

**IN THE MATTER OF**      The Treaty of Waitangi  
Act 1975

**AND**

**IN THE MATTER OF**      Claims by HUHURERE  
TUKUKINO                      and  
OTHERS known as the  
HAURAKI CLAIMS

**BRIEF OF EVIDENCE OF BUDDY MIKAERE ON BEHALF  
OF NGATI PUKENGA**

My name is Buddy Mikaere. I am an environmental consultant from Auckland. I am also a member of the Management Committee of the Ngati Pukenga ki Manaia Incorporated Society. Along with Shane Ashby, also a member of Ngati Pukenga, we have been charged with the responsibility for presenting the Ngati Pukenga claims in respect of Manaia ki Hauraki.

I have been specifically given this responsibility because of my previous involvement with the Waitangi Tribunal as director from 1990-95.

There are three claims currently lodged with the Tribunal in respect of Ngati Pukenga lands at Manaia. These are Wai 148 which relates to the Manaia 1C block. Wai 285 which relates to Manaia 2A and 2B blocks, and an addition to it filed on 1 October 1997, which relates to Manaia IB and 2B blocks. The

first of these claims Wai 148 is in respect of what is known locally as the old school site. This block of land was gifted by Ngati Pukenga chiefs at the end of the 19th Century to enable a school to be established at Manaia. The school operated from this establishment in 1892 until the mid 1960s when it was decided to build a new school on the other side of the Manaia River. Subsequently a decision had to be made about the disposal of the former school site. Accordingly the Maori Trustee and the Maori Land Court facilitated a hui at Manaia to discuss this question. At the hui it was alleged that the old school site was unsafe because a number of land slips had occurred there. When the matter was put to the people assembled at the hui as to what they wished to do with the land the response by a reasonable majority was that the land should be retained by the people and managed by the Marae Committee. The Land Court Judge ignored the wishes of the people and determined that the Maori Trustee would dispose of the land by sale. As a subsequence the land was sold and the sum given to the Marae Committee.

4. In recent times the land has again come up for sale and Ngati Pukenga have requested the Crown repurchase it. The Crown has not responded to those requests. The land has subsequently been on-sold again. It is the contention of Ngati Pukenga and the former owners of the old school site that the land should be returned to the people. It has become quite apparent over the last few years that the land is in fact perfectly stable and that the Maori Land Court judge had no right or factual basis to make the decision to dispose of the land as he did. In that the land has been purchased and subsequently had a residence built there obviously the claim cannot be redressed through the return of that land. In this case Ngati Pukenga seek either:
  - (a) Alternate land preferably in the Manaia area; or
  - (b) Compensation for a sum of money to be negotiated.

### **Wai 285**

5. The Wai 285 claim was lodged by Shane Ashby on behalf of Ngati Pukenga. On 8 August 1996 that claim together with the school claim were adopted by Ngati Pukenga ki Manaia by resolution of the Ngati Pukenga ki Manaia Incorporated Society.
6. There are two aspects to the Manaia IA and 2A claim. The first relates to the eight original owners and their status as trustees. The second relates to the loss of approximately 400 acres in 1916 by way of survey liens.

### **Manaia IA and 2A**

7. This claim relates to the sale by one of the eight original "owners" of the block of her interest in the Manaia - probably in order to pay debt. When the title to the Manaia lands was awarded to Ngati Pukenga in 1872, eight owners were put in by the Court as representatives of the original eight hapu or sections of the tribe. Or at least that was what Ngati Pukenga thought had happened. Though Ngati Pukenga consistently argued that the eight "owners" were not absolute owners but were trustees, this argument was, at least until 1907, rejected by the courts. The result was that Mere Taipari sold her one eighth share of the Manaia block because she was in financially straitened circumstances. In 1907 the Native Land Court eventually agreed with Ngati Pukenga and the remaining seven "owners" were held to be trustees. That was too late however to save one eighth of the block (the entire block covering about 5,000 acres) which had earlier been lost by the Taipari sale.
8. Our claim therefore is that the Crown failed to recognise in legislation, policy or through the Native Land Court, prior to the loss of one eighth of the block, that those who were identified on the title were there as trustees for the whole tribe and not absolute owners. This is an issue which has been dealt with at length by the Waitangi Tribunal in the Orakei and Te Roroa claims and the loss of land in this manner was a common theme in early Native Land Court dealings.



9. We would stress that our grievance is not against Mere Taipari. It is against the Crown. Mere Taipari was acting in pursuance of her legal rights. Our grievance is that those legal rights should never have been created by the Crown in the first place.
10. Much of the historical detail has been traversed by Suzanne Woodley, a researcher with the Waitangi Tribunal. Her research report was published in 1993.

#### **Survey Liens - Manaia IB and 2B**

11. To add insult to injury in around 1916 Ngati Pukenga lost approximately 400 acres of the Manaia block for non-payment of survey fees. It happened in this way. Originally the Manaia block was in two parts, Manaia 1 and 2. When Mere Taipari's share was cut out that became Manaia IA and 2A with the remaining 4,400 odd acres being given the tags Manaia IB and 2B. A map is **attached** which is taken from Suzanne Woodley's research report. This shows the original subdivisions.
12. The IB and 2B blocks were then divided into 5 sections A-E. The cost of the survey of these subdivisions could not of course be met by the Ngati Pukenga people. You will see from the socio-economic evidence that has been prepared by Professor Bill Oliver that the Manaia community was one of the poorest (and as a consequence, least healthy) communities in the Hauraki. The result was that a survey lien affecting a total of 400 acres was charged against the land and eventually taken out by the Crown.
13. Ngati Pukenga says that the taking of survey liens - particularly in this case where we believe that it was triggered by the Crown wishing to cut out its shares - is in breach of the Treaty and we seek land or other compensation for it.

## CONCLUSIONS

14. You have heard from our kaumatua Ngawehe and Hemi Mikaere. You have seen our kuia and koroua attending this hearing in support of the Ngati Pukenga claims and the wider Hauraki claims. Ngati Pukenga supports the Wai 100 claim and I confirm that to the extent that the Wai 100 claim covers issues which are relevant to Ngati Pukenga including the Goldfield agreements, the Native Land Court processes and the foreshore and seabed, we will leave those issues to be dealt with under the broader claim but supported whole heartedly by us. As many have said before, this hearing is a watershed in our lives as tangata whenua within this region and in our place within this nation. It provides us with the first chance since contact with the Crown and Pakeha settlers for our grievances to be dealt with comprehensively and settled honourably. If we miss this opportunity, we court disaster.

MANAIA: 1992

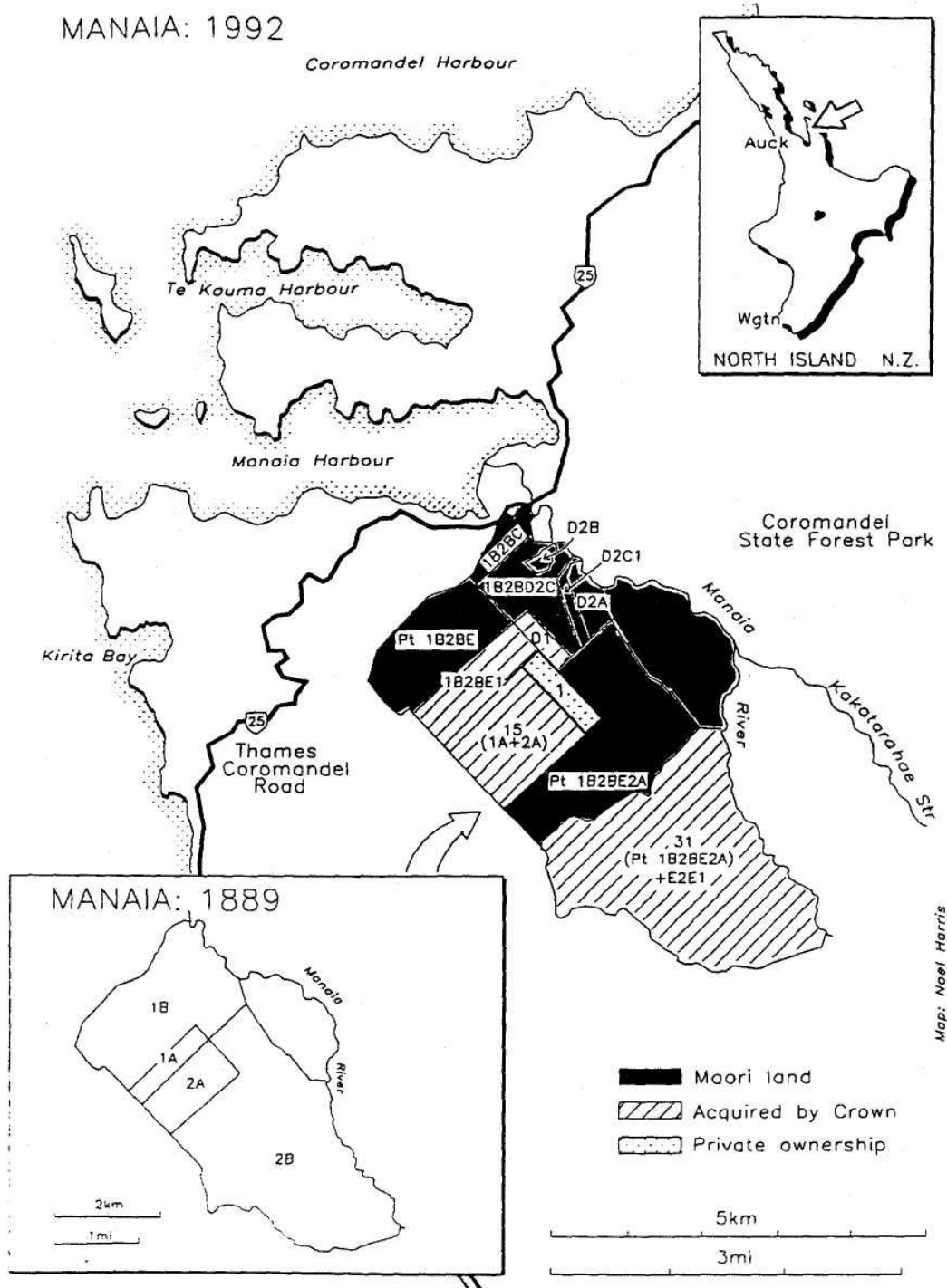


Figure 1: Manaia block