

**IN THE HIGH COURT OF NEW ZEALAND
INVERCARGILL REGISTRY**

**I TE KŌTI MATUA O AOTEAROA
WAIHŌPAI ROHE**

**CIV-2014-425-000102
[2026] NZHC 72**

BETWEEN TONI COLIN REIHANA
Applicant

AND RAKIURA TITI COMMITTEE
First Respondent

AND STEWART BULL
Third Respondent

**CIV-2016-425-000015
CIV-2016-425-000016**

BETWEEN TONI COLIN REIHANA
Applicant

AND RAKIURA TITI COMMITTEE
First Respondent

AND STEWART BULL
Third Respondent

AND RON RANUI BULL
Fourth Respondent

AND SONIA RAHITI
Fifth Respondent

Hearing: 21 November 2025

Appearances: Applicant in person
C M Lenihan for First Respondent (via VMR)

Judgment: 2 February 2026

JUDGMENT OF PRESTON J

*This judgment was delivered by me on 2 February 2026 at 2.15 pm, pursuant to
r 11.5 of the High Court Rules*

*Registrar/Deputy Registrar
Date:*

Introduction

[1] Mr Reihana applies to lift the stay of three judicial review proceedings relating to the management of the Rakiura Beneficial Tītī Islands ordered by this Court on 31 August 2016 (the stay decision).¹

[2] Mr Reihana is a beneficiary with rights to enter and take tītī (muttonbirds) at Kinekuha manu of Te Kanawera (also known as Taukihepa) tītī island.² His stayed proceedings challenge decisions of the first respondent the Rakiura Titi Committee which is a voluntary body elected annually (the Committee).

[3] The proceedings were stayed because Gendall J was satisfied that under a special regulatory framework applying exclusively to the Tītī Islands there is an alternative and more appropriate method of resolution of Mr Reihana’s core disputes: by referral to an independent decision maker “IDM”. The Judge held that process should be implemented and exhausted before any proceedings (if appropriate) could be pursued before this Court.³

¹ *Reihana v Rakiura Titi Committee* [2016] NZHC 2048, [2016] NZAR 1491 [*The stay decision*].

² I adopt the description of the manu in this way, as recorded by the Court of Appeal in *Reihana v Rakiura Titi Committee* [2018] NZCA 325, [2018] NZAR 1652 [*The appeal decision*].

³ *The stay decision*, above n 1, at [49].

[4] Mr Reihana appealed the stay decision to the Court of Appeal. The appeal was dismissed.⁴ The Supreme Court declined Mr Reihana’s application for leave to appeal, in 2018.⁵

[5] Since then, alternative dispute resolution has not been successfully engaged. Mr Reihana now says he does not want to pursue that course as ordered. Instead, he asks the Court to lift the stay and determine the judicial review claims. In addition, Mr Reihana seeks what calls an “Order to Answer” but is in substance a request for interrogatories. He contends this is necessary to advance complaints he is pursuing in other fora as a result of these proceedings.

The statutory framework

[6] I begin by explaining the statutory framework which is unique to this part of Aotearoa New Zealand, and the basis and course of Mr Reihana’s stayed proceedings.

[7] I draw the following outline from both the stay and the appeal decisions.

[8] The Beneficial Tītī Islands are a group of 21 islands adjacent to Rakiura (Stewart Island). Since 1864 when the Beneficial Titi Islands and Rakiura were transferred to the Crown by Deed of Cession, Rakiura Māori have retained beneficial rights to enter a particular island and take titi chicks in season (beneficiaries).

[9] Rakiura Māori are members of Ngai Tahu or Ngāti Mamoe who are also descendants of Rakiura’s original Māori owners. No other person may enter the islands without a permit, although beneficiaries may authorise their whānau to enter onto an island in accordance with the tikanga associated with that particular island.

[10] The Titi (Muttonbird) Islands Regulations 1978 (the Regulations) provide for the Rakiura Titi Committee, as noted a body elected annually and in which is vested the power to issue permits to enter the islands. Notably, the Regulations establish a framework for self-governance, which Gendall J found to be a “complete code” for

⁴ *The appeal decision*, above n 2.

⁵ *Reihana v Rakiura Titi Committee* [2018] NZSC 119.

the control of muttonbirding on the Titi Islands having regard also to relevant decisions of the Māori Land Court and the High Court.⁶

[11] Each island may have a Supervisor, appointed by the Committee upon the nomination (at the annual meeting) of those frequenting that island. The Regulations prescribe a code for those birding or otherwise using the islands,⁷ and permit a beneficiary to erect a house or whare on a site approved in writing by the majority of beneficiaries present on an island in the year the site is selected or by the Supervisor if they cannot agree.⁸

[12] The Supervisor is responsible for allocating manus—bird-catching areas—and other privileges, opportunities, and rights: under reg 6(1).

[13] Regulation 6(2) requires that any disputes arising out of the Regulations must be referred to the Committee:

- (2) If there is any dispute between Supervisors concerning the allotting of manus or any other dispute arising out of these regulations, the dispute shall be referred to the Committee who shall call a meeting of the Supervisors or other parties concerned to settle the dispute as soon as possible thereafter. Failing agreement being reached by the Supervisors or parties, or if they do not attend the meeting so called, the Committee shall make the decision, which shall be final and binding on all parties.

[14] Central to the stay decision (and to Mr Reihana's present application to lift the stay) is the provision of the right of review by an IDM, under reg 9. This right may be exercised by any beneficiary who is dissatisfied with a decision of the Committee:

9 Referral to IDM

- (1) A beneficiary (an **applicant**) who is dissatisfied with a decision of the Committee may apply, in writing to the Committee, for the matter to be referred to IDM for resolution.

⁶ *The stay decision*, above n 1 at [13]–[16].

⁷ Titi (Muttonbird) Islands Regulations 1978, reg 4.

⁸ Regulation 5.

[15] Regulation 9(2)–(7) sets out the procedure triggered by such a referral, including for the nomination and selection of an IDM and for the dispute resolution by that person or persons.⁹

The judicial review claims

[16] Gendall J outlined Mr Reihana’s three proceedings, the first of which he brought in 2014, in the stay decision. I adopt the Judge’s summary:¹⁰

The three proceedings brought by Mr Reihana

The applicant's pleadings are lengthy and, in part, somewhat difficult to follow. Nevertheless, the statements of claim with respect to each of the proceedings relate generally to matters I now outline:

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[22] As I understand the position, it appears that this proceeding relates to a time when Mr Reihana was himself a supervisor for one of the Titi Islands, Hinekuha. At that time Mr Reihana requested the Committee to make a decision in relation to banning a beneficiary from the island. Mr Reihana sought the Committee's support in his position as Supervisor and a decision to that effect.

[23] Mr Reihana, it seems, also advised that should the Committee decline jurisdiction in this case or decide that it was not prepared to back his banning attempt and thus the Committee reached an unfavourable decision on his request, Mr Reihana would instigate the process under Regulation 9.

[24] In response, the Committee decided in fact that it did not have jurisdiction to ban a whanau member from his/her beneficial right on the Titi Island in question, because there was nothing in the 1978 Regulations to authorise this. The Committee recommended that Mr Reihana attempt to resolve the issue with the individual whanau directly, and if unsuccessful, that he come back to the Committee to mediate.

[25] Then, as I understand it, Mr Reihana says that in March 2013 he advised the Committee that the matter was before an IDM. The Committee however asserts now that it never found out the outcome or indeed heard from the decision maker.

[26] It appears Mr Reihana decided at that point that, despite his earlier indication, he wasn't going through with the Regulation 9 procedure of appointing an IDM. Almost a year went by without any further correspondence between Mr Reihana and the Committee. Then, perhaps unexpectedly to some extent, Mr Reihana filed a Supervisor's report. In October 2014 the Committee invited Mr Reihana and the other whanau

⁹ Regulation 9(7) confirms that nothing prevents more than one IDM being appointed in relation to a particular matter.

¹⁰ *The stay decision*, above n 1, at [21].

members in dispute to attend a meeting. Mr Reihana, it appears, agreed to attend but later sought a deferral of the meeting until 4 November 2014.

[27] In the meantime in October 2014, however, without notice Mr Reihana advised that he was bringing this proceeding in the High Court challenging the Committee's decision not to support him in banning the beneficiary. He then served it on the Committee and other individual committee members. The planned 4 November 2014 meeting did not take place.

CIV-2016-425-15

[28] As best I can tell from Mr Reihana's statement of claim, this proceeding makes reference to two different complaints against the Committee. The first complaint concerns an application by Mr Reihana to take two non-Rakiura Maori builders to one of the Titi Islands, Taukihepa Island. The application was considered and then declined by the Committee on the grounds that this permit related to a building project at a site on Taukihepa Island involving heavily disputed boundary and building site issues contested between Mr Reihana and other beneficiaries of the Islands for some time.

[29] Mr Reihana's second complaint in this proceeding refers to a failure to appoint him as a Supervisor for one of the Titi Islands in question. During the election of Supervisors generally, several written nominations were apparently received prior to the Annual General Meeting ("AGM") of the Committee. One of these was from Mr Reihana. However, it seems the parties who had nominated him for this Supervisor role were not present on the day of the AGM. The Committee contended that Regulation 7(1)(b) of the 1978 Regulations required the Rakiura Maori who were involved to be actually present at the AGM in order to nominate supervisors under Regulation 6(1), and that this had not occurred here.

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[30] This proceeding involves an allegation by Mr Reihana that four buildings were "unlawfully erected" without authority on Taukihepa Island by members of his whanau. On 26 May 2015, Mr Reihana wrote an email to the Committee, requesting "pluck house" buildings on Taukihepa Island be removed. The Committee then discussed this matter and dismissed the claim on the basis that there was no clear breach of the 1978 Regulations as none of the structures in question were considered to be "a house, whare or other building" under the 1978 Regulations and no authority existed therefore to have them removed. It is this decision which Mr Reihana challenges in this particular proceeding.

The proceedings are stayed: 2016

[17] Before Gendall J, the respondents sought to strike out or to stay the proceedings.

[18] By a "reasonably fine margin" the Judge concluded it was not appropriate at that stage of the proceeding to strike out the claims. However, he was satisfied

Mr Reihana’s various complaints—which “largely involve members of his extended wh[ā]nau”—should be addressed using the process specifically provided for in the Regulations.¹¹

[19] In those circumstances, Gendall J found that “clearly” a stay was the appropriate course, until the conclusion of the alternative and more appropriate method of resolution under reg 9.¹²

An unsuccessful appeal and a further attempt to challenge by judicial review

[20] As noted, Mr Reihana unsuccessfully appealed the stay decision to the Court of Appeal. His present application is based among other grounds on his submission the Court of Appeal “got it horribly wrong”.

[21] Relevantly, I note the special character of the issues in this case is also evident from the outline of central disputes as Mr Reihana identified them in that Court.¹³ The Court upheld Gendall J’s conclusion a stay should be granted pending conclusion of the more appropriate method of resolution under the Regulations, in part because the underlying issues involved tikanga and the Regulations vest governance of the matters in issue in Rakiura Māori.¹⁴ Additionally, the Court noted that resolution of the factual matters in dispute would require findings on contested facts which are unsuited for judicial review.¹⁵

[22] In late 2022 this Court struck out as an abuse of process a further judicial review proceeding which Mr Reihana filed.¹⁶

[23] Then, as he does in the present application, Mr Reihana cited further evidence or grounds of complaint regarding the Committee’s conduct in relation to the complaints subject of the initial proceedings, including allegations about conduct in relation to the reg 9 procedure. Eaton J was satisfied the further proceedings related

¹¹ *The stay decision*, above n 1, at [40].

¹² At [41].

¹³ *The appeal decision*, above n 2, at [13].

¹⁴ At [18].

¹⁵ At [19].

¹⁶ *Reihana v Rakiura Titi Committee* [2022] NZHC 3258.

to the same issue that was subject of the stayed proceeding[s].¹⁷ He found that the fact new evidence or grounds were alleged in support of the complaint did not alter the fact that Mr Reihana must see through the reg 9 process.¹⁸

[24] As I return to below, in the intervening years Mr Reihana has repeatedly returned to this Court in relation to his stayed claims but has not in fact successfully engaged the reg 9 procedure.

[25] Against that background, I turn to the present applications.

Lifting a stay of proceedings—principles

[26] Mr Reihana’s essential position on this application contends that the stay decision and the appeals were all wrongly decided and the alternative resolution procedure has been “unlawfully” activated. Further, he asserts he cannot get justice through the alternative resolution pathway he has been directed to engage in.

[27] The Court may lift a stay of proceedings where good cause or proper grounds are shown, if its continuance could cause or produce injustice or prejudice, or where there is a change in the law.¹⁹ The determination whether to do so is inevitably highly fact specific, as this Court has observed.²⁰

[28] The Court must take into account not only those factors relied upon by the applicant, but any countervailing factors which have arisen since the stay was granted. It is the present circumstances in their totality which must be examined, not only those on which the plaintiff expressly relies.²¹

[29] However, to order that a stay be lifted on the basis there have been relatively minor changes of circumstance would be, in effect, to review the exercise of the original discretion and is not permitted. An application must not be viewed as a

¹⁷ At [18].

¹⁸ At [19].

¹⁹ *Kidd v van Heeren* [2006] 1 NZLR 393 at [43] citing *Halsbury's Laws of England* (4th ed, re-issue, vol 37, at [927].

²⁰ *Kidd v van Heeren*, above n 19 at [41].

²¹ At [48].

vehicle which simply permits an applicant to revisit a discretionary decision already taken. The change of circumstance which the plaintiff must establish ought to be “real and palpable” and there ought to be a “clear and strong” case for uplifting the stay before the Court can properly intervene.²²

Grounds advanced

[30] Mr Reihana’s grounds for lifting the stay are set out across a number of documents, at times including in intemperate language.

[31] In summary he asserts:

- (a) That the reg 9 procedure has been “unlawfully activated” as:
 - (i) on occasions following the stay an associate judge case-managed further interlocutory filings or applications in relation to the stayed proceedings. In particular Mr Reihana objects to the requirement that he was to give clear notice to the Committee of his issues within the reg 9 process.
 - (ii) The Committee acted unlawfully in or “stall[ed]” the reg 9 process by their conduct—including by on occasions seeking that he pay outstanding court costs ordered against him;²³ and at one stage seeking that Mr Reihana pay all the costs of the reg 9 process—a stance which I note is no longer maintained.
- (b) The High Court in its 2016 decision failed to take account of the affidavit evidence before it showing the Committee never followed the decision-making procedures in the Regulations.

[32] Mr Reihana claims that the Committee must pay the full costs of the reg 9 process to avoid a miscarriage of justice. He objects that the respondents are “now in

²² At [47.]

²³ In this regard, Mr Reihana acknowledges the associate judge directed the Committee that they should not decline to engage in the reg 9 process in this case pending payment by Mr Reihana of costs ordered against him.

[the] driving seat” of the alternative dispute resolution process and contends this “proves the law is an arse due to the usual shortsighted regulatory provision drafting”. He submits the reg 9 procedure is being unlawfully manipulated by the respondents and that only this Court can determine the outstanding tort claims and judicial review issues. Finally, Mr Reihana says there can be no valid reg 9 procedure; that “portal” never opened due to the first respondent’s alleged failure to comply with the Regulations.

[33] This theme is developed in Mr Reihana’s affidavit in support. Referring to documents from events during 2015—when the central disputes culminated or arose—he asserts the first respondent’s committee process and dealings were unlawful under the Regulations.

[34] At the penultimate paragraph, Mr Reihana summarises his position:

That is the general theme of all my dealings with the respondents is that they never comply with the prescribed and legislated procedure for making decisions, which makes them, at first glance, INVALID and susceptible to an order of Certiorari, and a jurisdictional error – as if no decision’s been made;

The Committee’s position

[35] The Committee opposes the application primarily on grounds that nothing has changed since the proceedings were stayed in 2016 to justify lifting the stay.

[36] Ms Lenihan for the Committee emphasises that Gendall J stayed the proceedings due to the specific provision in the Regulations for alternative dispute resolution: the Court determined a case such as this was appropriate to be referred to the independent dispute resolution process and that the applicant’s issues should first be determined using that process, before any proceedings (if appropriate) are brought or pursued before the High Court.

[37] It is submitted Mr Reihana has not pursued his case using the reg 9 procedure notwithstanding that the first respondent is (and has always been) open to the use of the dispute resolution process in the Regulations. Counsel emphasises that the committee of volunteers remains committed and willing to engage in that process, as directed by the Court and as is set out in the evidence of Mr Stewart Bull.

[38] Mr Bull is the current chairperson of the Committee (referred to by Mr Bull as ‘Komiti’) and has made an affidavit in opposition to each of the applications. I draw on both as together they address Mr Reihana’s themes, in particular his contention the Committee has “hijacked” the reg 9 mediation process subsequent to his initial application to it in September 2020.

[39] Mr Bull explains in his later affidavit:

I have been a Komiti member for over 24 years. Myself and the other elected Komiti members volunteer our time and energy to the Komiti, without receiving any payment. We do this for our love of our precious taonga the Rakiura Beneficial Tītī Islands (the Islands) that most of us have attended annually our whole lives, to share our knowledge and tīkanga of our customary practices, and assisting tītī whānui by administering the Regulations.

[40] He deposes in his initial affidavit:

...the opportunity is and has always been open to the Applicant to go through the Regulation 9 mediation process. That is the Komiti’s preferred option, as laid out in our Regulations, to follow through with that process.

[41] Mr Bull acknowledges that the Committee on three occasions (two of which were before Mr Reihana’s formal application in September 2020 and the third in December 2021) requested Mr Reihana pay (some of) the outstanding costs ordered against him before progressing the reg 9 procedure. However, Mr Bull deposes that the main reason for delay progressing the procedure is not due to this but, rather:²⁴

... despite repeated requests since October 2020 (the Applicant lodged a formal Regulation 9 application in September 2020), the Applicant has failed to provide a compliant Regulation 9 notice with a clear and succinct statement of his issues. Instead, he has repeatedly referred the Komiti to his three statements of claim, which are lengthy, historic and difficult to understand in places.

[42] I pause here to note that Mr Reihana objects to the concept of a “notice” under the Regulations, one of his concerns regarding prior case management directions, pointing out there is no formal requirement for such under reg 9. I take the view as have others before me that the notice requirement is implicit in the wording of the

²⁴ Footnotes omitted.

Regulations, requiring an applicant sufficiently identify his or her complaint for referral to an IDM, including in order that any affected parties may be notified.²⁵

[43] Mr Bull also notes:

It is open to the Applicant himself to pursue Regulation 9 proceedings without the Komiti, as has happened in the past with another unrelated dispute with the Komiti. In that case the complainant considered the Komiti was over time set out in Regulation 9 and directly went to [the professional association for independent mediators] AMINZ to appoint an IDM and commence the Regulation 9 process.

Analysis

Stay

[44] Having carefully considered Mr Reihana's written and oral submissions I am satisfied there is no basis to lift the stay of proceedings.

[45] Rather, the fundamental reason for granting the stay remains: there is an alternative method of resolution within the Regulations which it is appropriate should first be undertaken, before any further recourse to this Court.

[46] Further, I do not agree that Mr Reihana's grounds provide any basis to suggest he is prejudiced by the stay or that the issues he seeks to raise cannot be ventilated using the IDM process, before any proceedings (if appropriate) are pursued in the High Court.

[47] I have reached this conclusion for several reasons.

[48] First, as Gendall J clearly identified and the higher courts affirmed, the basis for the stay arises from the special regulatory regime which adheres to these particular islands and these particular issues involving tikanga and Rakiura Māori. I agree as the respondent submits there is nothing in the application to suggest that the grounds upon which that reasoning was delivered has shifted. The position remains as captured by

²⁵ *Reihana v Rakiura Titi Committee*, above n 16 at [9].

Miller J writing for the permanent Court of Appeal in considering the appeal against the stay decision:²⁶

[17] Underpinning the claims appears to be an intra-whānau dispute over rights at Hinekuha manu and what may be a broader dispute among Rakiura Māori about rights and obligations under tikanga. Through his proceedings, Mr Reihana seeks to take decisions about these matters out of the hands of the Supervisor for the time being, the Committee for the time being, and any IDM appointed under reg 9.

...it remains the case that the underlying rights and obligations can and should be resolved under the Regulations, because they involve tikanga and because the Regulations vest governance of such matters in Rakiura Māori. That process should help clarify and reduce any remaining issues that must be resolved by the courts.

[49] Second, after listening carefully to Mr Reihana's oral argument in addition to his written submissions, I am satisfied his application is at heart an attempt to relitigate the arguments determined in the stay decision, upon which he has exhausted his rights of appeal. As he frankly explained before me, he does not wish to engage in the reg 9 procedure but wants to pursue his challenges in this Court. But when I repeatedly asked Mr Reihana why he cannot advance the arguments he made before me within the reg 9 procedure, challenging what he says are the flawed decisions (or decision-making processes) of the Committee, he did not articulate any reason other than his preference to have his case heard in this Court instead of the alternative resolution process.

[50] However, this issue—whether to lift the stay—is not about the merits of Mr Reihana's underlying claims but the requirement that he pursue the alternative resolution process in the regulations *before* any remaining proceedings (if appropriate) are pursued in the High Court.

[51] Third, the further grounds advanced are not relevant to whether the stay should be lifted but focus on Mr Reihana's grievances about the respondent's conduct or aspects of the case management of the stayed proceedings in this Court following the stay.

²⁶ Footnotes omitted.

[52] As to the criticisms of the respondent's conduct, the Committee accepts that at times there has been some inconsistent messaging or communication between the Committee or its voluntary members (some of whom are now deceased) and Mr Reihana. Certainly, any impediment that arose at times when the Committee sought payment of outstanding court costs is removed. While it is evident Mr Reihana was aggrieved at that stance, the associate judge (to whom Mr Reihana objected) informed in a minute that it was arguably unavailable to the Committee and the Committee thereafter did not pursue the request.²⁷

[53] As well, the documentation supports the Committee's evidence that its underlying concern has been to receive notification of the applicant's issues sufficient to pursue the reg 9 process, which Mr Reihana has declined save as to cite his statements of claim in this Court in the underlying proceeding. This is consistent with the Committee's position upon receipt of the applicant's initial application in September 2020 when it promptly engaged with Mr Reihana, inviting information it sought from him in order to action the independent resolution process and noting its wish to resolve his complaints "so that everyone could move on amicably".

[54] Mr Reihana for his part has remained focussed on his attempts to pursue remedies through this Court. I am satisfied that the Committee is neither stalling nor stifling the Regulation 9 procedure as Mr Reihana suggests by requesting that Mr Reihana sufficiently notify his complaint regarding the decision (or decisions) of the Committee he contests, in order for the matter to be referred to the IDM for resolution.

[55] In particular, I do not agree that for this reason Mr Reihana cannot practically invoke the relevant statutory procedure to which he has been directed by this Court (and Courts above).²⁸ In this regard Mr Reihana succinctly put his position to the first respondent:

²⁷ *Reihana v Rakiura Titi Committee*, above n 16 at [15].

²⁸ The point was not developed in Mr Reihana's written submissions or before me, but I note Mr Reihana was recorded by Harland J in fixing security for costs as relying on the dissenting judgment in *Tannadyce Investments Ltd v Commissioner of Inland Revenue* [2011] NZSC 158, [2012] 2 NZLR 153, a case concerning the Tax Administration Act 1994 in which the Supreme Court considered the availability of judicial review when a statutory disputes procedure is available.

Ultimately, the review respondents and their lawyer know very well what the grounds for the three underlying judicial reviews are and what the underlying issues relevant to those review are ...

[56] Accordingly, Mr Reihana continues to resist or decline to notify—that is, to advise—three fundamental aspects necessary in order to enable the Regulation 9 process to commence, which I agree must include at a minimum identification of:

- (a) the decision(s) of the Committee with which the applicant is dissatisfied;
- (b) its subject matter; and
- (c) why the applicant considers the decision is wrong.

[57] I agree that this information is necessary including in order that any of the numerous other parties apparently involved in the disputes and any other directly affected party may be identified.

[58] I also accept the Committee’s submission that it is not appropriate in the circumstances for the first respondent to try to unravel Mr Reihana’s three judicial review proceedings, which the Court of Appeal noted were “complex and repetitious” and, further, that to do so would cut across the purpose of the Regulation 9 provision for a complainant to apply to the Committee in relation to any decision with which he or she is dissatisfied, for the matter to be referred to an IDM for resolution.

[59] There was a brief further period during which the process was paused by the Committee. As Mr Bull deposed:

There was a brief period where the Komiti blocked communication from the Applicant because of abusive language he used over a long period of time both to the Komiti and our secretary ...

The Applicant has also repeatedly used abusive and derogatory language both to the Komiti and towards me personally in documents filed in the High Court and now shared with organisations and people not party to these proceedings. This has been going on for these proceedings since 2015 but seems to have been getting worse recently and it is having a severe impact on my health.

[60] As to Mr Reihana's concerns regarding the manner of case management of the stayed judicial review proceedings since the stay, the chronologies of each party indicate that is an issue Mr Reihana is pursuing elsewhere. I do not comment on that, accordingly.

[61] Fourth, I do not accept, as Mr Reihana argued, that he is prejudiced by the stay or that there is any basis to suggest his complaints (when articulated in that forum) cannot fairly be litigated in the reg 9 procedure. It is not the case that the contended "plethora of decision-making illegalities" invalidate the decisions of the Committee such that the "portal" to the reg 9 procedure was not opened. Indeed, as Gendall J found and was reiterated on appeal, that procedure is the appropriate forum in which his issues should first be litigated.

[62] Nor does the documentation before me indicate the Committee has "commandeered and taken over the [reg 9] process activated to investigate THEIR unlawful, [t]ortious, and judicial reviewable decision making antics" in an attempt to withhold, "stifle" or "sabotage" that process, as Mr Reihana contends.

[63] When I further pressed Mr Reihana better to understand his argument in support of lifting the stay, he maintained that his concern is not about the subject matter that was before the Committee but how they made their decision and what (he says) were the Committee's illegal decision-making practices. When I again invited him to explain why he could not advance that argument to the IDM within the reg 9 process Mr Reihana explained that he sees that process as "a waste of time" and would prefer that this Court direct that the reg 9 process go no further.

[64] As is evident, that argument does not disclose any relevant "good or proper" grounds, any prejudice, injustice or change of the law, or a "real and palpable" change of circumstances or a clear case for uplifting the stay.

[65] Finally, I do not agree as Mr Reihana suggests that a miscarriage of justice will result from him being "forced" to participate in the reg 9 process. To the contrary, and as the Courts have been repeating for close to a decade now in various proceedings, there remains an appropriate method of resolution under Regulations. As the Court of

Appeal noted, that process should help clarify and reduce any remaining issues that must be resolved by the courts.

Order to Answer

[66] I deal with this application briefly. Mr Reihana considers that in order to advance the application to lift the stay, it is necessary the Court directs “a statement in answer to interrogatories” under r 8.38 of the High Court Rules 2016 (Rules). He states in submissions the “overarching reason for obtaining these orders to answer is so we can advance to an eventual hearing of the interlocutory Application to Lift Stay”.

[67] He seeks the order on the further following grounds:

- (a) Gendall J’s decision to stay proceedings whilst the reg 9 process was advanced was “stifled” by the first respondent (along with counsel) who refused to engage with the applicant at all.
- (b) The requested information was necessary for a complaint he lodged with New Zealand Law Society (NZLS) about counsel.
- (c) Associate Judge Lester should not have presided over the applicant’s interlocutory application.

[68] As noted, Mr Reihana brings this application following a previous attempt to obtain interrogatories which was dismissed for want of jurisdiction, as Eaton J explained in a minute issued following a teleconference between Mr Reihana and Ms Lenihan in relation to these proceedings:²⁹

... Rule 1.3 defines a proceeding as “any application to the court for the exercise of the civil jurisdiction of the court other than an interlocutory application”. ...

[6] Mr Reihana’s memorandum has referred to interrogatories. No notice of interrogatories has been filed.

[7] The jurisdiction to issue interrogatories is prescribed by r 8.34. That rule provides as follows:

²⁹ *Reihana v Rakiura Titi Committee* HC Invercargill CIV-2014-425-102, CIV-2016-425-15, CIV-2016-425-16, 25 June 2025.

8.34 Interrogatories by notice

(1) After a statement of defence has been filed, a party who has filed a pleading may file and serve on another party who has filed a pleading a notice requiring that party to answer specified interrogatories relating to any matter in question in the proceeding between the interrogating party and the party served.

(2) The notice may require that the answers be verified even if the interrogating party has not previously required any answers to interrogatories to be verified.

(3) The notice must be in form G 35.

[8] It is clear from the language of r 8.34 that an interrogatory notice is not available in the context of an interlocutory application. I am satisfied that it is not appropriate to grant interrogatories in this case.

[69] Mr Reihana explained in oral submissions this application was an attempt to “get in the back door” to obtain the information he previously sought in the application for interrogatories, maintaining it is necessary to avoid an injustice. I agree, despite its reframing, the application is in substance simply the reiteration of his previous request. As Mr Reihana has already been informed, there is no entitlement to interrogatories on an interlocutory application under the Rules.³⁰ Accordingly, the Court is without jurisdiction and the application must be dismissed.

[70] Furthermore, even if there were jurisdiction I do not agree as Mr Reihana submits the information sought is necessary to avoid an injustice in determining whether to lift the stay. Rather, he seeks the information for the collateral purpose of pursuing a complaint in another forum.³¹ Even if it is said to be relevant for that purpose, plainly any application is properly to be made, if at all, to the relevant authority in that case.

Result

[71] The application to lift the stay is declined.

[72] The application for an “order to answer” is declined.

³⁰ *Reihana v Rakiura Titi Committee* HC Invercargill CIV-2014-425-102, CIV-2016-425-15, CIV-2016-425-16, 1 September 2025.

³¹ Counsel advised the Court that a New Zealand Law Society Standards Committee dismissed the complaint. For his part, Mr Reihana advised his intention to “take it higher”.

Costs

[73] As long ago as 2014, in fixing (capped) security for costs on the initial judicial review proceeding, Dunningham J noted concerns about the litigious approach of Mr Reihana.³² When fixing (again capped) security on the application to lift the stay Harland J considered the manner in which the applicant presents material to the Court tended to confirm Dunningham J's concern.³³ Since that decision, Mr Reihana brought his further ultimately unsuccessful application for orders to answer.

[74] The first respondent seeks costs on both applications.

[75] I see no reason to depart from the orthodox principle that costs should follow the event. Costs are awarded to the first respondent on each application, on a Category 2A basis.³⁴ However recognising that there was some delay as a result of the Committee seeking payment of the still outstanding costs Mr Reihana was ordered to pay on the unsuccessful appeals, I consider there should be a 25% reduction applied in relation to costs on the application to lift the stay (only).

[76] There is an order for costs accordingly, together with reasonable disbursements as fixed by the Registrar.

.....
Preston J

Counsel:
C M Lenihan, Barrister, Invercargill

Copy to:
T C Reihana

³² *Reihana v Rakiura Titi Committee* [2014] NZHC 3166 at [11]. Security was fixed at \$2,500, which remains on the substantive proceedings which are extant albeit stayed.

³³ *Reihana v Rakiura Titi Committee* [2025] NZHC 218. Security was capped at \$1,000, significantly lower than the schedule costs. As Harland J observed, Mr Reihana already owes \$13,000 in Court costs to the first respondent in matters related to the overarching proceedings and for its part, the Committee receives much of its funding through grants properly meant for other purposes.

³⁴ I note in counsel's application for security for costs dated 19 July 2024 (in relation to the application to lift the stay) costs were itemised on the accompanying Schedule on a hybrid 2A and 2B basis, at that time and on the basis of anticipated steps prior to hearing.