



Environmental Legal Assistance (ELA) Fund

Application form

Before you apply

Before completing this form, read the *Environmental Legal Assistance Fund: Guide for applicants*. This includes the information you will need to complete the application form, and the ELA Fund criteria that your application will be assessed against. Ensure you have provided all information and attach supporting information as required.

Need more help? If you have any questions, call 027 218 4985 or email ela.fund@mfe.govt.nz.

1. Contact information

(1a) Group's full legal name:	Torere Reserves Trust
(1b) Group's physical address:	2220 SH 35 Tōrere Opotiki 3197

	(1c) PRIMARY CONTACT	(1d) SECONDARY CONTACT
Full name:	Garry Watson	Rachell Mio
Position in group:	Deputy Chair	Treasurer
Phone number:	9(2)(a)	9(2)(a)
Email address:	9(2)(a)	9(2)(a)

2. Group details

(2a) What type of group are you? Tick the relevant box:				
<input type="checkbox"/> Residents and ratepayers/community group	<input type="checkbox"/> Non-government organisation	<input type="checkbox"/> Iwi/hapū	<input type="checkbox"/> Business group	<input checked="" type="checkbox"/> Other (please specify):
Charitable Trust				
(2b) When did your group begin operating? Month and/or year:			November 1999	

(2c) What are your group's objectives? State your group's key environmental interests, philosophy, and any aims that are specific to your case:
The objects of the Trust shall be to govern, administer, protect, preserve and enhance Tōrere Reserves, wāhi tapu, archaeological sites, and associated taonga including intellectual property, traditional knowledge and cultural expressions on behalf of the beneficiaries. All funds and assets of the Tōrere Reserves shall be applied towards furthering the exclusively charitable objects, aims and purposes of sustainably maintaining and improving the cultural, spiritual, social, environmental, political and economic vitality of Ngai Tai.

Group details - supporting information needed:

You must provide all information required for your group's legal status. Tick the boxes to confirm all information has been provided.

INCORPORATED GROUP:
(2d) Does your group have a common seal? <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> (2e) Copy of your group's mandate/rules.
<input type="checkbox"/> (2f) Current membership list of your group, including physical addresses. Please note who the committee members are and their roles.

TRUST:

(2g) Does your group have a common seal? Yes No

(2h) Copy of trust documents.

(2i) Current membership list of your group, including physical addresses. Please note who the committee members are and their roles.

NON-INCORPORATED GROUP:

(2j) Details of your group's history, including any relevant documentation (eg, evidence of regular meetings).

(2k) Authorisation from the group that at least two named persons can act on behalf of your group for this matter. These two people will sign the declaration in section 6 of this form.

(2l) Current membership list of your group, including physical addresses. Please note who the committee members are and their roles.

3. Case details

(3a) Name of case or board of inquiry and case Court number: *eg, Stoneleigh District Council v Springfield River Preservation Society Incorporated ENV-2012-CHC-123*

(3b) Date of Court or board of inquiry hearing, if known:

(3c) Type of case: *tick the relevant box*

<input checked="" type="checkbox"/> Appeal on a resource consent application (section 120, RMA)	<input type="checkbox"/> Board of inquiry
<input type="checkbox"/> Appeal on a plan/plan change (schedule 1, clause 14, RMA)	<input type="checkbox"/> Court of Appeal proceeding
<input type="checkbox"/> Appeal on a policy statement (schedule 1, clause 14, RMA)	<input type="checkbox"/> Enforcement (section 316, RMA)
<input type="checkbox"/> Declaration (section 311, RMA)	<input type="checkbox"/> Fast track consent application
<input type="checkbox"/> Designation (section 179, RMA)	<input type="checkbox"/> High Court proceeding
<input type="checkbox"/> Direct referral (Environment Court)	<input type="checkbox"/> Judicial review
<input type="checkbox"/> First instance hearing (eg, Freshwater Hearing Panel)	

(3d) Briefly state what the application relates to: *1-2 sentences*

Torere Reserves Trust (the Trust) has appealed the Bay of Plenty Regional Council's decision dated 20 May 2024. The Trust oversees and administers the registered HNZPT Wāhi tapu – Owainene Urupā and Repo, Torere (Register no. 9636). The applicant, Tōrere Section 64 Inc and the forestry company Eco Rākau, also acting as an agent for TS64, have applied for resource consent – RM23-0163, to divert the Tōrere River away from Owainene Urupā to

build a road for forestry as well as upstream access purposes. The proposed works will occur inside a registered wāhi tapu, which is an ancient battle ground and inside the urupā itself. The Trustees of the Torere Reserves Trust oppose this application as it seeks to change the purpose of the reservation, as gazetted as an urupā in 1976, by using the urupā as an infill area to reinforce the stability of the proposed roadway. If successful, this will adversely impact the Mauri, the Mana and the Wairua of the wāhi tapu, the urupā, the Tipuna that reside there and the Awa itself.

(3e) Provide an outline of your group’s legal case and a history of its involvement so far:

The Tōrere Reserves Trust filed a submission in opposition to the resource consent alleging breaches of the Māori Reservations Regulations 1994, Resource Management Act 1991, Te Ture Whenua Māori Act 1993 and the Heritage New Zealand Pouhere Taonga Act 2014.

The applicant and its agent filed an application to strike out the Tōrere Reserves Trust submission which was dismissed and the matter was set for hearing in front of two appointed Commissioners on the 13th of May, primarily to address the adverse effects of the resource consent proposal on the Cultural values of the urupā, wāhi tapu and tangata whenua.

The Tōrere Reserves Trust presented a 170 page submission which included addressed the lack of a Cultural Impact Assessment. The submission included a summary of legal issues, adverse effects on the Cultural and Spiritual values of the urupā, wāhi tapu and mana whenua. The submission also listed multiple breaches of National and Regional policies and expanded on the breaches of legislation set out in the original submission.

The applicant presented its submission to the Commissioners which dismissed and or ignored the issues raised and provided submissions from residents in Tōrere to address the lack of cultural impact assessment. These submissions did not address or articulate the cultural impact of the proposal.

The legal, cultural and spiritual issues raised in the Torere Reserves Trust submission were ignored or dismissed by the Commissioners who stated that that they had no qualms regarding the lack of Cultural Impact assessment and any legal concerns outside of the RMA 1991 were not their issue to address and therefore the granted the Resource Consent Application.

(3f) Provide an outline of the procedural steps of the case to date (eg, any issues resolved at mediation), and any key upcoming events. Clarify which steps you are seeking funding for.

We are seeking funding for preparation and filing of the appeal, mediation and costs for a hearing before the Environment Court

(3g) List the other parties involved in the case:

Bay of Plenty Regional Council, Tōrere Section 64 Inc as applicant (appeal has been filed today, and no s 274 parties as yet)

(3h) Do you intend to collaborate with any of these parties? If yes, name the parties and provide an explanation of any joint arguments. Give details of proposed sharing of witnesses, legal counsel and any shared costs:

Yes

No

Case details - supporting documents needed:

Provide a copy of the following if applicable to your case. Tick the boxes to confirm what you have provided.

<input checked="" type="checkbox"/> (A) Notice of appeal, notice to be party to the proceeding/hearing, or another form of proof that your group is officially recognised as a party to the proceeding/hearing.
<input checked="" type="checkbox"/> (B) Council decision and/or Independent Hearing Commissioner decision, if applicable.
<input checked="" type="checkbox"/> (C) Any substantive minutes, directions, and procedural decisions issued by the relevant Court/authority in respect of your case (eg, changes to the steps in the process and/or scope of the proceeding).
<input checked="" type="checkbox"/> (D) Map/s showing the location of the area relating to your case. Include zoning maps, if applicable.
<input checked="" type="checkbox"/> (E) Your group's original submission, if applicable.

4. ELA application details

You must answer all questions in this section.

(4a) How does your group's case relate to or raise nationally or regionally important issues affecting the environment?
The application proposes to reclaim part of a riverbed which sits within the boundaries of a gazetted Māori Reservation set aside as an urupā, and a registered wāhi tapu with NZHPT Act. Accordingly, it falls under s 6(e) and s 6(f) and the impact on the wāhi tapu and the tangata whenua relationship with Owainene is a matter of national importance
(4b) How does your case relate to the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga?
See above
(4c) What is the potential for your case to create useful case law?
This case will build on the case law concerning wāhi tapu, the threshold required to determine when avoidance of adverse effects on wāhi tapu is required, and the assessment of alternatives.
(4d) What is the potential of your case improving the administration and efficiency of relevant environmental legislation?
There is potential to provide further clarity around wāhi tapu considering their prevalence throughout Aotearoa, and the frequency of which applications affect such significant places.
(4e) Are there any issues of national or regional importance that will not be addressed in full if legal or expert evidence is not provided by your group?
The s 6(e) and s 6(f) matter is the only matter of national importance before the Court. If legal and expert cultural advice is not provided it will be left to lay litigants to present their case and the case will not be presented to its fullest potential without that support.

5. Financial details

(5a) Legal counsel and/or expert witnesses your group is engaging in your case: <i>Please consider paying any cultural experts instead of relying on pro-bono contributions.</i>					
Full name	Mike Scott	Josh Gear			
Firm/company	The Catalyst Group	Sharp Tudhope Lawyers			
Area of expertise	Planning	Lawyer			
Cost per hour (excl GST)	9(2)(a)	9(2)(a)			
Total value of work (excl GST)	\$20,000.00	\$30,000.00			
Request for funding? <i>Yes/no</i>	Yes	yes			
Amount of ELA funding applied for (excl GST)	\$20,000.00	\$30,000.00			

(5b) Provide an itemised list of costs incurred by your group for the case so far, including costs incurred at council-level proceedings. Provide the total cost.
<p>All work and totals below have been provided pro bono.</p> <p>Research – 36 hrs x \$35 hr: \$1260.00</p> <p>Hui - \$350 x 4 meetings: \$1400.00</p> <p>Travel – 4 persons x 120 km x 0.45c km: \$216.00</p> <p>Hearing – 4 persons x 5 hrs x \$35 hr : \$700.00</p> <p>Strike out defence – total hours and hui = \$1200.</p> <p>Total: \$4776.00</p>
(5c) Have you applied for and/or received any other funding from the Crown to support your case/involvement in the proceeding/hearing? <i>If yes, please provide details, including the total amount requested and/or received and the purpose of the funding.</i>
no

Financial details - supporting information needed:

Tick the boxes to confirm all information has been provided.

<input checked="" type="checkbox"/> (5d) A summary of the experience and expertise for each person in (5a) that you are requesting funding for. <i>This may be in the form of a CV.</i>
<input checked="" type="checkbox"/> (5e) A copy of an original quote for each person in (5a) that you are requesting funding for. <i>Quotes must include the cost per hour, time for preparation, hearing time, any mediation time, and any pro-bono contributions. Quote amounts should align with the amounts in (5a). Estimates are not acceptable.</i>
<input checked="" type="checkbox"/> (5f) A copy of your group’s most recent audited accounts or two latest bank statements from your group’s main operating account. Note what amount is available to support your case below:
<p>As at today’s date the Torere Reserves Trust bank balance is 9(2)(a) . As the Treasurer I confirm that this money has been received as funding that belongs to umbrella organisations that are associated with the Torere Marae and the Torere Reserves Trust.</p> <p>Any short fall of funds related to the Resource Consent Appeal over and above the \$50,000 grant funding sought will be covered by whanau contribution via fund raising with those who strongly support this Appeal.</p> <p>Rachell Mio Treasurer Torere Reserves Trust</p>

6. Group’s declaration

This declaration must be signed by the primary and secondary contacts identified in section 1 if they are members of the group. If either or both contacts are not members of the group, the declaration must instead be signed by duly authorised members of the group. **Each person must have their declaration witnessed by a person authorised to take a statutory declaration.**

We,			
Garry Watson	of	9(2)(a)	Torere Reserves Trust Deputy Chair
and			
Rachell Mio	of	9(2)(a)	Torere Reserves Trust Treasurer

both solemnly and sincerely declare that:

- the details we have given in all sections of this application are true and correct to the best of our knowledge.
- we have the authority to commit our group to this application, and we understand and will meet the financial and reporting requirements as specified in the deed of funding contract should our application be successful.
- we are not seeking funding in this application for any person who is a member of our group.
- our group is eligible for funding as specified in the ELA Fund Guide for Applicants, including our group's not for profit status.
- all information contained in this application is subject to the Official Information Act 1982, and therefore this information may be released upon request.
- the Ministry may collect from third parties any information it deems necessary about the applicant or the case.
- the Ministry reserves the right to seek more information from the applicant before sending the application to the Advisory Panel, and will defer if necessary until the Ministry has received all information requested.

We both make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

(signature of declarer)

By typing your name in the space provided you are electronically signing this application form.

Date:

07/06/2024

(signature of person authorised to witness statutory declaration)

By typing your name in the space provided you are electronically signing this application form.

Date:

07/06/2024

(signature of declarer)

By typing your name in the space provided you are electronically signing this application form.

Date:

(signature of person authorised to witness statutory declaration)

By typing your name in the space provided you are electronically signing this application form.

Date:

Before sending us your application, please check that you have: *tick boxes to confirm*

Answered all relevant questions

Included all required signatures

Attached all required supporting information

Send your application and supporting documents to ela.fund@mfe.govt.nz.



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Rachell Mio

Rachell Mio (signature of declarer)

By typing your name in the space provided you are electronically signing this application form.

Date: 7/6/24

Imackenzie

(signature of declarer)

By typing your name in the space provided you are electronically signing this application form.

Date:

(signature of person authorised to witness statutory declaration)

By typing your name in the space provided you are electronically signing this application form.

Date: 7/6/24

Veronica M. MacKenzie

Solicitor

ROTORUA

(signature of person authorised to witness statutory declaration)

By typing your name in the space provided you are electronically signing this application form.

Date:

Before sending us your application, please check that you have: tick boxes to confirm

Answered all relevant questions

Included all required signatures

Attached all required supporting information

Send your application and supporting documents to ela.fund@mfe.govt.nz.

