

ORAKEI

The Waitangi Tribunal Claims
A Resource for Schools
SET FOUR

Section One

Only a few kilometres from the centre of Auckland city there is a piece of land called the Orakei Block which has a special significance for both Maori and non-Maori people alike. Situated between Hobson Bay and Mission

Bay, it includes the suburb of Orakei, Okahu Bay, Orakei Domain, the Savage Memorial, and Bastion Point.

The history of this land tells us much about how the city of Auckland was created. Ngati

Whatua of Orakei, the Maori hapu which once owned the land, paid an immense price when it was lost to them. The story of the land at Orakei helps us to understand what tribal land ownership means to the Maori people.

NGATI WHATUA—THE PEOPLE OF ORAKEI



Ngati Whatua of Orakei are a hapu of the Ngati Whatua tribe which is based at Kaipara. They lived in the Auckland area for many hundreds of years. Their land was rich and fertile, an economic and spiritual resource for the hapu which was the basis of their identity. The whole hapu owned the land communally and they worked it together, tending crops and gathering food from the surrounding coastline and countryside. The tribal base or papakainga was at Okahu Bay.

*The papakainga at Orakei, 1880.
Photo: Illustrated London News; Alexander Turnbull Library.*

THE FOUNDING OF AUCKLAND

In 1840 Ngati Whatua of Orakei invited English settlers to share the land with them. Te Kawau, their paramount chief, wanted to offer hospitality, but he also wanted to gain some security against other tribes, especially the northern tribes which had muskets. So in February 1840 Te Kawau and six other chiefs travelled to the Bay of Islands to invite Governor Hobson to come and live with them, partly to seek protection from their enemies. On 20 March Te Kawau and other chiefs of Ngati Whatua of Orakei signed the Treaty of Waitangi. By September the British flagstaff was raised at a point which is now the top of Queen Street, and Auckland became the capital of New Zealand.

Ngati Whatua of Orakei agreed to hand over approximately 3000 acres of land for a township to be established. The details of the sale of the land were to be worked out later. In the following years the peaceful, loyal and law abiding hapu defended the new Auckland settlement many times against invading tribes.

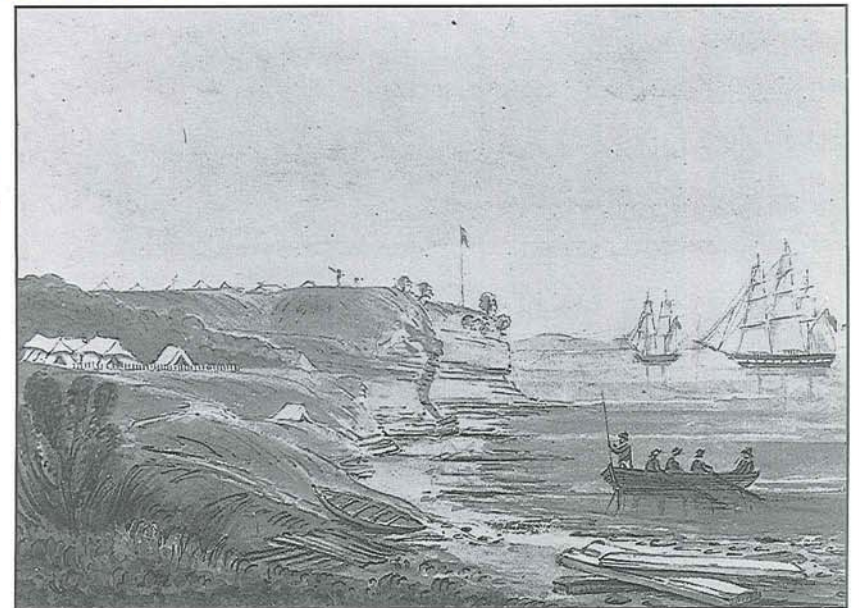
Ngati Whatua made other gifts of land. In 1858 they gave land at Orakei to the Anglican Church for a chapel and school. The following year they gave a headland at Orakei, Takaparawha Point, to the Crown for a defence post against a feared Russian invasion. The land was given on the condition that if it was no longer required, it would be returned to them. This was part of the Maori custom of giving gifts to friends.

As more settlers arrived, more and more land was required. Thousands of acres were sold by Ngati Whatua of Orakei to the Government and, over a couple of years, to private settlers. The tribe probably believed that these sales meant that both parties, themselves and the buyer, then belonged to the land together. Later, Governor Grey decided that much of the land should not have been sold to private settlers so most of it was bought or simply taken by the Crown, without compensation.

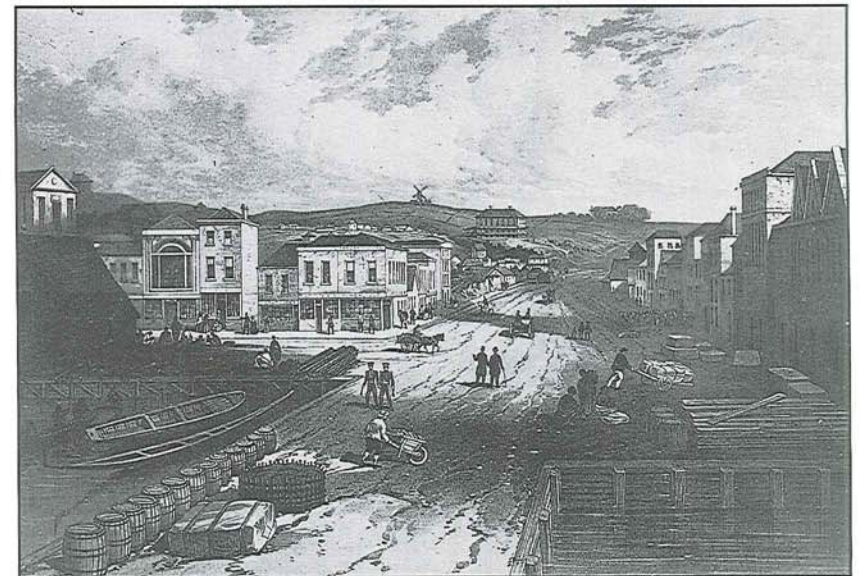
The Crown paid £341 (English Pounds) for the original land handed over for the settlement (3000 acres). Six months later just 44 acres of that land was resold by the government to settlers for £24,275. The money was used to build roads, bridges, hospitals and other services for the new town. The early development of Auckland was paid for by profits made from the sale of tribal land of Ngati Whatua of Orakei.

Te Kawau had always made it clear that the 700 acre Orakei block, the papakainga of the hapu, was not for sale. It was to be reserved in tribal ownership for Ngati Whatua of Orakei forever. By 1854, only fourteen years after their initial offer of land for Auckland, it was all the land the hapu had left. Orakei was their “last stand.”

*The first government settlement on the Waitemata River, 1st October 1840.
Photo: Alexander Turnbull Library.*



*Auckland, 1852 showing Queen Street and Shortland Street.
Photo: Alexander Turnbull Library.*



*Auckland, 1860 Queen Street.
Photo: Alexander Turnbull Library.*



GLOSSARY

- hapu - subtribe
- kaumatua - elder
- papakainga - home base
- tangata whenua - people of the land
- turangawaewae - standing place, place of belonging
- urupa - cemetery
- whenua rangatira - special land, reserve

Section Two

THE LOSS OF THE ORAKEI BLOCK

It took only a hundred years for the actions of other people to completely deprive Ngati Whatua of Orakei of their remaining block of land. The loss of their papakainga severely affected the identity and mana of the hapu. The mana of any tribe is linked to the land which is their economic and spiritual base, the source of their wellbeing and dignity for generation after generation. Once their mana was undermined by the loss of their land, it became almost impossible for Ngati Whatua of Orakei to work together as a tribe. These are the main actions that took place over those hundred years:

1 THE NATIVE LAND COURT DECLARATION (1869)

The troubles at Orakei really began when the Crown set up the Native Land Court. Its job was to award individual titles of ownership to native lands - the same ownership system that operated in Britain. In 1869 the Court surveyed the Orakei Block and awarded it to 13 people. The overwhelming majority of the more than 100-strong hapu were legally disinherited of their land. Their chief at that time, Tuhaere, had a plan to subdivide the block and lease it to settlers whose rent would ensure that the hapu maintained an economic base. But when only 13 owners were named, tribal control of the land and their ability



Paora Tuhaere, d. 1892
Photo: DAC Communicate NZ

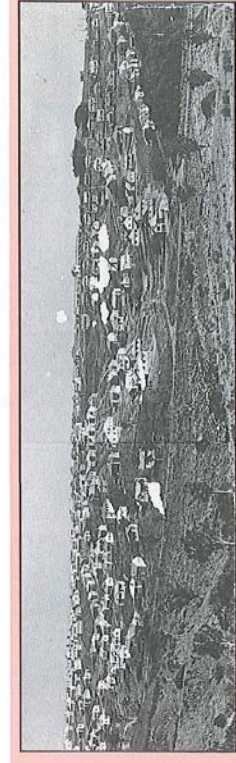
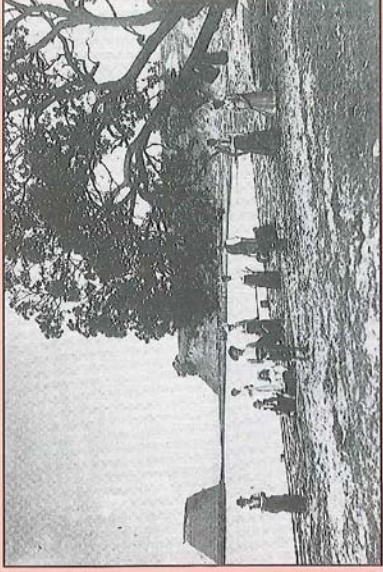
The response of Ngati Whatua of Orakei

When Ngati Whatua of Orakei realised that the Native Land Court had made only 13 people the individual owners of their tribal land, they began to protest. They wanted their land to be kept in tribal ownership, so decisions affecting it would be made by the whole hapu. Their peaceful and lawful protests would last for nearly a hundred years.

2 THE TAKING OF LAND FOR DEFENCE (1886)

In 1885 the Government built a fort at Kohimarama or Bastion Point because it commanded a good strategic position on Waitemata Harbour. It was not built on Takaparawha Point which had earlier been given to the government for that purpose. In 1886 the Crown used the Public Works Act 1882 to take ownership of 13 acres of Bastion Point for defence purposes. The Public Works Act allows the Crown to take possession of any land, if the Crown says it is in the public interest. When, in 1941, the Crown no longer needed Bastion Point for defence, it did not return it but instead gave it to the Auckland City Council for a reserve.

The response of Ngati Whatua of Orakei
When the land was taken in 1886, the chief Tuhaere immediately lodged a claim for £5000



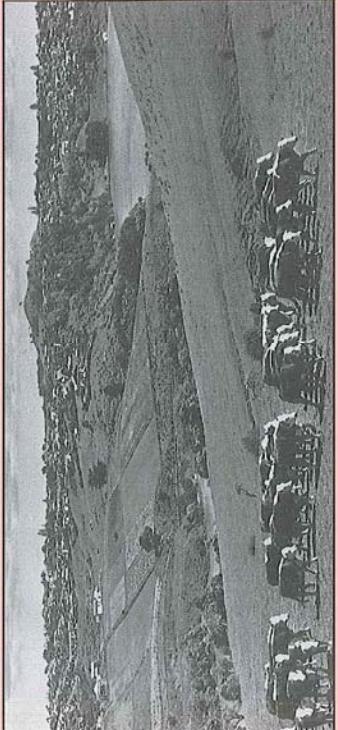
Below: By 1938 there was little farmland left at Orakei.
Photo: NZ Herald.

4 COMPULSORY ACQUISITION OF LAND (1912-1950)

Even though Orakei was not for sale, the Crown wanted it for European settlement so it set about buying it anyway. It first decreed that only the Crown could buy land at Orakei, but it took many years to acquire it as the Ngati Whatua people resisted selling. Previously land could only be sold on a majority vote of tribal owners. But tribal or group rights to the land had been wiped out by the Native Land Court and in 1913 the Government changed the law to enable it to buy from individuals.

The sales began with the fertile farm blocks. By December 1914 the Government had acquired 460 acres, most of the farmed area. One by one many owners or their successors sold their land, believing they would at least keep the section that their house stood on. But this was not allowed. Those who resisted had their land taken from them under the Public Works Act 1882. The Crown said it was in the public interest that the land should be used for a new housing development.

Some not named as owners stayed on the land as squatters. Others moved to the land that had been gifted to the Church, unaware that in 1926 the Crown had bought that land from the Church. In 1939 the last of those people, 14 adults and 10 children, were evicted. A model suburb was developed on the land. Although Ngati Whatua sellers had not been allowed



to keep their sections, Europeans were allowed to lease land for their homes, and later those sections were gifted to the Europeans by the Crown. In 1951 the Crown compulsorily took the remaining 12.5 acres in the possession of Ngati Whatua. Apart from the Okahu cemetery, Ngati Whatua of Orakei was now landless.

The response of Ngati Whatua of Orakei

Ngati Whatua of Orakei firmly resisted the sales between 1912 and 1950, continuing all the while to ask the Government to stop buying the land. As well as other complaints and actions, they took eight actions in the Maori Land Court, four in the Supreme Court, two in the Court of Appeal, two in the Compensation Court,



Top: State housing, Orakei 1938. Orakei primary school is on the ridge.
Above: Tamaki Drive, 1940. Photos: NZ Herald.

six appearances before Commissions or Committees of Inquiry and 15 petitions to Parliament seeking the restoration of tribal ownership of their land. All failed.

Above all else, they sought the return of the papakainga and the Church land. The Acheson Inquiry of 1930 backed the hapu's claims to these areas, but the Government simply ignored it. During the 1940s Princess Te Pua of Waikato, who was related to Ngati Whatua of Orakei, tried in vain to persuade the Government to build a model pa for the hapu on the papakainga.

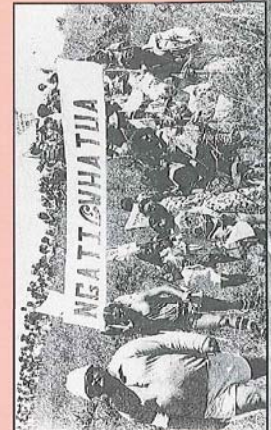
7 PLANS TO SUBDIVIDE BASTION POINT (1976)

In 1976 the Crown announced that it was about to develop the remaining land at Bastion Point for high-income housing and parks. This was the last 60 acres of uncommitted land at Orakei that the hapu still hoped to get back.

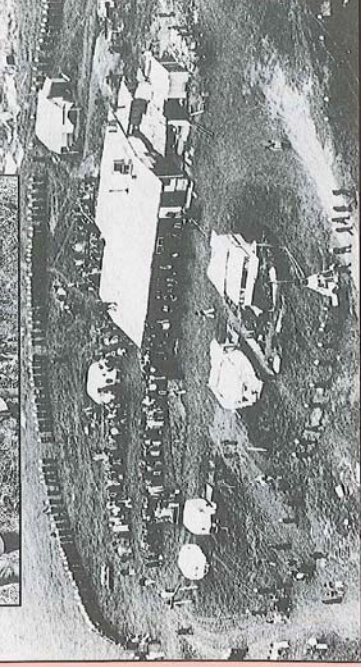
The response of Ngati Whatua of Orakei

In January 1977 some of the hapu, calling themselves the Orakei Maori Action Committee, took direct action to stop the subdivision. They occupied Bastion Point for 506 days, refusing to leave their ancestral lands. The protests caused a split within the tribal ranks as this was the first time their protests had broken the law - by trespassing on Crown land.

On 25 May 1978 the Government sent in a massive force of police and army to evict them. Two hundred and twenty two protesters were arrested and their temporary meeting house, buildings and gardens were demolished. The Bastion Point occupation became one of the



Left: Members of Ngati Whatua of Orakei and others demonstrating for the return of the land to the tribe, 1978.
Photo: NZ Herald.

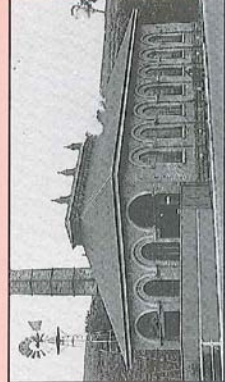


Above: A police cordon was formed before the eviction of members of Ngati Whatua of Orakei and others which ended the 506 day protest by occupation for the return of the land to the tribe, May 1978.
Photo: Auckland Star.

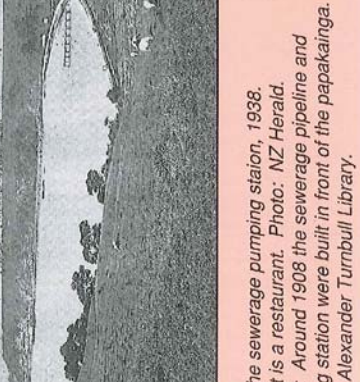
most famous protest actions in New Zealand history.

3 THE SEWER OUTFALL (1908)

The Government passed a special Act of Parliament to take land at Okahu Bay so that a sewer pipe could be laid across the beach in front of the Ngati Whatua village. It discharged raw sewage from Auckland into the bay which was the only access to the papakainga. The sewage outfall was unhygienic and highly offensive, it polluted the hapu's shellfish beds and it turned the village into a swamp in heavy rain.



Top: The sewerage pumping station, 1938. Today it is a restaurant. Photo: NZ Herald.



Bottom: Around 1908 the sewerage pipeline and pumping station were built in front of the papakainga.
Photo: Alexander Turnbull Library.

The response of Ngati Whatua of Orakei

The hapu objected to the sewer development from the moment they knew it was planned. They were deeply offended when the sewer began discharging effluent in 1914. Many people left the village and the hapu began to break up.

5 THE EVICTIONS (1952)

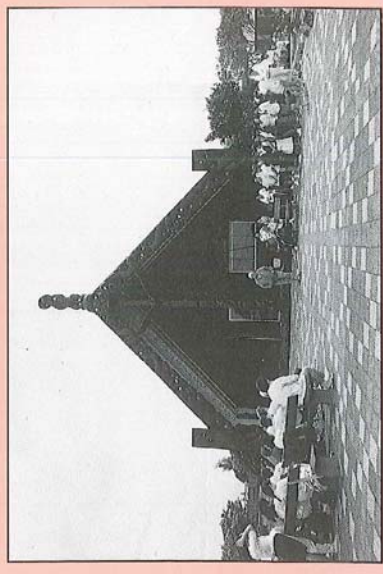
The old village site was wanted by the Crown for a park, so in 1952 the remaining inhabitants were evicted from their homes and relocated as tenants of state houses in Kitemoana Street on another part of the block. The marae and some homes were destroyed by fire. The remains of the village and marae were demolished by the Crown. One reason for this was that the village was considered "a dreadful eyesore and potential disease centre" which was on the route the Queen would take on her official visit.

The response of Ngati Whatua of Orakei

For the remnants of Ngati Whatua remaining at Orakei, the final evictions from the papakainga were extremely traumatic. They resisted being relocated to the end. Many were physically carried from their homes and one man threw himself back into his burning home. The houses in Kitemoana Street were small, each built for a nuclear family, so the extended family life of the hapu was broken down still further. Many of their elders died within a year of being evicted.

6 THE NATIONAL MARAE (1959)

The Crown had set some land aside near the State houses in Kitemoana Street for a Ngati Whatua marae. But there were many Maori from other tribes who had migrated to Auckland, many Polynesian immigrants, and many Europeans who wanted a multicultural marae in Auckland for all to use. In 1959 the Government gave the site for a national marae, even though it was on Ngati Whatua's ancestral lands. Ngati Whatua found they had no control over the new marae. There were only four of them, and no kaumatua, among the 16 trustees appointed to run it. The trustees embarked on ambitious development plans, raising money through public appeals. Ngati Whatua of Orakei were very uncomfortable about these developments, but felt they were outnumbered and that, as tangata whenua, the marae would at least allow them some way to provide hospitality.



Tumutumuwhenua before the fire.
Photo: Margaret Kawharu

All along, they still hoped for the return of the papakainga so they could rebuild their tribal marae there. By 1974 the shell of the new meeting house was completed. The building was,

in accordance with custom, opened by another tribe and was duly named after Ngati Whatua's tribal ancestor, Tumutumuwhenua. This meant that Ngati Whatua, who had not been consulted about the naming, were committed totally to the house. They could not set up a tribal marae elsewhere.

The response of Ngati Whatua of Orakei

The people of Ngati Whatua of Orakei went along with the development of the multicultural marae but soon became ashamed of it. The way the marae was built did not allow them to hold important tribal rituals such as tangi with appropriate dignity. They were taunted for having a tourist show place instead of a marae. They began to voice their opposition to the marae, calling it a "pakeha marae." In 1990 Tumutumuwhenua was gutted by an accidental fire. It has since been restored.

Section Three

RESOLVING THE GRIEVANCES OF THE PAST

In 1978, largely in response to the protest at Bastion Point, the Government made a settlement with some of Ngati Whatua. The Crown returned only some of the land taken under the Public Works Act - the land which had not been used for the purpose it had been taken. The tribe was to pay \$200,000 for its return.

Significantly, the descendants of those whose land it was, asked for it to be returned not to themselves but to the hapu as a whole.

In 1984 a group of Ngati Whatua of Orakei lodged a claim with the Waitangi Tribunal. A revised claim was lodged in 1986. The whole hapu supported the claim that:

- Ngati Whatua were wrongly deprived of the 700 acre Orakei Block
- the Orakei Block ought to have been reserved in tribal ownership and control forever.

They did not seek the return of the whole block. They asked only for the return of Crown land which had not been turned into roads or had houses built on it. They did not seek the return of any land in private ownership.

WHAT THE WAITANGI TRIBUNAL SAID IN ITS REPORT (1987)

- The Crown failed to keep its part of the Treaty of Waitangi, the promise to protect the rights and property of the hapu.
- The Orakei Block should have been kept as a reserve in tribal ownership.
- The Crown made Ngati Whatua of Orakei virtually landless. Their mana and authority was destroyed by the Native Land Court and they were left without sufficient resources for their own needs.
- Ngati Whatua of Orakei had no power to stop the Crown taking over their land and destroying their papakainga.
- The Crown didn't ensure that a marae site was set aside for Ngati Whatua of Orakei.
- The protest at Bastion Point was inconsistent with the Treaty of Waitangi because the protesters broke the law by trespassing. The Waitangi Tribunal did not comment on whether the protesters' convictions should remain.

WHAT THE WAITANGI TRIBUNAL SAID SHOULD BE DONE

- Okahu Park and the headlands of Bastion Point (apart from the Savage Memorial) should be returned to Ngati Whatua of Orakei in tribal ownership. The land should be used as public parks, managed by the hapu and Auckland City Council together.
- The Orakei marae, the Okahu church and urupa should be returned to Ngati Whatua of Orakei tribal ownership.
- The hapu should not have to pay the \$200,000 for the return of land under the 1978 settlement.
- A further 3 hectares of land at Bastion Point should be returned to Ngati Whatua of Orakei for development as they saw fit.
- \$3 million should be paid to Ngati Whatua of Orakei to fund the hapu's development.
- The tribal authority of Ngati Whatua of Orakei should be officially recognised.
- Members of Ngati Whatua of Orakei should have first option to occupy State houses at Orakei.

WHAT THE GOVERNMENT DID

The Government agreed with the Waitangi Tribunal's findings. It paid \$3 million to Ngati Whatua of Orakei to assist it with housing and other development. It passed a new law, the Orakei Act 1991, to recognise the rights of Ngati Whatua of Orakei under the Treaty of Waitangi.

The Act:

- recognises the Ngati Whatua o Orakei Trust Board as the tribal authority which represents all members of the hapu;
- returns to Ngati Whatua of Orakei an area of hapu land. Part of this land cannot be sold or leased, and will be used for a marae, a church and an urupa. It will be the turangawaewae of the hapu, forever. Another part of the land may be leased for development by the hapu;
- sets aside an area of whenua rangatira, a Maori reserve for the benefit of the hapu and the people of Auckland. The Trust Board named this area Takapararua Reserve. It will be looked after by the Auckland City Council and the Ngati Whatua o Orakei Trust Board together;
- hands back to the Ngati Whatua o Orakei Trust Board as hapu land, some lands which were going to be used as roads.

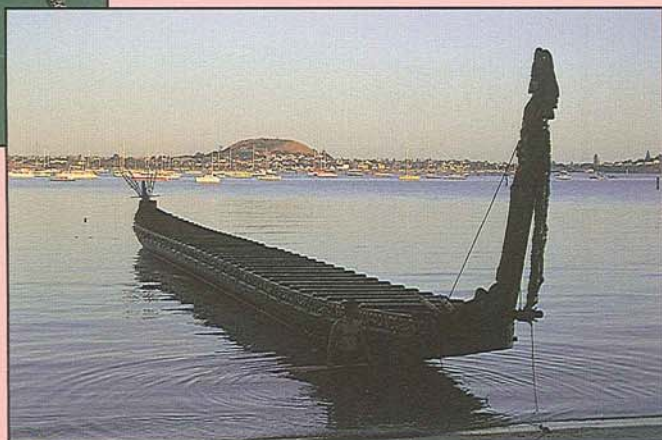
The Government intends this to be a "full and final settlement". The Ngati Whatua o Orakei Trust Board may still negotiate settlement of any other outstanding claims it may have in the Auckland area which relate to the customary rights of the hapu.

THE ORAKEI BLOCK TODAY



Left: Waitemata Harbour, Auckland. Takapararua Point and Okahu Bay are in the foreground. Photo: DAC Communicate NZ

Below: Mahuhu Ki te Rangi Waka, Okahu Bay, January 1990. Photo: Margaret Kawharu



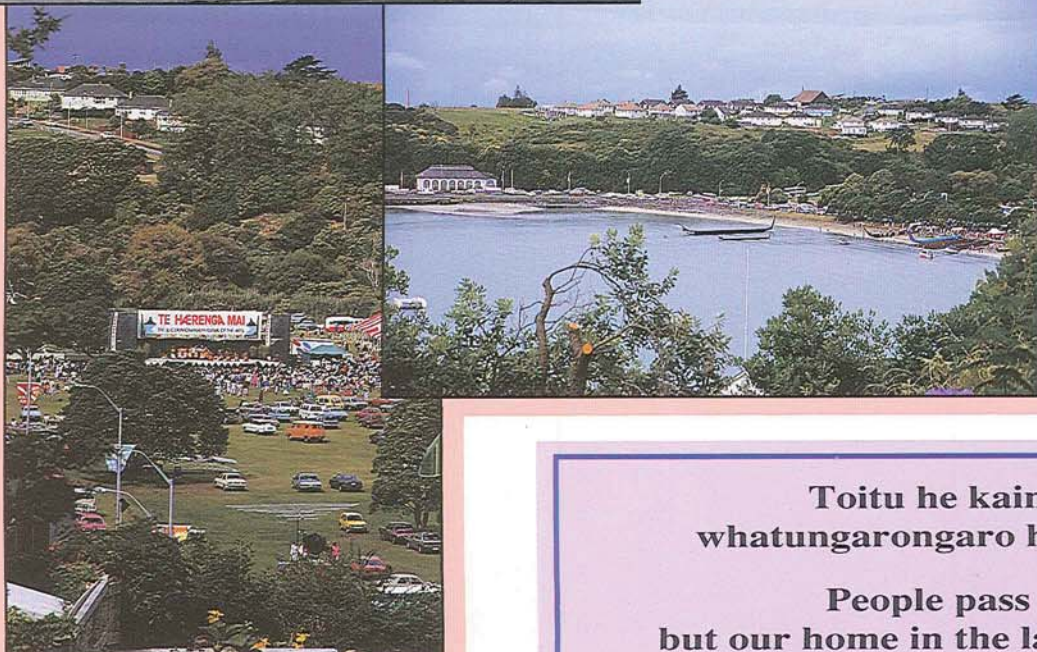
In 1987, as they considered the sad history of the loss of land by Ngati Whatua of Orakei, the Waitangi Tribunal saw a spark of hope. They said that the government settlement of 1978, though it gave back so little to the hapu, was the beginning of vastly better hopes for the people, and a vehicle on which to travel along a new route.

From that point, what little land Ngati Whatua of Orakei owned, it owned communally, like Maori land of old. The plague that individual ownership brought to the tribe was finally buried. As the Waitangi Tribunal said, "Ngati Whatua of Orakei may have little land left, but it is the only tribe in New Zealand to own all that it has in the customary way."

Far right: Okahu Bay, January 1990.

Right: Te Haerenga Mai—The IV Commonwealth Festival of the Arts, a public event taking place on the domain at Okahu Bay, site of the Ngati Whatua of Orakei papakainga.

Photos: Margaret Kawharu



**Toitu he kainga,
whatungarongaro he tangata**
**People pass on
but our home in the land remains**