

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

*In the Māori Land Court of New Zealand
Te Waipounamu District*

**AP-20250000011258
AP-20250000011260
AP-20240000009207**

WĀHANGA <i>Under</i>	Sections 151, 173, 289 and 297, Te Ture Whenua Māori Act 1993
MŌ TE TAKE <i>In the matter of</i>	Otonga 3
Nā <i>By</i>	PHILLIP SEYMOUR, CAROL POWER, JIM SEYMOUR, PAULINE MACKAY AND SELWYN SEYMOUR Ngā Kaitono <i>Applicants</i>

Nohoanga: 15 October 2025
Hearing (Heard at Waitangi, Chatham Islands)

Whakataunga: 15 October 2025
Judgment date

TE WHAKATAUNGA Ā-WAHA A KAIWHAKAWĀ M J DOOGAN
Oral Judgment of JUDGE M J DOOGAN

Hei tīmatanga kōrero

Introduction

[1] This is an oral decision and because it's an oral decision I reserve the right to correct any errors or adjust the detail, but the substance of this decision won't change.

[2] Phillip Seymour has filed an application to summon a meeting of assembled owners. The land at issue is the Otonga 3 block LINZ title reference WN39A/714. The land is 19.5539 hectares in extent. There are 42 owners as of October 2025. The land is bisected by Waitangi Tuku Road on the Chatham Islands.

Te take tuatahi

The first issue – Confirming resolution of assembled owners

[3] Mr Seymour summoned a meeting of assembled owners to initially discuss a partition of the block initially into six separate titles, and subsequently into just two titles. After some correspondence with the case manager, I approved a proposed resolution to be voted on at the meeting of assembled owners. I approved a further amended resolution on 25th June 2025. The resolution ultimately approved at the meeting of assembled owners is as follows:

The Seymour whānau resolve to seek the full partition of the Otonga 3 block into 2 separate titles, as represented on the sketch plan provided. One title would represent the totality of the shares currently held by the Seymour whānau (32.21252 shares) to be vested in Phillip Douglas Seymour, Pauline Ruth McKay, Selwyn Gerald Martin Seymour, Edward James Seymour and Caroline Ngawaiata Rowena Power as to their respective shares, with the other title vested in the remaining owners, being the hunau of Tame Horomona Rehe.

[4] It is clear from the information on file that there was proper notice of the hui, which took place at the Den on the Norman Kirk Memorial Reserve on the Chatham Islands on the 16th of August 2025. Fourteen owners were in attendance representing 70.3542% of the total shareholding. The quorum of 40% of total shareholding required by the Assembled Owners Regulations 1995 was met, and owners voted unanimously to approve the resolution set out. Accordingly, pursuant to ss 151 of Te Ture Whenua Māori Act 1993, I confirm that resolution of assembled owners.

Te take tuarua*The second issue – Partition*

[5] Turning now to the application to partition, I will summarise the relevant legal principles. Part 14 of Te Ture Whenua Māori Act 1993, in particular ss 285-306, provide the Court with an exclusive jurisdiction to grant partition orders in relation to Māori freehold land. The relevant provisions and principles arising from the case law are helpfully summarised by His Honour Judge Armstrong in *Te Whiu v King*.¹ Judge Armstrong in that case says:²

In *Brown v Māori Appellate Court*, the High Court set out the approach to considering an application for partition. The approach has been adopted by this court, by the Māori Appellate Court, and recently endorsed by the Court of Appeal. The approach is helpfully summarised in *Hammond – Whangawehi 1B 3H1*:

[15] The Court has exclusive jurisdiction to grant partition orders in relation to Māori freehold land in accordance with Part 14 of the Act. That jurisdiction is discretionary. The Act directs the Court to exercise its discretion in three steps.

[16] First the statutory prerequisites must be satisfied. The Court is expressly prohibited from granting partition if these prerequisites are not satisfied. There are, in essence, three (we do not look at the situation where the land is vested in an Incorporation):

Section 288(2)(a): the Court must be satisfied that owners had “sufficient notice of the application and sufficient opportunity to discuss and consider it.”

Section 288(2)(b): the Court must be satisfied that there is a “sufficient degree of support for the application among the owners having regard to nature and importance of the matter.”

Section 288(4)(a) and 288(4)(b): the Court must be satisfied that the partition is “necessary to facilitate the effective operation, development and utilisation of the land”, or “effects the alienation of land by gift to a member

¹ *Te Whiu v King – Panguru C9, C10, C11* (2016) 128 Taitokerau MB 100 (128 TTK 100).

² at 20.

of the donor’s whanau, being a member who is within the preferred classes of alienees.”

[6] I adopt and apply those principles. The ordinary meaning of a partition is the dividing of land held in joint tenancy or tenancy in common. So, the parties then hold an undivided share and the joint tenancy, or tenancy in common, is thereby destroyed. In the *Heta* case,³ His Honour Judge Ambler considered in detail the Court’s jurisdiction under Part 14 and concluded that the true purpose of the Court’s powers is concerned with rationalisation of the community of ownership rather than its destruction.

[7] The term ‘partition’ may therefore be something of a misnomer. I endorse what Judge Ambler said in that case, in particular the following – and I’m citing this because it is of relevance to what I understand everyone has agreed in this particular situation:

[55] Thus, the purpose of partition under the 1993 Act is not the destruction of the community of ownership but rather the rationalising of land holdings – that is, the reorganising of titles – by the definition of separate parcels. Further, it can only be done for the purpose of facilitating the use and occupation of the land by its owners. It is nothing in common with the general law where the focus is on separating ownership interests. Indeed, given the Court’s exclusive jurisdiction under s 287(1), any “right” under the general law to demand the separation of interests in Māori freehold land is long gone.

[56] The Court’s jurisdiction to partition is broadly stated. It is not limited to “partition proper” as applies at general law but allows for an unlimited array and combination of title orders that define separate parcels of land. Importantly, there is no requirement that the owners end up with separately held titles. Rather, the sole requirement of partition orders under s 289(1) is that they define separate parcels which, importantly, may in accordance with s 290 be held jointly.

[8] I note that because the outcome of the meeting of owners is essentially an agreement that the land be partitioned into two portions: one representing the interests of the Seymour whānau; the other representing the collective interests of the descendants of Tame Horomona Rehe. That is precisely the kind of situation Judge Ambler is describing when he is talking

³ *Heta – Taiharuru 4C3B* (2010) 13 Taitokerau MB 203 (13 TTK 203).

about a rationalisation of the title to reflect the community of interests in the land – and that is how I see the application currently before me.

[9] It's also relevant to note that the Act places emphasis on not only retention but also on development and utilisation of land. That is evident from the preamble, which refers to the facilitation of the occupation, development, and utilisation of the land for the benefit of owners, their whānau and hapū; s 2(2), which requires the Act to be exercised in a manner that facilitates and promotes the use, development and control of Māori land; s 17(1)(b), which provides as one of the primary objectives of the Court to promote and assist owners of Māori land in the effective use, management and development of Māori land; and s 288(4), which requires the Court when considering the necessity test to consider whether it is necessary in granting the partition to facilitate the effective operation, development and utilisation of the land.

Analysis/Review

[10] Turning to address those criteria, there are 42 owners in the land and there were 14 owners present at the hui, representing a significant majority of the shareholding interest in the land. I am satisfied that it is clear that the owners had sufficient notice of the application and sufficient opportunity to consider it. I am also satisfied that there is clearly a sufficient degree of support for the application, as 70.3542% of the ownership of interests by shareholding voted unanimously in support of the application. So, it is clear to me that there is sufficient support for the application, having regard to the nature and importance of the matter. I also note that there was no opposition recorded either in the meeting of assembled owners or today when the matter is before me.

[11] Is the partition necessary to facilitate the effective operation, development and utilisation of the land? In this context, the word “necessary” should be interpreted as what is reasonably necessarily – something that is closer to being essential rather than what is simply desirable or expedient.

[12] I am required to consider whether there are any reasonably achievable alternatives to partition in terms of facilitating the effective operation, development and utilisation of the land. So, where alternatives like an occupation order might be an appropriate alternative then

that may be a reason to not grant a partition, but as I understand it the central objective of the application is simply to apportion the respective interests of the Seymour whānau and the descendants of Tame Horomona Rehe.

[13] Therefore, having viewed the land, and having seen the location of what I understand is the Seymour whānau homestead, and the proposed boundary line of the partitioned areas, I can see how the partition would clearly provide for both sets of interests areas of useable land and secure to both whānau access to the coast, which I understand is agreed. The partition would also secure to the descendants of Tame Horomona Rehe the urupā at the crest of the rise in the paddock adjacent to the road. All of these are matters which have been agreed as between the owners. So, I am satisfied that there is no impediment to making these orders under that criteria.

[14] Similarly, and on overlapping criteria – what is the effect of the proposal on the interests of the owners, and what is the best use and development of the land? I am satisfied that the objective of the respective interests will be advanced by clarifying for both the Seymour whānau and the descendants of Tame Horomona Rehe the areas of the land which they can regard as their own. There are no significant differences in the nature or characteristics of the land, other than the portion where the house is located. In terms of utilisation into the future, the contour of the land is hilly to undulating and both areas are currently used for grazing. There is nothing in that criteria which would give me cause to pause in terms of making the orders.

[15] So that leads me to the last step which is whether I should exercise discretion to grant the orders. Hopefully it's clear from what I've said that yes, I should, and I propose to exercise discretion to grant the orders as sought. I see this as an outcome which would represent a partial rationalisation of the ownership interests in this land so that each of the ownership interests represented by the Seymour whānau and descendants of Tame Horomona Rehe will now have a clear tūrangawaewae, or area of interest, for their respective hunau (whānau) and descendants. In terms of matters such as practical access to both portions of the land, that is readily available from the public road. It is agreed between the parties that there will be access available to the descendants of Tame Horomona Rehe from the road down to the coast, and that this will be a matter that will be considered by the surveyor. A suitable accessway will be agreed as the survey between the two blocks is

finalised. The parties intend that it will run along the boundary between the partitioned lands. The partitioned land will remain Māori freehold land.

Te whakataunga

Decision

Section 151 – Confirming the following resolution of the meeting of assembled owners of 16 August 2025.

[16] The Seymour whānau resolve to seek the full partition of the Otonga 3 block into 2 separate titles, as represented on the sketch plan provided. One title would represent the totality of the shares currently held by the Seymour whānau (32.21252 shares) to be vested in Phillip Douglas Seymour, Pauline Ruth McKay, Selwyn Gerald Martin Seymour, Edward James Seymour and Caroline Ngawaiata Rowena Power as to their respective shares, with the other title vested in the remaining owners, being the hunau (whānau) of Tame Horomona Rehe.

Sections 289 and 297 – Partitioning Otonga 3 block into 2 separate titles

[17] The first title for an area of 13.03 hectares to be known as Otonga 3A, as indicated on the sketch plan provided is awarded to Phillip Douglas Seymour, Pauline Ruth McKay, Selwyn Gerald Martin Seymour, Edward James Seymour and Caroline Ngawaiata Rowena Power, in their respective shares.

[18] The residue area of 6.51796 hectares to be known as Otonga 3B, as indicated on the sketch plan provided is awarded to the remaining shareholders (the hunau of Tame Horomona Rehe) in their respective shares.

[19] The boundary between the portioned areas is to follow the line indicated on the sketch plan filed with the application but may be subject to such alteration as is required so as to ensure that the hunau (whānau) of Tame Horomona Rehe retain four wheel drive and/or quad bike access to the seaward boundary of the residue land to be known as the Otonga 3B block.

[20] Pursuant to s 304 of the Act, imposing a restriction that the partitioned land cannot be sold otherwise than in accordance with s 304 of the Act.

Section 73 – Conditional orders

[21] Pursuant to s 73 these orders are conditional on the completion and receipt of a ML plan approved as to survey by Land Information New Zealand, undertaken at the cost of the applicant so that titles may issue in accordance with the Land Transfer Act 2017 within 18 months of the date of these orders.

I whakapuaki i te wā 4:38pm i Waitangi, Rēkohu, tekau mā rima o ngā rā o Whiringa-ā-nuku i te tau 2025.

Pronounced at 4:38pm in open court at Waitangi, Chatham Islands on Wednesday this 15th day of October 2025..

M J Doogan

Kaiwhakawā