



Friday 10 May 2024

REBUTTAL TO THE FINAL DECISION OF THE COMMISSIONER OF CROWN LANDS

Overview

Awataha Marae (Awataha) has carefully considered and categorically rejects much of the analysis and findings of the recently published “final decision” of the Commissioner of Crown Lands (the Commissioner). The Commissioner claims that Awataha has breached the terms of its original lease from the Crown (which lease has since been renewed) by failing “to ensure that the Marae is regularly available for tangihanga as a priority” and for failing “to provide adequate opportunities for eligible persons to join the incorporated society”. These claims are simply incorrect and not factually sustainable, as amply demonstrated by the countless letters of support Awataha has received from members of our community who have benefitted from our services.

Awataha is extremely disappointed that the Commissioner, at the unceasing agitation of one Iwi which aspires to take over our community built and funded, expressly non- Iwi affiliated Marae, has allowed his Crown office to be caught up in what the Commissioner must surely recognise is a land and power play by Iwi vested interests.

As many will be aware Awataha has a long-standing contemporary Te Tiriti claim against the Crown for what we say are breaches of Crown obligations to Awataha dating back to the Crown’s failure when the Marae was first established to grant Awataha proper tenure of its land. The Crown has also failed to give any meaningful recognition of Awataha’s paramount interest in the land when later working in secrecy with Te Runanga O Ngāti Whātua (Ngāti Whātua) to agree to transfer the freehold to our land to Ngāti Whātua as “commercial redress” rather than to the rightful party Awataha or indeed to Te Kawerau A Maki who is the Iwi who have long been recognised as holding the paramount Mana Whenua status in the land concerned.

The Crown’s Conduct



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From the inception of the Marae project in the 1980's the Crown has repeatedly behaved disgracefully by:

- Treating Awataha as an organisation with no Te Tiriti rights, and meaningfully dealing only with Iwi as per its long standing archaic and flawed Treaty Settlements policy
- As a result, completely ignoring Awataha's prior and paramount entitlement to the Marae land;
- Granting only an inferior form of leasehold tenure that has made it impossible over the years for Awataha to raise funding to develop income streams out of the Marae land.
- Failing to provide any Crown funding to support the cultural and spiritual activities the Marae was set up to provide and the lease requires (Awataha agrees with the Commissioner on the paramount importance of these functions) despite the Commissioner knowing that the cost of funding tangihanga, accommodating mourners etc. often falls directly on Awataha.
- Having provided no funding then, at the instigation of third parties, accusing the Marae of lease breaches in supposedly failing to provide these unfunded functions on an apparently unlimited basis despite Awataha not having the financial means to do so!
- Failing to rectify its inadequate leasehold grant by granting the freehold to Awataha when this became possible, preferring to land bank the land for Iwi settlement purposes.
- Working behind the back of Awataha and Te Kawerau A Maki, the Iwi with long standing paramount Mana Whenua rights, to enter an agreement in principle to give the freehold as commercial redress (note: not cultural redress!) to Ngāti Whātua, which would detach the Marae from any relationship with the Crown , deprive Awataha of its ongoing Te Tiriti rights and place the administration of the Marae lease in the hands of a purely commercial landlord with its own wishes for the land and our lease.
- Trying to compel Awataha to follow the tikanga of Ngāti Whātua on the Marae in place of its own well developed tikanga developed with input from Mana Whenua Te Kawerau A Maki and Ngāti Manuhiri.
- Failing to allow Awataha to transfer the lease and Marae to a modern, fit for purpose, community stakeholder driven Charitable Trust that Awataha has established, which would avoid



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the obsolete and unworkable incorporated society membership structure legal structure the Marae is forced to operate under, then claiming breach of the lease for Awataha not taking sufficient steps to perpetuate this unfit for purpose structure by actively marketing memberships (to Marae users who don't have any interest in taking formal membership up).

Notably the Commissioner makes broad claims of past lease breaches but cites no objective evidence at all for these claims. Rather, the Commissioner appears to have relied heavily on hearsay claims by certain parties long opposed to the current Marae leadership. These parties claim that tangihanga are being held in homes and garages as a result of Awataha not making the Marae available for this function and cite one instance where our tenant Te Puna Hauora held a tangihanga in its health centre at the Marae. Awataha has always made the Marae available for tangihanga and has no control over whether members of the local community decide to hold tangihanga at the Marae. Some members of the local community prefer to hold tangihanga at their house. Just last week a whanau approached Awataha to hold their tangi here. They simply did not have enough money to pay for funeral and associated costs for their tangi even though Awataha offered to heavily subsidize some of the costs. The oversimplification of whether a whanau has a tangi at Awataha, or any marae does not take into account the many variables in the consideration including costs, budget and personal preference.

Awataha notes that the Commissioner has “decided not to exercise his discretion to forfeit the lease” and that the Commissioner recognizes that “the community benefits from the presence of the Marae and the many services it offers”. The Commissioner had no power in any event to forfeit the previous lease retrospectively, despite having recently granted Awataha a renewal of the lease in full knowledge of the so-called breaches. As our legal team has repeatedly pointed out, the whole process of the Commissioner examining historical events under the now expired precursor lease has been a legal nonsense given renewal of the lease and Awataha's statutory protections and rights under the law- your taxes at work citizens.

However, the Commissioner has at least made some helpful suggestions regarding how Awataha can better meet the expectations and concerns of members of community (many of which we will adopt) and has signalled that he is prepared to reconsider the move from a member based



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incorporated society model to the “fit for purpose” Charitable Trust structure we have been wanting to move to for some time.

Now that this latest distraction is resolved Awataha is now able to focus on progressing its WAI 187 claim before the Waitangi Tribunal. This claim has the continued support of Te Kawerau A Maki and Ngāti Manuhiri.

Ngāti Whātua’s “Claim” over the Marae

The Commissioner appears to have unquestioningly adopted Ngāti Whātua’s claim that it has paramount Mana Whenua status over the Marae and that Ngāti Whātua’s tikanga should apply to our Marae. Glaringly, the Commissioner omits from his report any recognition or analysis of this issue by independent tikanga experts. However, the Commissioner does at least acknowledge that “there is clearly scope for Awataha to operate according to its own tikanga”.

Kaumātua Bob Newson, who was appointed by the Commissioner to advise on tikanga issues wisely, declined to take a position on the issue of who has Mana Whenua status over the Marae. Nor was it appropriate for him to do so given that an application for rehearing of a decision is not the appropriate forum to consider this issue. Rather Bob Newson considered that this was a matter which should be “carefully considered with Iwi and tribunal or Court processes” and that now the Commissioner has renewed the lease it “may benefit all to hold the ground”. Awataha takes these comments as clear guidance to the Commissioner that the Commissioner should not undermine Awataha’s claim to the Marae before WAI 187 is heard by the Waitangi Tribunal and positively it appears that the Commissioner has heeded this call.

Awataha does not accept that Te Runanga O Ngāti Whātua has paramount Mana Whenua status or tikanga right over the Marae. Ngāti Whātua has not provided any evidence that it has some kind of paramount status over the Marae despite being invited to do so on numerous occasions. On the contrary Awataha considers that Te Kawerau A Maki has paramount Mana Whenua status over the Marae given that they first settled in the area and last settled the area around the 1920’s.



Awataha also recognises that other Iwi including Ngāti Paoa, Ngāti Maru and Ngāti Whātua Ki Orakei have interests in the area.

Tangihanga

It is now generally accepted by the Commissioner that Awataha has in fact been holding tangihanga on the Marae. For example, in February and March alone this year Awataha held two “back-to-back” tangihanga. Accordingly, criticism from those spreading this untruth has gradually evolved to focus on the fact that Awataha has not been holding tangihanga in our wharenuī at the Marae and will not do so until the wharenuī has been completed. More recently Awataha has been criticised for not giving tangihanga priority over other functions and activities.

Decision not to hold Tangihanga in Wharenuī

The decision not to hold tangihanga in the wharenuī at the Marae until the wharenuī has been completed was made by the late Dr Arnold Wilson, the main founder of the Marae and kaumatua for Awataha. As a result, Awataha has hosted tangihanga in other buildings on Awataha Marae and has adhered to the rāhui or prohibition which the late Dr Arnold Wilson put into place. Once the wharenuī has been completed, Awataha would be delighted to host tangihanga in the wharenuī if that is what the grieving family wants.

We were surprised that the Commissioner in his report expressed “doubts about whether the rāhui is still appropriate” and recommended that Awataha “carefully reconsider whether the rāhui is still required”. In making this recommendation, the Commissioner failed to recognise the important tikanga point that if Awataha lifts the rāhui, Awataha would not be able to ever complete the wharenuī carvings because once the rāhui is lifted the wharenuī is now complete according to our tikanga protocols. Again, it is not the place of the Crown or the Commissioner to tell Awataha what its tikanga should be and that it should accept an incomplete wharenuī – the tikanga is what it is.



Alternatively, if the Commissioner is saying that Awataha should simply complete the carvings (at an expected cost of over \$1,500,000) then Awataha suggests that the Crown finds the funding for Awataha to complete this exercise and the issue will be resolved. As an unfunded Marae with inadequate tenure Awataha is not able to meet this large cost.

Tangihanga given Priority

Awataha acknowledges that tangihanga is central to Te Ao Māori and should be given priority to other activities/functions on the Marae.

The ability to hold tangihanga often involves a trade-off between the harm caused by postponing/cancelling commercial activities which Awataha needs to operate to fund its activities and the strong desire on the part of Awataha to accommodate the needs of the local community. If funding becomes scarce, Awataha will not be able to keep its doors open let alone hold tangihanga. In recent years, things have been made more difficult by rising costs and the limited ability of Awataha to recover the considerable costs of holding tangihanga and providing other services from the local population. Accordingly, any decision to postpone other commercial functions and activities cannot be made lightly. To date the Marae Committee, which is “tasked to pay the bills” has in all cases given tangihanga precedence over other commercial functions and activities.

Awataha has designated the Tanekaha Marae building to be the exclusive whare mate where tangihanga can be held in priority to all other activities. Accommodation of mourners where necessary will continue to be handled in the Tanekaha and in the whareniui.

Membership

Formal membership of Awataha Marae Incorporated Society is and has always been open to all members of the public, especially those living on the North Shore. Awataha has around 4,000 people in its database who have been provided with services at or from the Marae. Most of these people have no interest whatsoever in becoming a formal member of an incorporated society and for several years Awataha has received no new membership applications.



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However, for those who do wish to become formal members, Awataha will make it easier for new members to apply to join as members by updating both its Meta page (formerly Facebook) and its website to set out more clearly how members of the public can apply for membership.

New Governance Model

The Commissioner has now signalled that he is prepared to consider the transfer of the lease to a different governance model such as a charitable trust. This change in position after some years of requests is welcomed by Awataha as, for the reasons already covered, it is clear that a club member-based incorporated society model is not fit for purpose for the Marae. We wish to expand and grow our services in the future and ensure that we can cope with increasing numbers of people. Over 4,000 individuals have benefitted from our services in the last 12 months and in a real sense we are already treating these people as if they were beneficiaries of a charitable trust.

The new requirements introduced by the new Incorporated Societies Act 2023 provide an opportunity for Awataha to progress this issue because it will be necessary in any event for Awataha Marae Incorporated Society to re-register and update its constitution by 5 April 2026. It is, therefore, timely and advantageous to shift to our new Charitable Trust structure.

Awataha will shortly begin consultations with Te Kawerau A Maki and other Iwi interests, members of Awataha Marae Incorporated Society and the public about this issue. The biggest hurdle is that the Commissioner will need to approve the structure. However, we hope the process can be finalised by 5 April 2026. If it subsequently becomes clear that shifting to a charitable trust structure cannot occur by 5 April 2026, it will be necessary to reregister the existing incorporated society which frankly is a pointless exercise.

Accounts

The Commissioner has incorrectly claimed that “Awataha has not filed any financial statements as required as an incorporated society since at least 2018”. This is not the case, and it seems the Commissioner did not in fact check this. A review of the Incorporated Societies Register confirms



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that the 2019, 2020, 2021 and 2022 accounts have all been filed (and indeed were filed some time ago) and it is envisaged that the 2023 accounts will be submitted shortly having only recently been completed. Awataha's filings are fully compliant.

The Commissioner should now publicly withdraw this erroneous and damaging claim.

Update on our Marae Services and Initiatives

The Awataha Marae has considerably expanded its services and here is an update.

Mana to Mahi Hub - Employment, Training and Learning Hub.

We provide a Marae based hub delivering training for locally sourced employment opportunities largely but not limited to the trades. The Hub focuses on Tikanga and pastoral care and aligns to the broader outcomes focus for employers. Registered users can also access the other support services the Marae provides.

Te Kura Mana Rangatahi - Learning Hub

A Marae based initiative focused on second chance learning within a tikanga Maori environment. Students are registered with Te Kura and can continue their education. The Marae provides pastoral care and guidance to taura to complete standard numeracy and literacy NCEA unit standards as well as specialist Kaupapa Maori standards like Manaaki Marae, Reo Maori, Mau Taiaha, Kapa Haka etc., all set in a Māori cultural environment.

Te MAAKETE

A monthly event Te MAAKETE is a community initiative designed to bring our community together.



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Pataka Kai - Food Support Service

A Marae based joint initiative between Awataha Marae and North Shore Maori Wardens. This initiative started during the Auckland floods in 2022. During the floods the Marae fed over 4,000 people when it established its community emergency hub Te Whare Piringa. The Pataka initiative started providing food for 60 people per week. That number is now closer to 400 people per week. Sponsors include City Mission, Kiwi Harvest and various other organisations. We are looking to expand our operation. De Paul House recently donated Bonds Underwear and Socks which were distributed with our Food Support Parcels.

Maara Kai

As a natural extension of the Pataka initiative Awataha now has developed a hydroponic Maara Kai alongside of its traditional grow beds. The produce from our Maara is used to help offset the supply of freshly grown vegetables for our Pataka initiative. We will expand the growing system to keep pace with demands.

Te Whare Piringa - Emergency Hub

During the 2022 Auckland Anniversary weekend Awataha Marae stood up an emergency relief effort. The relief effort brought together Chinese local immigrant communities Māori and Pasifika to join forces and take action in our local community. During this period, we fed over 4,000 people with groceries and just as many for hot meals. We clearly established ourselves as a community emergency hub.

Immediately after the floods cyclone Gabriel struck and we continued our relief effort providing much needed food support to those still displaced by the floods and taking on new people now effected by power cuts fallen trees and damaged housing. The Marae had to front for most of the upfront costs associated with both adverse weather events as it reached out to its community.



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As part of its resilience planning and preparedness for future emergency events the Marae decided to purchase or was donated more fridges, freezers, generators, RT's, chainsaws, medical kits and is now part of the Auckland Council Emergency response network. We are now looking to fund one emergency 4x4 vehicle and one 12 seat van to help deliver/ pick up food and people during the next crisis. Leaders are also seeking to up-skill with training for Community Center management.

Murutapu

A Marae based tikanga drug rehabilitation programme running for over 4 years, focusing on addictions, changing violent and negative behaviour and encouraging people to take responsibility for their own actions. Attendees give back to their community by helping at the Marae and in their local communities.

Schools Programme

Contrary to the Commissioners claims, Awataha continues to run a successful Schools Programme. Every year thousands of students from schools across the North Shore attend. In April 2024 alone, over 700 students attended the Marae.

Te Pae Oranga

Awataha runs a Te Pae Oranga, Marae based justice programme in conjunction with Whanau Ora and NZ Police. Cases are heard on the Marae by a panel of Kaumatua, Kuia, Whanau Ora staff, Police and Justice of the Peace.

Te Whare Auanga

Awataha has established a Māori creativity hub. Initially focused on Music production, it quickly will expand to cater for performing arts, whakairo, digital design and digital media content.



Tangihanga

Awataha continues to hold tangihanga on the Marae. Recently it hosted back-to-back tangihanga with Whaea Peggy Hughes and Jason Hiko. Despite the Marae being available for tangihanga some whanau prefer to hold tangi in their own homes. Awataha also continues to support those whanau in our community by supplying mattresses, kai cookers and kai during their bereavement.

Rongoa Maori

Awataha is launching a Rongoa Māori Wellbeing initiative shortly.

Awataha Māori Committee

Awataha Māori Committee is a duly formed committee under the NZ Māori Council, a statutory body formed under the Community Development Act 1962. This legislation sets out the Council's role as a national policy maker for the cultural, economic, social and political well-being of Māori. Awataha members now form part of the Auckland District Māori Council.

Te Kotahi A Tamaki

Awataha Marae is an active member of the Te Kotahi A Tamaki, a collective of Marae through Tamaki Makaurau and other Rohe.

Matariki

The Marae community celebrate the Māori new year together. Tohunga Piripi Lambert shares some important kōrero surrounding the meaning of Matariki.

Papakainga Flats

We currently have 6 Papakainga Flats for the Hau Kainga, the people of the Awataha Marae.



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Summer Vibes - Waitangi Day Festival

The last edition of the Awataha Summer vibes festival was held in 2020. This event was a great success with over 7000 people attending, 40 plus stalls and over 10 entertainment acts. 2025 will see the return of this popular festival to the North Shore.

Conference & Catering

Awataha is often booked for a range of different community and corporate bookings. Awataha is not government funded so bookings are the lifeblood of the Marae.

PJ's & Blankets

In 2023 in association with the City Impact Church, pyjamas and blankets were distributed by Awataha to local North Shore residents.

Penlink

Awataha are working with principle mana Whenua Te Kauwerau a Maki, Ngati Manuhiri and NgatiMaru on the Penlink project.

Totem Pole Restoration

Awataha is spearheading a yet to be convened working group with Te Kawerau A Maki, Ngāti Whatua Ki Orakei and Ngāti Paoa. Supported by local board and Auckland City Council.

Driver Licensing

Awataha works closely with Waka Kotahi, Police to deliver driver licensing on the north Shore. Most of the services and programmes are self-funded or provided in partnership.



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Summary

The marae holds a sacred place within our community, serving as more than just a physical structure. It stands as a vital cornerstone, deeply ingrained in the fabric of our society. It's not merely a gathering place; it's a symbol of our cultural identity and heritage, a hub where traditions are honoured, stories are shared, and connections are forged. Without the marae, our community would lose a vital lifeline, a centre that fosters unity, resilience, and collective strength.

Below is a summary of letters advocating for the marae and highlighting the significance of its services and initiatives to the community. These letters underscore the vital role the marae plays in community life. Requests for the full letters can be made available upon request.



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Letters of Support

Organisation	Service / Initiative	Date
Auckland University of Technology	Department of Psychotherapy & Counselling Noho at Awataha	5 June 2023
KiwiOZ - Childcare Recruitment and Employment Specialists	Visit by KiwiOz Nannies & Staff - Cultural Induction	9 May 2014
NZIE Business	Visit by International Students at Awataha Cultural Programme	11 June 2015
Better Blokes	Collaborative Programme Supporting men and their families	31 May 2023
Construkt Architects	Cultural Experience at Awataha Marae	30 August 2022
Auckland University of Technology	Department of Psychotherapy & Counselling - Noho Wananga	23 April 2015
Northcross Intermediate School	Participation of Cultural Programme and participation over the last 8 years	1 May 2024
Wairau Intermediate School	Participation in Cultural/Educational Programme	14 March 2014
Vauxhall School	Participation in Cultural/Educational Programme	10 June 2014
Ponsonby Intermediate School	Participation in Cultural/Educational Programme	9 May 2014
New Zealand Police	Working Relationship with Awataha for 7 years	9 June 2023

Te Whanau O Awataha Trust

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The Royal New Zealand College of General Practitioners	Wananga at Awataha	2023
NSIA	Support for Muslim parolees	1 June 2023
Murrays Bay Intermediate School	Participation in Cultural/Educational Programme	17 May 2013
Māori Women's Welfare League	Host of Te Wero Pakihi Programme	19 August 2015
New Zealand Police	NZ Police's TM Ethnic Services Team Hui	March 2024
Auckland North Newcomers Network	Support for Waitangi Summer Vibes Event 2020	13 December 2019

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