

# Report of the Waitangi Tribunal on the Orakei Claim

## 15 Recommendations

### 15 Recommendations

#### Recommendations

WE RECOMMEND to the Minister of Maori Affairs and to the Ministers of Housing, Lands, Local Government, Health and Finance -

#### 1. Okahu Park and the Bastion Point Headland Reserves

(a) That Okahu Park and the Bastion Point headland reserves (excluding the M J Savage Memorial) and being the areas marked 20, 21, 22, 23, 28, 29 and 30 on appendix III cease to be Crown land and be vested in the Ngati Whatua of Orakei Maori Trust Board as Maori land holding historical and spiritual significance for Ngati Whatua of Orakei and available as a park for the benefit of Ngati Whatua and the citizens of Auckland.

(b) That administration of the lands be vested in a statutory Board called the Ngati Whatua of Orakei Reserves Board (or such other name as may be sought by Ngati Whatua of Orakei Maori Trust Board).

(c) That the Board comprise six members, or such other even number as may be agreed to, half to be appointed by the Ngati Whatua of Orakei Maori Trust Board, half by the Auckland City Council, the chairman to be elected by the Board members from among their number.

(d) That the Reserves Board control and manage the reserves for the purpose of their classification under the Reserves Act 1977 in accordance with the appropriate provisions of that Act, at the cost of the Auckland City Council.

(e) That notwithstanding the representation of the Trust Board on the Reserves Board, the Reserves Board may lease or give licences for parts of the reserve for Ngati Whatua farming or for tribal community or cultural functions to be held at suitable times and places.

(f) That the Crown pay fees to the Trust Board appointees in accordance with the Fees and Travelling Allowances Act.

(g) That the Reserves Board be exempt from the payment of rates.

(h) That the reserves be renamed as Ngati Whatua Park or such other name as the Trust Board may approve. (refer 14.3.1, 14.3.3, 14.3.4, 14.4.1, 14.4.2)

## 2. Orakei Marae, Church and Urupa

That the Orakei Marae, Church and Urupa marked 105, 106, 107, 102, 114, and the access strip marked 112 on appendix III be vested in the Ngati Whatua of Orakei Maori Trust Board, freed from the payment of rates. (12.19, 14.3.9, 14.4.2)

## 3. Kitemoana Street housing-mortgage

(a) That the liability of the Ngati Whatua of Orakei Maori Trust Board to pay \$200,000 to the Crown be abrogated by the repeal of s 16 of the Orakei Block (Vesting and Use) Act 1978.

(b) That the Crown settle with the Maori Trustee the principal sum on the Board's mortgage to the Maori Trustee with interest paid by the Board to the date of settlement; and that the Maori Trustee make appropriate refunds to the Board (14.3.10, 14.4.3).

## 4. Youthline Trust site, Community site, Housing Corporation Land

(a) That the Crown vest in the Ngati Whatua of Orakei Maori Trust Board, without conditions as to user

(i) the land (No 110 appendix III) comprising 4303m<sup>2</sup> at the northern end of Kupe Street, Orakei and set aside as a local purpose (community health) reserve by s 15 of the Orakei Block (Vesting and Use) Act 1978, the control and management of which was vested by the Act in the Youthline Trust (Incorporated).

(ii) the land (No 31 appendix III) comprising 7798m<sup>2</sup> at the northern end of Kupe Street, Orakei being all the land described in the second and tenth schedules to the 1978 Act, and which was vested in the Auckland City Council as a local purpose (site for community facilities) reserve by s 13 of that Act.

(iii) the land (No 111 appendix III) comprising 1.7986 ha situated by the Bastion Point (Kohimarama) headland being the land described in the eleventh schedule to the 1978 Act and which was vested in the Housing Corporation of New Zealand by s 14 of that Act.

(b) That the Board be exempted from any reserve or reserve fund contribution requirements on any subdivision of the above lands and that they be held rate free for so long as they remain undeveloped.

(c) That the Crown refund to the Youthline Trust (Inc) and Auckland City Council, any sums expended by them in respect of the lands described (14.3.6, 14.3.7, 14.3.8, 14.4.3, 14.4.5).

## 5. Endowment Contribution

(a) That the Crown pay to the Ngati Whatua of Orakei Maori Trust Board the sum of \$3,000,000; and

(b) That such sum be paid in cash, or made inflation proof if paid over time;

(c) That the Crown meet the cost of an independent adviser and consultant on a four year contract to assist the Board. (14.2, 14.4.4, 14.4.5, 14.4.7, 14.4.12)

## 6. Recognition of tribal authority

That the purposes and powers of the Ngati Whatua of Orakei Maori Trust Board be extended in the manner contemplated at 12.23 and 14.4.9.

## 7. Legislation

That the appropriate legislation to implement these recommendations be drafted in full consultation with the Ngati Whatua of Orakei Maori Trust Board and with such amendments or additions as the Board may agree to.

## 8. State Housing

That Housing Corporation be directed to provide a preferential policy for Ngati Whatua persons in the allocation of State homes in the Orakei block.

WE REFER to the Attorney-General the claim to pardons and a remission of outstanding fines, the background outlined in Part I of this report, and our findings and comments at para 12.24.

Those recommendations we make that the Crown may yet support its Treaty commitment to Ngati Whatua. For a tribe that initiated and aided substantially the establishment of Auckland on its land, that stood by the Crown in moments of great crises, that held fast to law and order despite every vicissitude put upon it, and which suffered the most dreadful consequences and then through no fault of its own - and great fault on the part of others - what we recommend is small recompense indeed. Yet it would be a major step to implementing the principles of the Treaty, that the tribal right long denied should now be re-affirmed in a realistic way and that the Crown should move in no unstinting manner to promote the re-establishment of the tribe it displaced.

Father Shirres we thought summed up the Ngati Whatua case with a quotation from *Pacem in Terris* (Peace on Earth), an encyclical letter of Pope John XXIII

One thing is clear beyond dispute; any attempt to check the vitality and growth of ... racial minorities is a flagrant violation of justice; the more so if such exertions are aimed at their extinction. Indeed, the best interests of justice are served by those public authorities who do all they can to unprove the human conditions of the members of these minority groups, especially in what concerns their language, culture, ancient traditions and their economic activity and enterprise.

Dated at Wellington this fourth day of November 1987

E T J Durie, Chief Judge, Chairman G S Orr

M A Bennett, M P K Sorrenson

M E Delamere (Members)

Georgina Te Heuheu

---

*Waitangi Tribunal, Department of Justice, Wellington.*