

CHAPTER 7

REACTION

The first reaction came not from Ngati Paoa but from European residents of Waiheke, for Ngati Paoa was barely resident there. They had had an experience in reacting, having earlier battled over the disposal of adjoining Crown land to private and apparently wealthy individuals, and a Waiheke Land Action Society (Inc) (the 'Action Society') was already in existence. The disposal of the Waiheke Scheme involved the loss of another large block of Crown land to private ownership and to the ownership of one who, if not as wealthy as the other, had other reasons to be as well known. Mr Evans was a public figure through his positions on the Rural Bank and Wool Board but had attracted further publicity only shortly before the Waiheke announcement through conviction for offences against the Secret Commissions Act.

The Action Society held public meetings, lobbied Parliamentarians and protested to the Board and Ombudsman on the disposal of more Crown land, the disposal of that land to Mr Evans in particular, the loss of unemployment schemes on Waiheke Station and the loss to the public of the kauri bush stands and access (although it had been arranged that the bush would remain as Crown Reserves). In September 1983 Mr Gary Blair, a member of the Action Society and a shepherd on the Waiheke Scheme, filed a petition to Parliament. It was referred to the Land and Agriculture Committee.

The petition sought an investigation of the matters leading to the Board's decision and a review of that decision. The latter was achieved even before the petition was heard insofar as the Board reviewed its own decision and resolved, on 6 October 1983, to affirm it. The former involved an inquiry by the Committee. Following a hearing on 26 October 1983 the Committee determined it had no recommendation to make.

Mr Blair explained that at the time of his petition he did not know of Ngati Paoa. He claimed to have inquired of 'an official from Hamilton' as to the original inhabitants of the island and was told 'the Department had tried to find descendants and had found none'. He said he made inquiries of his own to 'find' Ngati Paoa.

The first Ngati Paoa involvement of which we were informed came as a telegram to the Hamilton District Officer (now called 'Director of Maori Affairs, Hamilton') from Mrs Hariata Gordon. The District Officer thought the telegram arrived in 'September/October 1983.' Mr Evans had accepted the Board's offer on 18 October.

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Members of Ngati Paoa meantime were slowly regrouping. They were well scattered. The main applicant, Mrs Hariata Gordon, was living in Wellington at the time. The District Officer advised he did not hear further from Ngati Paoa until 'early January 1984' when Mrs Gordon asked that a Ngati Paoa delegation meet with Mr Evans. By accident they did meet the following week, in the Department of Maori Affairs at Hamilton, and in the District Officer's view the delegation 'seemed pleased that a member of Ngati Paoa was able to take over the land'.

It was not until 15 January 1984 that a general tribal meeting could be convened. At a hui at Paoa Whanaunga Marae, Kaiaua, a Ngati Paoa executive was formed to continue discussions with the Minister of Maori Affairs and Mr Evans, and an action committee was formed (Ngati Paoa Waiheke Whenua) to occupy the land if need be. This claim was filed on 18 January 1984 and a group visited the scheme land on 22 January. Then, on learning that settlement of the transfer was fixed for 2 February, when vacant possession would be given and taken, Ngati Paoa resolved to fill the vacancy themselves.

On 31 January a group of fifteen moved onto the block, camping at the main gate to restrict access. They were soon joined by members of the Action Society and the group swelled to twenty-two. Mr Blair said: 'When Ngati Paoa arrived to occupy the land I was very pleased on several counts; firstly, it was rightly their place to fight over. Even though the people who went to Wellington (on the petition) all share a love of the land involved, we were not the tangata whenua of Waiheke. The time had come for us to support them. Secondly they were not what I had imagined a Maori activist would look like. They were ordinary people alienated from their homeland . . .'

The District Officer was instructed to attend at the island and serve warning notices. He did so, on 1 February, returning the next day with members of the police. After discussions some of those in camp then left but eleven remained and were arrested for trespass.

Those eleven were convicted and sentenced on 12 May 1984 but each appealed to the High Court where the convictions were set aside. Amongst other things, it was held, the warning notice could only be given by a person authorised by the Board and in this case, the authority had purportedly been given by circulating the fourteen Board members and obtaining the signatures of six. The High Court considered the authority had not been properly given, even had it been signed by all fourteen members, for a meeting of the Board was necessary. That decision, of 20 September 1984, shows that this was no mere technicality and we refer to the following extract from it:

it accords with the objective of the provisions in the statute relating to the operation of the Board to hold that decisions can only be taken at meetings. As I have already indicated, there are fourteen members of the Board. Clearly that membership has been prescribed carefully in a way to ensure that the Board should have available to it a wide range of representative opinion, particularly from the Maori community. It accords with that approach

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that decisions should not be made by the Board without the opportunity of all members of the Board able to attend a properly called meeting to consider any proposed decision and to debate it openly at the meeting. Only thus can the decision truly be said to be that of the members of the Board. To allow decision by circulation would be to deprive members of the Board of the benefit of hearing the views and arguments of others.

This case illustrates the importance of that approach. The issues to be determined relating to this land at Waiheke were clearly those where Maori cultural attitudes and views were relevant. The procedure prescribed in the Act should have ensured that before the Board made a decision affecting matters of this kind there should at least have been an opportunity for full discussion. This objective can hardly be said to have been achieved where the authority was signed as the result of it being circulated to only six of the members of the Board.

The relevance of those cultural attitudes and views, and the weighting given them by the Board, are considered further in our overview and recommendations that follow.

