

Report of the Waitangi Tribunal on the Orakei Claim

Appendix 2 Record of Proceedings

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APPENDIX II

RECORD OF PROCEEDINGS

Notice of intention to claim was filed on 10 May 1983. Further particulars were sought and a final claim was filed on 20 February 1984.

Public notice of the claim and of the first proposed hearing was given in New Zealand Herald and Auckland Star on 6 and 20 April 1984. Individual notices of the claim were sent on 20 February 1984 to the Secretary, Department of Maori Affairs, Director-General, Dept Lands & Survey, and on 22 February 1984 to Prof I H Kawharu, to the Director-General, Housing Corporation, Commissioner of Crown Lands, and to Secretary Ngati Whatua of Orakei Maori Trust Board.

The Tribunal was constituted to comprise Chief Judge Durie (Chairman), Sir Graham Latimer and P B Temm QC. The initial hearing was at Orakei Marae throughout the week commencing 6 May 1985. Persons who made submissions, in order of appearance, were

Mr Joseph Parata Hawke, claimant (verbal with documents put in)
Mr D Young, Department of Lands and Survey (verbal documents and maps)
Dr D V Williams (verbal with six written submissions separately given and extensive documentation put in)
Dr R Walker (verbal and written, personal and also as Chairman of both Auckland District Maori Council and Orakei Marae Trustees)
Mr Hapi Pihema (verbal)
Father T Dibble (verbal with written submissions for Joint Working Group on Bastion Point)
Mr Alec Hawke (verbal)
Mr Harawira Halkyard (verbal)
Grace Robertson (verbal)
Mr C B C Chittenden (verbal and written)
Ms Ripeka M Evans (verbal)
Mr Matawhero (verbal)
Professor Ian Hugh Kawharu (verbal, documents put in)
Mr E Rothwell, Auckland Branch Manager, Housing Corporation (verbal, documents put in)
Mrs M C Boyce (verbal and documents put in)
Mr Philip Hemara (verbal)

Titirangi Bee Thompson (verbal)
Mr Tozer (verbal)
Mr Terry Hawke (verbal).
Mrs M Mutu-Grigg (verbal) P J H Southorn (written, no appearance) M
Fleming (written, no appearance) F Hackshaw (written, no appearance)
G E Rowan, District Commissioner of Crown Lands (verbal) D D Millar,
Chief Surveyor (verbal, documents put in) B Young, Maori Land
Investigating Officer, Department Lands and Survey (verbal, documents put
in) P E Phillips, Department Lands and Survey (verbal, documents put in)

Documents #1 to #18 were filed in evidence.

In the course of the first hearing it was apparent the claimants considered the ownership and control of Orakei Marae was in issue. The Tribunal considered that was not apparent in the claim as filed or the notices given and gave directions for further notices and hearings.

Public notice of the claim with a special reference to the marae question, and notice of the second proposed hearing was given in the New Zealand Herald and Auckland Star on 6 and 20 April 1985. Individual notices were sent on 6 June 1985 to

Solicitor-General
Secretary, Orakei Marae Committee
Secretary, Orakei Marae Trustees and to each trustee individually
Secretary, Orakei Marae Trust Board
Secretary, Orakei Marae Education Centre and five individual members of
the Centre
Town Clerk, Auckland City Council
Director-General, Lands and Survey
Commissioner of Crown Lands
Director-General, Housing Corporation
Secretary for Maori Affairs
Rev F Donnelly, Director, Youthline House Trust
Joint Working Group on Bastion Point and to several individuals who had
expressed an interest.

The Tribunal sat at Orakei Marae on 8 and 9 July 1985 to further consider the claim and including that part of it as related to the ownership and control of the marae.

Submissions were made by:

Mr T S P Cootes (verbal)
John Cootes (verbal and written, for Bastion Point Committee with
documents put in)
Peter Rikys (verbal and documents put in)
Father Michael Shirres (verbal and written)
Mr Hone Harawira (verbal)
Mrs Ani Pihema (verbal, written and documents put in)

Mr Marcel Thompson (verbal)
Reverend Maori Marsden (verbal)
Dr David V Williams (verbal with written submissions)
Mike Rameka (verbal with written submissions for Okahu Church and
Urupa Trustees)
Harry H Craig (verbal)
Ms Emily Karaka (verbal)
Professor Ian Hugh Kawharu (verbal, documents put in)
Mr Hapi Pihema (verbal, written and documents put in)
Joseph Parata Hawke (verbal) W. Mihi (verbal) M Tarewa (verbal) A Te A
Hawke (verbal and with written submissions for Tamaki Makaurau Work
Trust)

The claimants were not represented by Counsel at either hearing. J Paki
appeared for the Department of Maori Affairs (documents put in). V Norman
was appointed interpreter.

Documents #19 to #27 were filed in evidence.

Following the hearing of 6 June the Tribunal was advised that subject to the
enactment of the Treaty of Waitangi Amendment Bill then before Parliament,
the claimants would abandon their claim and substitute another under the
amended provisions.

The Bill became law and on 5 April 1986, the claimants formally abandoned
the old claim, and filed another. This new claim is printed as appendix I.

Meanwhile the Tribunal had undertaken further research. Documents #28 to
#35 were received. Based upon the earlier evidence and further research a
Report was produced covering the history of Orakei in the context of the
claim. On 8 August 1986 the Chairman issued directions for the dissemination
of the Report, the issuing of further notices and the arrangements for further
hearings.

Copies of the directions, Report and the new claim were sent on 13 August
1986 to

Dr D V Williams (authorised to receive for the claimants)
Chairman, Ngati Whatua of Orakei Maori Trust Board
Chairman, Orakei Marae Trustees
Chairman, Orakei Marae Centre for Education and Cultural Exchange Inc.
Secretary for Maori Affairs
Auckland Director, Department of Maori Affairs
Maori Trustee
Auckland Branch Manager, Housing Corporation of New Zealand
Commissioner of Crown Lands, Auckland
Director-General, Department of Lands and Survey
The Mayor and Town Clerk, Auckland City Council
The Director, Youthline House Trust Inc.
The Secretary, Anglican Diocese of Auckland.

The Tribunal reconstituted in 1986 to hear the new claim under the provisions of the Treaty of Waitangi Act 1975 as amended in 1985 comprised Chief Judge Durie (Chairman), Rt Rev M Bennett, Professor G S Off, Professor M P K Sorenson, Mrs G M Te Heuheu and Mr M Delamere.

Public notice of the new claim and of the proposed hearing date was given in the New Zealand Herald and Auckland Star on 22 October and 5 November 1986. Individual notices of the claim and hearing date were given to those abovenamed (to whom the directions and report had been sent) on 20 August 1986, together with: the individual members of the Ngati Whatua of Orakei Maori Trust Board, the individual members of of the Orakei Marae Reserve Trustees, the individual members of the Orakei Church and Urupa Reservation Trustees, the former members of the Orakei Marae Development Council, and other persons who had expressed an interest.

The claim was heard at Orakei Marae throughout the week commencing 17 November 1986.

Mr G A Howley was appointed as Counsel to assist the Tribunal. Ms Violet Norman was appointed as interpreter.

The claimants were not represented by Counsel.

Mr J Paki and Ms P Kingi appeared for the Department of Maori Affairs and the Maori Trustee, also Mr M Maniapoto, Chief Registrar, Maori Land Court and Mr P Park, Maori Affairs Department appeared. Mr Hanna appeared for the Auckland City Council.

Submissions (verbal and written, or maps) were received from

Mr G Howley, Counsel assisting Waitangi Tribunal
Mr G P Hanna, Counsel appearing for Auckland City Council
Mr Carthy, Solicitor, Housing Corporation
Ms P Kingi, Solicitor, Department of Maori Affairs and Maori Trustee
(documents put in)
The Rt Rev Bruce Gilbert, Bishop, Diocese of Auckland, Anglican Church
Mr J E Towle, Chancellor, Diocese of Auckland
Mr I Ralph, Standing Committee, Diocese of Auckland

Verbal submissions were made by Mr A Ralph, Rev M Marsden (with document), Rev T Marsden, Mr M Tarawa, Mr T Wikiriwhi, Mr P Hoet, Mrs Hobson, Father T Dibble (with written submissions for Joint Working Group on Bastion Point), Mr N Te Whata, Mr J M Rameka (with document), Mrs E Karaka, Mr D Tumahai (personal, and Deputy Chairman of Ngati Whatua of Orakei Maori Trust Board), Mr J P Hawke (with documents put in, and a waiata), Mrs P Te Herengi, Mr T Hawke, Ms S Hawke, (with documents), Mr P T Hawke Mr K Pene, Mr T Kirkwood, Mr R G Miller (Senior Land Surveyor, Auckland City Council) (with documents and maps), Mr J Hawke, Mr P Maihi, Mr J Betts (Divisional Planner, Auckland City Council) (verbal, and documents), Mr Bradbourne (Director of Parks, Auckland City Council) (verbal and

documents), Mr H Pateoro, Dame Whina Cooper, Mr M Tarawa (with document), Mr G Tumahai (with document), Mrs M C Boyce (verbal and documents put in), Mr M Thompson, Mr H H Craig (with document), Mr Te Waru Hill (with document), Mr P Regan, Mrs R Grey (with document), Mr J M Mullane, Mr T Marsden, Mr F C Symes (Branch Manager Housing Corporation) (with documents), Mr J Broadbent, Mr G A Matthews (Assistant Manager Housing Corporation) (with document), Mrs T Cruikshank, Mr A Te A Hawke, Mr M Maihi, Mr W Pihema, Mr N Cooper, Mr P Bradley (with document), Miss A Pihema (with document), Mr T Watene.

Additional submissions were received from Sir Ralph Love (written, no appearance), Prof I H Kawharu (written, no appearance), Maori Trustee (written, no appearance), W Sutton (written, no appearance), Ngati Whatua of Orakei Maori Trust Board (written), Dr G Butterworth (written only).

Documents and maps #AI to #A51 were filed in evidence.

Waitangi Tribunal, Department of Justice, Wellington.