

CHAPTER 6

**DISPOSAL OF THE WAIHEKE SCHEME**

The Board had no legal obligation to dispose of the scheme to a Maori, The land had been bought and developed and stock had been purchased all from public monies. It was money allocated for Maori development but upon sale the outlay would return to the Maori account for a Maori benefit. The authority to sell Crown land under development is contained in sections 335(2) and 384(2) of the Maori Affairs Act.

At first the scheme was offered to the Department of Lands and Survey as a base for existing or proposed farming operations in the area, or as an addition to the Hauraki Gulf Maritime Park. It was considered of insufficient merit for those purposes to warrant the purchase price.

The Head Office of the Department of Maori Affairs then proposed an open market sale as providing the simplest solution. That would have involved a sale of the land as surplus Crown land by the Department of Lands and Survey. The Board would recover its development debt (then \$670,000) and the price paid for the land with interest compounded (\$140,000), but we were given to understand the net profit (probably some \$400,000) would have passed to Treasury. The loss of that profit to the Maori Development account may not have seemed satisfactory to the Board which had laboured with the property for many years. It may also have been unsatisfactory to Government had the land been sold on the open market. At about this time public controversy was raging over the sale of adjoining Crown land on Waiheke to private interests, in what is sometimes called 'the Stony Batter' affair. In any event the Board was to decide that the land should be offered for Maori settlement for it had been developed from money allocated for Maori benefit. Though the original policy at the time the scheme began had been the settlement of individual Maori farmers, that was no more than an initial policy and upon the subsequent purchase of the freehold, there was no obligation to anyone to do that. It was open to the Board to settle a Maori trust or incorporation.

What took the claimants by surprise however was the disclosure, in the course of our hearing, that at this time the Board had considered the possible alienation of the scheme to Ngati Paoa. They were not the forgotten people they thought they were. Ngati Paoa had some cause to feel they were, for in the course of the public debate that preceded our hearings officials were heard to say that no one knew of Ngati Paoa's existence. Indeed in giving evidence to us

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one Board member stated that he knew not of Ngati Paoa's association with the land at the relevant time, and that, had the Board known, further enquiries would have been made. In fact, as Ngati Paoa came to learn, a specific recommendation to 'return' the land to Ngati Paoa was put to the Board in 1982, and equally specifically, that proposal was rejected.

In December 1982, as part of a three yearly review, the District Officer, Hamilton, had opposed further major spending recommending that the scheme be wound up in three years with some limited essential expenditure being sustained by the remission of further interest. He went on to recommend that investigations be made for the block to be taken over by a Ngati Paoa tribal trust, or the Tainui Maori Trust Board on Ngati Paoa's behalf, pointing out that the land had been acquired with a view to Maori utilisation, that the land was in Ngati Paoa territory, that the early sales of the land might be suspect, that a sale to the tribe might be practicable, and that the tribal involvement would further develop PEP programmes. He thought the three year period should be used for investigating whether there was any justification for handing over the land to Ngati Paoa people.

The District recommendations were opposed by the Head office of the Department. 'The Crown purchased the property as General land' it noted and neither the Tainui Maori Trust Board nor the Ngati Paoa people had any specific claim upon it. A transfer to Ngati Paoa, which had nothing, would require a gift of a substantial part of the equity, and that could not be contemplated without Parliamentary approval sought and obtained on some substantial grounds. Whether or not substantial grounds existed was not substantially investigated.

In any event the Head Office of the Department opposed the District report and recommended that the scheme be wound up and sold. The Board concurred, at a meeting of 3 February 1983 but with some dissension, notably that of the Board representative for the Maori electorates (Mr KT Wetere as he then was), who at that and subsequent meetings urged consultation with Ngati Paoa.

At that meeting however, nor did the Board agree that there should be an open market sale without further enquiries. Concern was expressed to maintain the Board's brief of settling Maoris, if that were practicable, and the Department was instructed to investigate and cost the various disposal options.

The District Officer reported that 486 hectares of developed land might profitably be severed for the settlement of a Maori sheep farmer and the balance rough land sold as surplus.

Before reaching that conclusion the District Officer reviewed various possible scenarios including a sale at full value to the Tainui Maori Trust Board to hold the land on Ngati Paoa's behalf. The Trust Board was a substantial concern, which Ngati Paoa was not, and in his view, the Ngati Paoa land was within the wider boundaries of the Tainui area. (He appears not to have considered whether Ngati Paoa was represented on the Board. We were given to understand that Ngati Paoa held to some independence. Ngati Paoa had no representation on the Board, it was said, because it had declined to be involved in an arrangement between

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Tainui and the Crown over land confiscation problems many years ago and which had led to the Trust Board's establishment.) Administration by the Trust Board would have required paying a manager and staff and on the District Officer's budget figures the Trust Board would need to put in at least \$840,000 cash. In evidence to us the District Officer advised he knew the Trust Board well and it did not have that money. If it did, profitability would still be marginal and it was not a good investment of trust funds. The Deputy Secretary agreed, in evidence before us, stating he did not think the Trust Board could have made a profit unless the property was given to it at a fraction of its current value with the greater part of the debt being written off. That would have required Parliamentary consent.

The Board considered the report at a meeting on 7 April 1983. It directed the Department to canvass Maori people, trusts, incorporations or trust boards to buy or lease the 486 hectares, the residue or both. On the figures supplied at that stage however it was patently obvious that whoever exercised any option would need to make a substantial cash contribution if the project was to be viable.

The Department sent information about the proposals to its various offices and to some twelve Maori authorities or individuals in the South Auckland-Waikato area known to have some strong asset base (including the Tainui Maori Trust Board). It then proceeded to advertise the property as available for settlement by 'suitably qualified Maori farmers' by placing small advertisements in the *Auckland Herald*, *Waikato Times* and *Dominion* newspapers on three occasions. No notice was given to any Ngati Paoa authority.

Ngati Paoa complained to us that they were not given notice and learnt too late of the opportunity to tender. Given the intention to canvass only those with assets that is not surprising. Certainly a Ngati Paoa trust for the leasing of two tiny islands as wildlife refuges had existed since 1981, but there was not known to the Department, and indeed there is still not known, any Ngati Paoa trust, incorporation, trust board or private farmer of the locality with the cash backing that was needed. That in itself spells out the Ngati Paoa case for while the Board was seeking a Maori body with the necessary capital, the nub of the Ngati Paoa complaint is that it has none and ought to have special assistance.

RT Mahuta for the Tainui Maori Trust Board protested that the Trust Board never received full particulars of the alternatives offered and questioned whether tribal bodies, as distinct incorporations or owner trusts, could ever be involved in land projects without some equity write off and without training programmes to enable local Maori groups 'to pick up these developments'.

However seven individuals did respond to the advertisements. Each was sent full details of the property. Only two made formal application. We agree with the Board that of them, the proposal of Hori Matua Evans of Gisborne was demonstrably the best, Mr Evans and his family having both cash and technical know-how well above that of the average New Zealand farm settler.

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The Evans offer was not for one piece or the other but the lot. After some processing by the Department a recommendation was put to the Board that an Evans family partnership would buy the stock, plant and improvements and some additional livestock by way of some \$300,000 cash and \$480,000 loan from the Board at 7.5% interest. The partnership would lease the land for 33 years with perpetual right of renewal, the rent reviewable each 11 years at 4% of the unimproved value with a right of compensation for improvements on termination of the lease. The lease would grant the partnership an option to purchase for cash or by deferred payment. Other provisions would reserve to the Crown the first right of refusal in the event of the partnership wishing to dispose of its leasehold interests in the first 14 years, and the first right of refusal to buy back the freehold if after acquiring the freehold the partnership wished to sell.

The terms, the rate of interest on the loan, and the rental and review periods are concessional. The authority of the Board to lease development lands on these terms is in section 345 of the Act. The authority to include an option to purchase is in section 335(2) and 384(2).

Some facets of the Evans offer deserve noting. It weighed heavily with the Board that Mr Evans could trace descent to Ngati Paoa and in particular, to an early occupant of Waiheke. It appears that Mr Evans' great great grandmother, Hariata Whakatangi, was born and reared at Waiheke from the early 1840s. (We were told she was of Ngati Paoa although it was also said she was of the Taipari family, which we understood related mainly to Ngati Maru). She married William Martin, an American seafarer who traded in flax gathered from Te Araroa near East Cape (the marriage is recorded in McKay's *Historic Poverty Bay*). Her daughter, also born on Waiheke, was to visit Te Araroa frequently and for her work there was later to be given land at Te Araroa which she called Tokota after the home block on Waiheke Island. The Te Araroa block still bears that name today. The daughter, also called Hariata, married one of the Te Araroa people, Hori Akuhata. Hariata and Hori Akuhata lived at Waiheke but later shifted, with Hariata Whakatangi or Martin, to Thames. On her death Hariata Whakatangi was buried at Waiheke. Hariata Akuhata died in 1928 at age 104 and she was buried at Te Araroa. Some of her children settled there, at Tokota, and thus the Akuhata family of the East Coast grew. Mr Evans is a member of that family.

Advice, through the media, that Mr Evans was also of Ngati Paoa, did not weigh too heavily with Ngati Paoa. It is usual that a Maori can trace ancestry to a range of tribes, near and far. More significant is how a Maori identifies and maintains links to a proclaimed tribe by attending that tribe's gatherings. In his public life Mr Evans was identified not with Ngati Paoa but with the distant Ngati Porou. Matters have clearly changed since our hearings opened, but at the time the Evans' ancestral claim, without the prior affirmation of ancestral links by attending Ngati Paoa hui, merely invited the Ngati Paoa rejoinder that they – no-one else – should identify their own and that Ngati Paoa should have been consulted in any selection process when tribal affinity was seen as important.

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It also impressed the Board that the Evans offer was made on behalf of a proposed family partnership involving two 'farming' sons and thus envisaged the settlement of more than one Maori upon the land. That, in the Ngati Paoa view, was merely a device to circumvent settled rules. Mr Evans had had Board assistance before, in the acquisition of a vineyard in the East Coast, the sale of which would finance the Waiheke venture. A further Board loan would still be needed to the extent of some \$480,000, a concessionary rate of interest was proposed with concessionary lease terms, and yet it was not Board policy to assist one person twice. The Board maintained that it was not – the earlier loan was to Mr Evans, the proposed loan was to a partnership. In Ngati Paoa's view the Board was playing with semantics. The family partnership was merely a cloak to conceal. If the Board could fashion a cloak or stretch the rules to accommodate Mr Evans, could it not also fashion a cloak or stretch the rules for Ngati Paoa?

No doubt however the main consideration was Mr Evans' wide farming experience and capital. Not only was he to contribute the sale proceeds of his Gisborne vineyard, but he had also managed sheep and cattle farms for years, was a former Director of the Rural Bank, a former member of the Wool Board and a Manager of some substantial Maori incorporations. His eldest son was completing a Bachelors degree in Agriculture. Mr Evans was the applicant most likely to succeed in farming this difficult property.

The Evans proposal was accepted by the Board on 31 August 1983 with settlement to take effect on 1 February 1984. An offer was sent to Mr Evans on 20 September 1983 and accepted on 18 October.

Once the Board's decision was publicly known, public reaction was swift and in less than a month a petition on the matter was before a Select Committee of Parliament.

