, but these recent developments do indicate that banks are now more willing to lend against Māori land than they were in the past. Mr Craven recognises this in his evidence.

¹⁶ Reserve Bank of New Zealand 'Improving Māori Access to Capital: Issues Paper' 2022.

¹⁷ For example, BNZ have expanded an innovative funding framework for developing Māori freehold land. See BNZ Media "New path to home ownership on Māori land: BNZ expands innovative funding framework" (8 October 2024) BNZ <<https://www.bnz.co.nz/about-us/news/new-path-to-home-ownership-on-maori-land-bnz-expands-innovative-funding-framework>>.

[66] For these reasons, we do not consider there is sufficient full and cogent evidence demonstrating that this land can be managed or utilised more effectively as General land. While we have taken a slightly different route to assessing this question than Judge Thomas did, we agree with her ultimate finding.

Whakataunga

Decision

[67] The appeal is dismissed.

I whakapuakina i te 4.00pm i Wellington, i te tekau mā iwa o ngā rā o Maehe i te tau 2026.
Pronounced at 4:00pm in Wellington, on Thursday this 19th day of March 2026.

N R Milner (Presiding)
JUDGE

W W Isaac
JUDGE

M P Armstrong
JUDGE