

Pouakani Claims Settlement Bill

Government Bill

Explanatory note

General policy statement

Purpose of Bill

This Bill—

- records the apology given by the Crown to the Pouakani people in the deed of settlement signed on 19 November 1999 by the Crown and the Pouakani Claims Trust (the mandated representative of the Pouakani people).
- gives effect to the deed of settlement in which the Crown and the Pouakani people agree to a final settlement of the Pouakani historical claims (excluding any claims to the Waikato River) and the Pouakani boundary claims.

Scope of settlement

The Pouakani claim is centred on the Pouakani Block (122,350 acres) to the northwest of Lake Taupo. The beneficiaries of the claim, the Pouakani people, are all the descendants of the original owners of the Pouakani Block. The Pouakani people are not a distinct tribal group, but a clearly defined and identifiable community with Ngati Maniapoto, Ngati Tuwharetoa, Ngati Raukawa, and Te Arawa affiliations. There are two aspects to the settlement—

- the operation and impact of the Native Land Laws: the Pouakani historical claims relate to the alienation of over 100,000 acres of land through the operation and impact of the Native Land Laws:
- a dispute over the location of the western boundary of the Pouakani Block: the Pouakani boundary claims concern a

contemporary Crown legal liability resulting from an unlawful boundary decision by the Native Land Court in 1891, which has been the subject of recent Māori Land Court litigation.

History of claim and negotiations

The claim and the Waitangi Tribunal

The Pouakani claim (Wai 33) was lodged with the Waitangi Tribunal on 27 March 1987. The claim was heard in the Waitangi Tribunal during 1989 and the Tribunal published its *Pouakani Report* in 1993. The Tribunal generally found in favour of the Pouakani people. Its findings are summarised in the background to the settlement set out in Maori and in English in the *Preamble* to the Bill. Although the Tribunal did not uphold the boundary claim, the claimants later succeeded on this point in the Maori Land Court.

Maori Land Court decision

In 1996, the Maori Land Court found that the 1891 order regarding the boundary between the Pouakani Block and the adjacent Maraeroa Block contravened the Native Land Acts Amendment Act 1889. On issuing its findings, the Court adjourned the application *sine die* to enable the parties to consider negotiations, or if that was to be unsuccessful, to seek any further orders from the Court.

Negotiations and deed of settlement

In 1993, following the release of the Waitangi Tribunal's report, the Government entered into preliminary discussions with the Pouakani people. However, these discussions were postponed pending the outcome of the Maori Land Court case, and the resolution of mandating issues among the claimants.

Following the outcome of the Maori Land Court case in 1996, the Government acknowledged the Court's findings. In December 1997, Cabinet recognised a Deed of Mandate for the Pouakani claims and the parties entered into negotiations. The Pouakani people ratified the resulting proposed settlement, and on 19 November 1999 the Crown and the Pouakani people signed a deed of settlement. The settlement is conditional upon the passage of this Bill.

Key elements of the settlement package

The following summary sets out the key elements of the settlement package. Not all aspects of the settlement require legislation to be implemented.

Apology by the Crown

The deed of settlement contains a number of acknowledgements relating to the operation and impact of the Native Land Laws in the Pouakani people's rohe and the matters giving rise to the boundary dispute. The deed also contains a formal apology from the Crown to the Pouakani people for the Crown's breaches of the principles of the Treaty of Waitangi in failing to protect the interests of the Pouakani people in the lands they wished to retain. The apology and acknowledgements appear in *Part 1* of the Bill.

Redress for Pouakani historical claims

The deed provides for the following financial, commercial and cultural redress in settlement of the Pouakani historical claims:

- financial redress of \$2.65 million;
- the right to purchase the Pouakani Forest, a Crown-owned exotic forest that is part of the Pureora Central Forest, through an agreed process;
- a statement of joint aspirations between the Pouakani people and the Crown for Titiraupenga mountain. Titiraupenga is regarded by the Pouakani people and by the Crown as a taonga (treasure). It is also of significance to other iwi. The mountain is owned approximately half by the Crown (and managed by the Department of Conservation as part of Pureora Forest Park) and half by land-owning trusts affiliated to the Pouakani people. The instrument's embodiment in legislation is a symbolic statement of the aspirations of both the Pouakani people and the Crown for the management of the mountain. The instrument relates to the whole mountain. Neighbouring Ngati Tuwharetoa has consented to its application to the area lying outside the Pouakani Block;
- A Statutory Acknowledgement over the Crown-owned area of Titiraupenga. In this statutory instrument the Crown recognises the Pouakani people's statement of their cultural, spiritual, historic and traditional links with the Crown-owned

area of Titirapunga. The instrument imposes legal obligations on decision-makers under the Resource Management Act 1991 to proceed in certain ways:

- A Memorandum of Understanding between the Crown and the Pouakani people. This outlines how the Department of Conservation and Pouakani will interact with each other in order to advance common management objectives in relation to Titirapunga and other identified areas of land.

Parts 4 and 5 of the Bill contain provisions enabling the transfer of Tahae Farm and the transfer and vesting of the Pouakani Forest and related matters. *Part 6* of the Bill contains provisions giving effect to the cultural redress.

Redress for Pouakani boundary claims

The Deed provides the following redress in settlement of the Pouakani boundary claims:

- confirming the western boundary of the Pouakani Block to its earlier, lawful position;
- gifting of Tahae Farm, a former Landcorp Farming Limited property within the Pouakani Block, which is of approximately the same area as the land lost through the boundary dispute;
- regularising the boundaries of the Pouakani B9B Block to enable title to be raised for the block.
- gifting of approximately 250 acres of conservation stewardship land, an area of low conservation value land that is currently farmed by Pouakani under an informal agreement with the Department of Conservation.

Part 4 of the Bill contains provisions enabling the transfer of Tahae Farm and dealing with the Pouakani Forest.

Part 5 of the Bill contains provisions confirming the block boundaries and vesting the stewardship land in the Pouakani Governance entity.

Removal of courts' jurisdiction and resumptive memorials

The Pouakani people agreed to the removal of the jurisdiction of the courts and the Waitangi Tribunal to consider the issues settled, and to the removal of resumptive memorials on State enterprise land and private land within the Pouakani Block. The Bill provides for this in

Part 3, but preserves the memorials in relation to a portion of the Pouakani Block that is the subject of a claim by different claimants.

Pouakani Governance Entity

The settlement redress will be received by a governance entity established by the Pouakani people. This body will administer the redress for the benefit of the present and future members of the Pouakani people.

Preamble and clause by clause analysis

The *Preamble* describes the background to the Bill, and refers to the Treaty of Waitangi, which is set out, in Māori and English, in *Schedule 1*.

Clause 1 is the Title clause.

Clause 2 is the commencement clause. The Bill comes into force on a date to be appointed by the Governor-General by Order in Council. The reason for having the Bill commence by Order in Council is to ensure that there is sufficient flexibility to defer the commencement of the Act until all matters of detail concerning the operation of the Pouakani governance entity are resolved.

Clause 3 is the purpose clause.

Clause 4 provides that the Bill binds the Crown.

Part 1

Acknowledgements and apology by the Crown to the Pouakani people

Clause 5 provides that this Part records the acknowledgements and apology given by the Crown to the Pouakani people in the deed of settlement.

Clause 6 sets out the text of the acknowledgements and apology in Māori.

Clause 7 sets out the text of the acknowledgements and apology in English.

Part 2

Interpretation

Clause 8 records the intention of Parliament that the provisions of the Bill once enacted are interpreted in a manner that best furthers the agreements expressed in the deed of settlement.

Clause 9 defines various terms used in the Bill.

Clause 10 defines the term **Pouakani historical claims**, which, together with the Pouakani boundary claims (as defined in *clause 11*), are settled by the deed of settlement.

Clause 11 defines the term **Pouakani boundary claims**.

Part 3

Settlement of claims

Clause 12 provides that the settlement of the Pouakani historical claims and the Pouakani boundary claims is final. It provides that no court, judicial body, or tribunal may inquire into the Pouakani historical claims and the Pouakani boundary claims, the validity of the deed of settlement, the adequacy of the redress provided under the settlement, or the Bill. This does not exclude the jurisdiction of a court, judicial body, or tribunal in respect of the interpretation or implementation of the deed of settlement or the Bill.

Clause 13 amends the Treaty of Waitangi Act 1975 so that the Waitangi Tribunal no longer has jurisdiction to consider claims covered by the deed of settlement. However, this does not exclude the jurisdiction of the Tribunal in respect of the interpretation or implementation of the deed of settlement or the Bill.

Clause 14 provides that certain enactments relating to resumptive powers and obligations no longer apply to the Pouakani Block or to the Tahae Farm. The clause, however, preserves the existing position in relation to a portion of the Pouakani Block that is the subject of the Wai 85 claim to the Waitangi Tribunal.

Clause 15 provides for the removal of existing resumptive memorials from the certificates of title relating to the part of the Pouakani Block that is not the subject of the Wai 85 claim, and the Tahae Farm.

Clause 16 provides that the Crown may dispose of the Pouakani Forest if the forest is not transferred to the Pouakani governance entity. If the Pouakani Forest is sold or otherwise disposed of under

this section it ceases to be Crown forest land within the meaning of section 2 of the Crown Forest Assets Act 1989.

Clause 17 provides that the settlement is for the benefit of, and binding upon, the Pouakani people, and not for the benefit of any particular individual, whanau, marae, or hapu. However, this does not apply to clause 7.2.4 of the deed of settlement or *clause 29*, which relate to the regularisation of the boundaries of Pouakani B9B Block.

Miscellaneous

Clause 18 provides that neither the common law rule against perpetuities nor the Perpetuities Act 1964 applies to any document entered into to give effect to the deed of settlement.

Part 4

General provisions as to transfer and vesting of settlement properties

Clause 19 provides the Crown with the powers required to transfer the fee simple in any settlement property to a Pouakani recipient without complying with any other enactment that would otherwise regulate or apply to the sale or other disposition of the settlement property. If the fee simple in the Pouakani Forest is transferred to a Pouakani recipient, the Pouakani Forest ceases to be Crown forest land within the meaning of section 2 of the Crown Forest Assets Act 1989. If an action is required to be undertaken by the Registrar-General of Land under this Act, it is without fee to the registered proprietor or to the Pouakani recipient.

Clause 20 provides that the transfer or vesting of a settlement property is not a subdivision for the purposes of the Resource Management Act 1991. *Clause 21* also preserves the effect of sections 10 and 11 of the Crown Minerals Act, and provides that the transfer or vesting of the fee simple estate in a settlement property under the Bill is a disposition for the purposes of Part IVA of the Conservation Act 1987, but certain sections of that Act do not apply.

Clause 21 requires the Registrar-General of Land, on the request of the Commissioner of Crown Lands, to issue a certificate of title under the Land Transfer Act 1952 for the fee simple estate in settlement property for which no certificate of title has been issued or currently exists.

Part 5

Transfer and vesting of settlement properties

Subpart 1—Settlement of Pouakani historical claims

Transfer of Pouakani Forest

Clause 22 provides that the Crown may sell Crown forestry assets for the purpose of giving effect to the deed of settlement.

Clause 23 relates to the registration and effects of covenants granted under the deed of settlement for certain purposes relating to survey and title for the Pouakani Forest.

Clause 24 enables the Pouakani governance entity to manage and harvest exotic plantation trees, and replant once, on any marginal strip adjoining the Pouakani Forest.

Clause 25 permits the Minister of Conservation to grant easements enabling the Crown to comply with its obligations in paragraphs 3.4.3 and 3.5 of the deed of settlement.

Clause 26 removes the need to obtain the permission of a council (within the meaning of Part XXI of the Local Government Act 1974) in respect of laying out or forming a road, or granting or reserving a right of way, for the purposes of section 5 of the deed of settlement.

Clause 27 provides for the cancellation of the preservation order made by the High Court and dated 28 August 1987 in relation to the proceedings *Attorney-General for and on behalf of the Department of Conservation v J H Paki & Others of the Pouakani B9B Trust*.

Subpart 2—Settlement of Pouakani boundary claims

Confirmation of western boundary of Pouakani Block

Clause 28 confirms the western boundary of the Pouakani Block as defined in section 29 of the Native Land Court Acts Amendment Act 1889. However, the survey of the western boundary as approved by the Native Land Court in 1891 is valid for the purposes of the internal subdivisions within the Pouakani Block and the Maraeroa Block. The ownership of the following area of land is not affected by the clause:

- the land within the western boundary of the Pouakani Block as defined in section 29 of the Native Land Court Acts Amendment Act 1889 and the western boundary as approved by the Native Land Court in 1891 (being land owned by the Crown):

- the land comprised in certificate of title 44C/4 (South Auckland Registry), as at 19 November 1999.

Pouakani B9B Block

Clause 29 provides that the boundaries of Block B9B are those that, on the completion of survey, are shown on ML Plan 22432.

Clause 30 provides for the issue of a certificate of title for Block B9B.

Vesting of stewardship land

Clause 31 provides that, on the settlement date or on the date that the Chief Surveyor approves the plan of the boundaries of the settlement land, whichever occurs later, the stewardship land (being the land that, on the completion of survey, is comprised in sections 1 and 2 of S.O. Plan 61501)—

- ceases to be a conservation area; and
- vests in the Pouakani governance entity as Māori freehold land.

Clause 32 provides for the issue of a certificate of title for the stewardship land.

Part 6

Cultural redress

Clause 33 defines various terms used in this Part.

Statement of joint aspirations

Clause 34 provides that the Crown gives jointly with the Pouakani people the statement of joint aspirations for Titiraupenga contained in *Schedule 2*.

Statutory acknowledgement

Clause 35 provides that the Crown acknowledges the statements made by the Pouakani people of their cultural, spiritual, historic, and traditional association with the Crown-owned area of Titiraupenga. The text of the acknowledgement is set out in *Schedule 3*.

Clause 36 specifies the purposes of the statutory acknowledgement.

Clause 37 empowers the making of regulations requiring consent authorities to forward to the Pouakani governance entity summaries

of resource consent applications affecting the Crown-owned area of Titiraupenga.

Clause 38 requires consent authorities to have regard to the statutory acknowledgement when performing certain functions under the Resource Management Act 1991.

Clause 39 requires the Environment Court to have regard to the statutory acknowledgement when performing certain functions under that Act.

Clause 40 requires the Historic Places Trust and the Environment Court to have regard to the statutory acknowledgement when performing certain functions under the Historic Places Act 1993.

Clause 41 enables the Pouakani governance entity and any member of the Pouakani people to cite, in certain proceedings before a consent authority, the Environment Court, or the Historic Places Trust, the statutory acknowledgement as evidence of the Pouakani people's association with the Crown-owned area of Titiraupenga.

Clause 42 requires the statutory acknowledgement to be recorded in regional policy statements, regional plans, district plans, proposed policy statements, and proposed plans by local authorities with jurisdiction in respect of the Crown-owned area of Titiraupenga.

Memorandum of understanding

Clause 43 authorises the Minister of Conservation to enter into, and amend from time to time with the written agreement of the Pouakani governance entity, the memorandum of understanding referred to in clause 3.3 of the deed of settlement.

Clause 44 provides that if the Crown MOU land (as identified on the map attached to the memorandum of understanding) is alienated by the Crown, the memorandum of understanding is terminated in so far as it applies to the alienated land.

Clause 45 provides that the memorandum of understanding is entered into subject to, and without restriction on,—

- the obligations of the Minister of Conservation, the Director-General of Conservation, and the Department of Conservation to discharge their powers, duties, and functions in accordance with existing law and Government policy; and
- the Crown's power to amend policy and to introduce legislation amending the existing law.

Clause 46 provides that the Minister of Conservation must comply with the memorandum of understanding while it is in force. The Pouakani governance entity may enforce the memorandum by way of a public law action against the Minister of Conservation, but damages are not available as a remedy.

Clause 47 requires that the memorandum of understanding be noted (for public notice purposes only) on conservation management strategies and plans that affect the MOU land.

*Effect of statement of joint aspirations, statutory
acknowledgement, and memorandum of understanding*

Clause 48 provides that, except as expressly provided in *clauses 36 and 38 to 41*, the statutory acknowledgement and the statement of joint aspirations do not affect, and may not be taken into account in, the exercise of a power, duty, or function by any person under a statute, regulation, or bylaw.

Clause 49 provides that, except as expressly provided in *clauses 34 to 42, 48, and 50*, the statutory acknowledgement and the statement of joint aspirations do not affect the lawful rights or interests of a person who is not a party to the deed of settlement.

Clause 50 provides that, except as expressly provided in *clauses 34 to 49*, the statutory acknowledgement, the statement of joint aspirations, and the memorandum of understanding do not grant, create, or provide evidence of an estate or interest in, or rights of any kind over, the Crown-owned area of Titiraupenga or the Crown MOU land, as the case may be.

Amendment to Resource Management Act 1991

Clause 51 adds the name of the Bill to Schedule 11 of the Resource Management Act 1991, which lists Acts that contain statutory acknowledgements.

Hon Margaret Wilson

Pouakani Claims Settlement Bill

Government Bill

Contents

	Preamble	
1	Title	
2	Commencement	
3	Purpose	
4	Act to bind the Crown	
	Part 1	
	Acknowledgements and apology by the Crown to the Pouakani people	
5	Acknowledgements and apology	
6	Text in Māori	
7	Text in English	
	Part 2	
	Interpretation	
8	Interpretation of Act generally	
9	Interpretation of terms	
10	Meaning of Pouakani historical claims	
11	Meaning of Pouakani boundary claims	
	Part 3	
	Settlement of claims	
12	Settlement of Pouakani historical claims and Pouakani boundary claims to be final	
13	Jurisdiction of Waitangi Tribunal to consider claims	
14	Enactments relating to protections for land subject to Pouakani historical claims and Pouakani boundary claims no longer to apply	
15	Removal of resumptive memorials	
16	Crown may dispose of Pouakani Forest if forest not transferred to Pouakani governance entity	
17	Settlement for benefit of Pouakani	
	<i>Miscellaneous</i>	
18	Rule against perpetuities not to apply	
	Part 4	
	General provisions as to transfer and vesting of settlement properties	
19	Power to transfer settlement properties	
20	Application of other enactments	
21	Issue of certificates of title	
	Part 5	
	Transfer and vesting of settlement properties	
	Subpart 1—Settlement of Pouakani historical claims	
	<i>Transfer of Pouakani Forest</i>	
22	Crown may sell Crown forestry assets	
23	Covenants to complete survey work	
24	Section 24H(6) of Conservation Act 1987 to apply	
25	Minister of Conservation may grant easements	
26	Permission of council not required to form private road or private way	
27	Preservation order cancelled	
	Subpart 2—Settlement of Pouakani boundary claims	
	<i>Confirmation of western boundary of Pouakani Block</i>	
28	Confirmation of western boundary of Pouakani Block	
	<i>Pouakani B9B Block</i>	
29	Pouakani B9B Block	
30	Issue of certificate of title for Block B9B	
	<i>Vesting of stewardship land</i>	
31	Stewardship land vested in Pouakani governance entity	

32	Issue of certificate of title for stewardship land	44	Alienation of land terminates memorandum of understanding
	Part 6 Cultural redress	45	Memorandum of understanding subject to Crown obligations
33	Interpretation	46	Enforceability of memorandum of understanding
	<i>Statement of joint aspirations</i>	47	Noting of memorandum of understanding
34	Statement of joint aspirations		<i>Effect of statement of joint aspirations, statutory acknowledgement, and memorandum of understanding</i>
	<i>Statutory acknowledgement</i>	48	Exercise of powers, duties, and functions
35	Statutory acknowledgement by the Crown	49	Rights not affected
36	Purposes of statutory acknowledgement	50	Limitation of rights
37	Distribution of applications to Pouakani governance entity		<i>Amendment to Resource Management Act 1991</i>
38	Consent authorities to have regard to statutory acknowledgement	51	Amendment to Resource Management Act 1991
39	Environment Court to have regard to statutory acknowledgement under section 274 of Resource Management Act 1991		Schedule 1 The Treaty of Waitangi
40	Historic Places Trust and Environment Court to have regard to statutory acknowledgement under sections 14 and 20 of Historic Places Act 1993		Schedule 2 Statement of joint aspirations for Titiraupenga
41	Use of statutory acknowledgement with submissions		Schedule 3 Statutory acknowledgement for the Crown-owned area of Titiraupenga
42	Recording of statutory acknowledgement on statutory plans		
	<i>Memorandum of understanding</i>		
43	Authorisation to enter into and amend memorandum of understanding		

Preamble**He kōrero tāhuhu**

- (1) E mau ake nei te Rārangi Tāpiri Tuatahi mō tēnei ture, e whakaupoko ana i roto i te reo Māori me te reo Pākehā i ngā tikanga o Te Tiriti o Waitangi: 5

Te tono i raro i te Ture o te Tiriti o Waitangi 1975

- (2) Ko te tono a te iwi o Pouakani, he mea rēhita ki Te Rōpū Whakamana i te Tiriti, i te tau 1987, i raro i te Wai 33, ka mutu, ko tāna, e whai utunga ana mō ngā mamae i pā ki te iwi. Ko te tono nei i whakatakotoria e John Hanita Paki mōna, mō ngā Kaitiaki, mō te hunga hoki e whai pānga atu ana ki ngā whenua tōpū e kīia nei ko Titiraupenga rāua ko Pouakani B9B. I rongohia te tono i waenganui i ngā marama o Mei, o 10

Oketopa o te tau 1989, ā, i putaina e Te Rōpū Whakamana i te Tiriti tana pūrongo i te tau 1993.

Ngā kitenga a Rōpū Whakamana i te Tiriti

- (3) I kitea e te Rōpū Whakamana i te Tiriti:
- (a) i te tau 1889, kāore anō kia whakataungia e Te Kōti Whenua Māori te ripa tauārai o te poraka whenua o Maraeroa 1887, nā te mea kāore i whāia ngā tikanga o te Ture Whenua Māori 1880 i te wā o te whakahau nei. Nā reira i whakatauhia e te Rōpū Whakamana i te Tiriti, ko te rūri whenua a Stubbing i te tau 1892 mō te ripa tauārai i waenganui o ngā poraka whenua o Maraeroa me Pouakani, he mea āta takoto ki te mahere ML6406 me ngā mahere i whai, koia te mea tika: 5 10
- (b) he rahi te whenua (tae atu ki te Poraka 1 o Pouakani) i riro e te Karauna hei ea i ngā utu rūri, ā, tāpiri atu ki ēnei whenua, i riro ngā pānga whenua a tēnā, a tēnā tangata kotahi. Ko te mate kē, i ētahi wā, kāore i tika te rūri, ā, kāore i whiwhi ngā Māori ki te taitara tika: 15
- (c) i tā rātou whakatau, arā, kāore he hē i raro i te ture, kāore hoki he mahi rerekē i roto i ngā kaupapa whitiwhiti o te wā e pā ana ki ngā mahi hokohoko o ngā Poraka o Pouakani me Maraeroa i ngā tekau tau 1880–89 me 1890–99, i rangona tonu e te Rōpū Whakamana i te Tiriti ngā mamae me ngā kōmuhumuhu o ngā Māori: 20 25
- (d) he nui noa atu tērā i utua e te iwi Māori i te whakanohotanga i te Pākehā ki konei, engari, iti noa te wāhi i whakaritea mōna i te taha ki ngā painga tērā ka hua i te urunga mai o ngā manene me ā rātou hauptū rawa. Ka tika te kōrero, he nui ngā raruraru i hau mai i ngā mahi a te Kōti Whenua Māori, i tā rātou momo rangahau ko wai te hunga e whai pānga atu ana ki ngā whenua, i tā rātou turaki i te mana o ngā whānau, hapū, iwi, ka hoatu ki te tangata kotahi. Mā ēnei mahi, e taea ai ngā whenua te hokona, pēnei i te manu e tino nei i te kai. Ko ngā raruraru maha i pā ki te hapū, ki te iwi, arā, ko ngā tohetohe mana whenua, roherohe whenua, ko te nui o nga utu i ūtaina, ko te hē o ētahi mahi rūri, ko te kore rūria o ētahi whenua, ko te nui o te utu ki ngā tono ki te ture: 30 35 40

- (e) kua takotoria he take tūmatanui e kī ana he nui rawa te whenua i murua e te Karauna hei ea i ngā utu rūri me ētahi atu utu i roto i te Rohe Pōtae. I whakaae anō Te Rōpū Whakamana i te Tirīti mā te rangahau tonu i te take nei, ka kitea tōna tino kōrero: 5
- (f) nō te mea kāore i rūria ngā ripa tauārai i raro i ngā Whakahau Taitara 1891 i tūria ai ngā poraka whenua o Pouakani B9 (Pureora) rāua ko Pouakani C1 (Kaiwha), ko te tikanga, kāore aua tonu roherohenga whenua e taea te whakaurua ki te Tari Whiti Whenua (Land Transfer Office), ā, kāore hoki e taea aua whenua e rēhitatia. I te tau 1899, i runga i te tono a te Karauna, i rūria ētahi ripa tauārai hou e te Kōti Whenua Māori, kātahi ka wehea ngā whenua ki te Karauna me ngā Māori kāore i hoko i ō rātou pānga whenua. I te tau 1899, i utua e ngā tāngata nō rātou te whenua e 343 eka hei ea i ngā mahi rūri o ngā tau ki muri. Engari, na te mea kāore i oti pai taua mahi rūri, i te roanga ake o te wā, i kitea te hua kore o te tuku whenua mō te rūri. E tika ana te kōrero whānui e kī ana, he kawenga tā te Karauna kia oti pai ngā mahi rūri i ngā ripa tauārai; tua atu, me utu paremata te Karauna ki ngā tāngata Māori nō rātou te whenua, mō te ngoikore o ngā mahi rūri a Te Tari Rūri o Ākarana (Auckland Survey Office) i te tekau tau 1890–99; anā, nā ēnei mahi, i uru atu ngā Māori nō rātou te whenua o Pouakani B9B ki ngā tautohe kōti nui rawa atu te utu: 10
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- (g) i kitea i roto i ngā tau ki muri, kāore i whakaaro nuitia te taha Māori i roto i ngā whakahaere a te Karauna i te ngahere e kīia nei ināianei ko Te Ngahere Pāka o Pureora, ahakoa hei tā ngā iwi kāinga kī ai, he taonga te ngahere nei: 30

Ngā kitenga a te Kōti Whenua Māori

- (4) I te tau 1996, i puta te whakataua a Te Kōti Whenua Māori e kī ana, he mea takahia e te whakahau a te Kōti Whenua Māori o te tau 1891 e pā ana ki te ripa tauārai o Pouakani / Maraeroa, i te Ture Whakatikatika i Ngā Ture a Te Kōti Whenua Māori 1889. Nā reira, ko te ripa tauārai i tohua e Te Kōti Whenua Māori, ko tērā kei roto i te ture o 1889: 35

Ngā kōreorero i waenga i ngā tāngata o Pouakani me te Karauna

- (5) I muri o te whakatau nei a te Kōti Whenua Māori, e tautoko ana i a Mr Paki me ngā tāngata o Pouakani, i hikina e te Kōti te tonono, kia taea ai e ngā taha e rua te whitiwhiti kōrero mēnā koinā te hiahia, kia taea rānei te whakatakoto i ētahi atu Whakahau ā-ture e pā ana ki te tonono: 5
- (6) Nō te marama o Tihema o te tau 1997, i whakaūtia e te Rūnanga Kāwanatanga te Whakaaetanga o te Mana Kōkiri o Pouakani; mā tēnei i whai mana ai ngā kaiwhakarite o Pouakani ki te whitiwhiti kōrero me te Karauna kia taea te whakatau kōrero pūmau, tūturu hoki, kia ea ai ngā tonono a Pouakani i roto i ngā tau, ā, kia makere mai hoki ngā mamae e rangona nei e ngā tāngata o Pouakani: 10
- (7) I hainahia Ngā Whakaritenga mō ngā Whitiwhiti Kōrero e ngā kaiwhakarite o te Karauna me te hunga o Pouakani i te 9 o Hune o te tau 1998: 15
- (8) E whakamihia ana te Karauna i te mea kua 23 tau a John Hanita Paki e mahi ana kia whakatauhia te tonono mō Pouakani, me te mea anō, kua pau tana kaha me te wā i ana whitiwhiti kōrero me te Karauna: 20

Whakamutunga o ngā Kerēme

- (9) I te 19 o Noema o te tau 1999, i uru atu te Karauna rātou ko ngā tāngata o Pouakani ki tētahi whakataunga whakaaetanga, e whakaae ana te Karauna, nā ngā mahi me ngā pānga mai o ngā Ture Whenua Māori, i pēhi i ngā tāngata o Pouakani i tō rātou rohe. Ko tētahi anō mea o te whakataunga whakaaetanga, e mau ana i ngā kōrero tika e tareka ai he whakataunga e tutuki pū ai ngā tonono a Pouakani i roto i ngā tau, me ngā tonono e pā ana ki ngā ripa tauārai o Pouakani. 25

Background in English

- (1) The Treaty of Waitangi is set out, in Māori and English, in **Schedule 1**: 30

Claim under the Treaty of Waitangi Act 1975

- (2) The Pouakani claim, registered with the Waitangi Tribunal as Wai 33 in 1987, sought compensation for the Pouakani grievances. The claim was lodged by John Hanita Paki on behalf of himself, the trustees, and the beneficial owners of the lands in 35

the Titiraupenga and Pouakani B9B Trusts. The claim was heard between May and October 1989, and the Tribunal issued its report in 1993:

Findings of the Waitangi Tribunal

- (3) The Tribunal found that— 5
- (a) in 1889, the boundaries of the 1887 Maraeroa block had not been fixed by the Native Land Court because the requirements of the Native Land Act 1880, under which the order had been made, had not been complied with. The Tribunal concluded, therefore, that the boundary between the Maraeroa and Pouakani blocks as surveyed by Stubbing in 1892, and drawn on ML6406 and on subsequent plans, is correct: 10
- (b) significant areas of land, including Pouakani No. 1 Block, were acquired by the Crown in payment of survey costs, in addition to the purchase of individual interests, but Māori did not always receive in return a properly surveyed title: 15
- (c) in reaching the conclusion that there was nothing illegal or unacceptable in contemporary practice in the transactions on the Maraeroa and Pouakani blocks in the 1880s and 1890s, the Tribunal was still left with a strong sense of Māori grievance and frustration: 20
- (d) Māori paid a disproportionate cost for Pakeha settlement, but little provision was made for Māori participation in the suggested benefits of the introduction of capital and settlers. The system of Native Land Court investigation of title and individualisation of interests in land, which could be sold piecemeal, contributed largely to social disruption, dissension over issues of mana and territory, massive debts, costly mistakes in survey boundaries in some cases, and failure to survey in others, and costly litigation: 25
- (e) a *prima facie* case was presented that the Crown acquired excessive amounts of land in payment of survey costs and other charges in the Rohe Potae. The Tribunal also acknowledged that further investigation would be required to determine this matter definitively: 30
- (f) because not all the boundaries of the lands in the 1891 Title Orders creating Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) blocks had been surveyed, 35 40

those orders would not have been registrable in the Land Transfer Office and registered titles could not have been issued for them. The Native Land Court created fresh boundaries in 1899 when, on the application of the Crown, the Court divided the lands between the Crown and the Māori owners who had not sold. Because not all the boundaries were surveyed, with the passage of time the survey work, for which the owners had paid 343 acres of their land in 1899, became almost valueless. The Crown in general does have an obligation to ensure the completion of surveys of agreed boundaries, and to compensate Māori owners for the deficiencies of the Auckland Survey Office in the 1890s which led the Māori owners of Pouakani B9B block into costly litigation:

- (g) in past Crown administration of the forest that is now the Pureora Forest Park, there has been inadequate concern for Māori perspectives in the management of a forest which is regarded as a taonga by local tribes:

Findings of the Māori Land Court

- (4) In 1996, the Māori Land Court issued a decision that the 1891 Native Land Court order regarding the Pouakani/Maraeroa boundary was in contravention of the Native Land Court Acts Amendment Act 1889. The boundary was therefore found by the Māori Land Court to be that contained in the 1889 legislation:

Negotiations between the Pouakani people and the Crown

- (5) After the Māori Land Court decision, which was in favour of Mr Paki and the Pouakani people, the court adjourned the application sine die to permit the parties to negotiate, or to seek any further orders with regard to the application:
- (6) In December 1997, Cabinet accepted the Pouakani Deed of Mandate, which authorised the Pouakani negotiators to enter into negotiations with the Crown for a full and final settlement of the Pouakani historical claims and to remove the sense of grievance felt by the Pouakani people:
- (7) The Terms of Negotiations were signed for and on behalf of the Crown and the Pouakani negotiators on 9 June 1998:

- (8) The Crown acknowledges that John Hanita Paki has worked on settling the Pouakani claim for 23 years and that negotiations with the Crown have consumed his energy and time:

Settlement of claims

- (9) On 19 November 1999, the Crown and the Pouakani people entered into a deed of settlement in which the Crown acknowledged that the operation and impact of the Native Land Laws caused the Pouakani people to suffer prejudice in their rohe and which recorded the matters required to give effect to a full and final settlement of the Pouakani historical claims and the Pouakani boundary claims: 5
10

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Pouakani Claims Settlement Act **2000**.

2 Commencement

This Act comes into force on a date to be appointed by the Governor-General by Order in Council. 15

3 Purpose

The purpose of this Act is—

- (a) to record the apology given by the Crown to the Pouakani people in the deed of settlement executed on 19 November 1999 by the then Minister in Charge of Treaty of Waitangi Negotiations, the Right Honourable Sir Douglas Arthur Montrose Graham, for the Crown, and the trustees of the Pouakani Claims Trust as the mandated representative of the Pouakani people; and 20
25
- (b) to give effect to certain provisions of that deed of settlement, being a deed that settles the Pouakani boundary claims and the Pouakani historical claims.

4 Act to bind the Crown

This Act binds the Crown. 30

Part 1

Acknowledgements and apology by the Crown to the Pouakani people

- 5 Acknowledgements and apology**
This Part records the acknowledgements and apology given by the Crown to the Pouakani people in the deed of settlement. 5
- 6 Text in Māori**
The text of the acknowledgements and apology in Māori is as follows:
- “1 E rongō ana te Karauna i te mamae o ngā tāngata o Pouakani i te whakahaere o ngā Ture Whenua Māori i roto i tō rohe. 10
- “2 E whakaae ana a Te Karauna i hē te mahi me te pā mai o ngā Ture Whenua Māori ki Ngā Tāngata o Pouakani. Ko ēnei hē, e pā ana ki te āhua o te whakatakoto, o te whakatikatika me te hoko i ngā taitara ki ō rātou whenua, ā, e hāngai ana ki— 15
- “(a) *Te Ripa Tauārai Whakateuru o te Poraka Whenua o Pouakani*: Ko te whakatoihara i kitea i te whakataunga e te Kōti Whenua Māori i te tau 1891, i te ripa tauārai whakateuru o te Poraka o Pouakani. Ko te tukunga iho o tēnei, he rahi tonu te whenua i mahue ki waho o te Poraka o Pouakani, ahakoa i whakaurua katoatia i te roherohenga e te Ture Whakarerekē i te Kōti Whenua Māori 1889. 20
- “(b) *Te Hē o Ngā Rūri*: Ko te whakatoihara i pupū ake i te hē o ngā mahi rūri o ngā wāhanga o te Poraka o Pouakani. Ko te tukunga iho o ēnei mahi, ko te riro pokanoa o ngā whenua o ētahi o ngā tāngata whai pānga, me te kore riro mai o ngā taitara o ētahi o ngā whenua. 25
- “3 E whakaae ana Te Karauna, nā runga i te mea kāore i tiakina e ia ngā pānga whenua e hiahiatia ana e ngā Tāngata o Pouakani kia pupuritia, i takahia e ia ngā mātāpono o te Tiriti o Waitangi. 30
- “4 E mea ana te Karauna, kāore he ārikarika o tōna pōuri mō tana kore tiaki pai i ngā pānga whenua i hiahia nei ngā tāngata kāinga kia pupuritia. 35
- “5 Ka noho pōuri te Karauna mō ngā mahi hē e whakaaetia ana i mahia, ka mutu, ka whakataungia te take i waenganui i a ia me

ngā tāngata o Pouakani, kia pai ai te ahu atu ki tētahi wā mahi tahi, mahi pai, tētahi ki tētahi.”

7 Text in English

The text of the acknowledgements and apology in English is as follows: 5

- “1 The Crown acknowledges the sense of grievance felt by the Pouakani people in relation to the operation of the Native Land Laws in their rohe.
- “2 The Crown acknowledges that the operation and impact of the Native Land Laws caused the Pouakani people to suffer 10 prejudice in their rohe, including through the manner in which the title to their lands was defined, rearranged and purchased, and in particular—
- “(a) *Western Boundary of Pouakani Block*: The prejudice which arose from the definition of the western bound- 15 ary of the Pouakani Block in 1891 by the Native Land Court, resulting in a significant area being excluded from the Pouakani Block, contrary to the boundary defined by the Native Land Court Acts Amendment Act 1889. 20
- “(b) *Inaccuracies of Survey*: The prejudice which arose from inaccuracies in the surveys of subdivisions of the Pouakani Block, resulting in some cases in a loss of 25 land to owners and in others, an inability to obtain title to some of their land.
- “3 The Crown acknowledges that because it failed to protect the interests of the Pouakani people in the lands they wished to retain, that it has breached the principles of the Treaty of Waitangi.
- “4 The Crown expresses its profound regret and apologises unre- 30 servedly to the Pouakani people for failing to protect their interests in the lands they wished to retain.
- “5 The Crown apologises for the acknowledged injustices so far as that is now possible and accordingly settles with the 35 Pouakani people in order to enter into a new age of co-operation.”

Part 2 Interpretation

8 Interpretation of Act generally

It is the intention of Parliament that the provisions of this Act are interpreted in a manner that best furthers the agreements expressed in the deed of settlement. 5

Compare: 1998 No 97 s 7; 1999 No 118 s 6

9 Interpretation of terms

In this Act, unless the context otherwise requires,—

business day means the period of 9 am to 5 pm on any day of the week other than— 10

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, and Waitangi Day; and
- (b) a day in the period commencing with 25 December in any year, and ending with the close of 15 January in the following year; and 15
- (c) the days observed as the anniversaries of the provinces of Wellington and Auckland

chief executive means the chief executive of Land Information New Zealand 20

Chief Surveyor has the meaning that it has in section 2 of the Survey Act 1986

Crown—

- (a) means Her Majesty the Queen in right of New Zealand; and 25
- (b) includes, all Ministers of the Crown and all departments

deed of settlement—

- (a) means the deed of settlement executed on 19 November 1999 by the then Minister in Charge of Treaty of Waitangi Negotiations, the Right Honourable Sir Douglas Arthur Montrose Graham, for the Crown, and the trustees of the Pouakani Claims Trust as the mandated representative of Pouakani people; and 30
- (b) includes— 35
 - (i) the attachments and schedules to the deed of settlement; and
 - (ii) any amendments from time to time to the deed or to the attachments or to the schedules

- encumbrance** means a lease, licence, permit, easement, access arrangement, consent, or third party right, whether registered or unregistered as at 19 November 1999
- Māori freehold land** has the same meaning as in section 4 of Te Ture Whenua Maori Act 1993 5
- Minister** means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act
- Pouakani B9B Trust**— 10
- (a) means the trust known by that name created by an order of the Māori Land Court on 4 June 1986 (as substituted by a new trust order made by that Court on 3 December 1991); and
- (b) includes that trust under any other name 15
- Pouakani Block** means the Pouakani Block, South Auckland Land Registry, the boundaries of which are shown as S.O. Plan 0000
- Pouakani boundary claims** has the meaning set out in section 11 20
- Pouakani claimant** means any of the following:
- (a) the Pouakani people:
- (b) 1 or more individuals, whanau, marae, or hapu of the Pouakani people:
- (c) the Pouakani governance entity: 25
- (d) the Pouakani Claims Trust:
- (e) a trustee of the Pouakani Claims Trust:
- (f) a person acting on behalf of any 1 or more persons or groups referred to in **paragraphs (a) to (e)**:
- (g) a person acting on behalf of any 1 or more persons who 30
comprise a part of, are beneficiaries of, or are members of, any 1 or more persons or groups referred to in **paragraphs (a) to (e)**
- Pouakani Claims Trust** means the trust known by that name established by deed dated 10 March 1998; and includes that trust under any other name 35
- Pouakani Forest** has the same meaning as in clause 5.1 of the deed of settlement
- Pouakani governance entity** means the entity to be established under clause 7.5 of the deed of settlement 40

Pouakani historical claims has the meaning set out in section 10

Pouakani people means all of the individuals who are the descendants, as determined by the Māori Land Court, of the original owners of the Pouakani Block, being— 5

- (a) the owners included in Schedule 1 of the deed of settlement, as identified by that Court in a judgment dated 4 August 1891 and recorded in Waikato Minute Book, Volume 27, Folio 177 to 184 inclusive, Volume 28, Folio 2 to 27 and 32 to 34 inclusive; and 10
- (b) the descendants included in Schedule 2 of the deed of settlement, as identified by that Court in an order dated 11 May 1959; and
- (c) any other person accepted by that Court as being a descendant of the original owners of the Pouakani Block 15

Pouakani recipient means the Pouakani governance entity or the Pouakani Claims Trust or the Pouakani B9B Trust, as the case may be,—

- (a) to whom redress is provided, or property is transferred, under the deed of settlement; or 20
- (b) in whom property is vested under this Act

Registrar means the Registrar-General of Land

settlement means the settlement to be effected under the deed of settlement 25

settlement date means the date that is 20 business days after the date on which this Act comes into force

settlement property means a property or property interest to be transferred to, or vested in, a Pouakani recipient under section 5 or section 6 of the deed of settlement. 30

10 Meaning of Pouakani historical claims

(1) In this Act, **Pouakani historical claims** means—

- (a) all claims (whether or not researched, registered, or notified) made at any time by a Pouakani claimant and— 35
 - (i) founded on rights arising from the Treaty of Waitangi, the principles of the Treaty of

- Waitangi, statute, common law (including customary law and aboriginal title), fiduciary duty, or otherwise; and
- (ii) arising from or relating to acts or omissions before 21 September 1992— 5
 - (A) by or on behalf of the Crown; or
 - (B) by or under legislation; and
 - (b) all of the claims referred to in the Wai 33 and Wai 405 claims to the Waitangi Tribunal, including— 10
 - (i) the claims of 27 March 1987; and
 - (ii) the amended statement of claim of 23 October 1987 referred to in Appendix 2 of the Waitangi Tribunal Report 1993 (The Pouakani report 1993 (Wai 33)); and
 - (iii) the addendum to the amended statement of claim dated 27 April 1989 and referred to in Appendix 2 of the Waitangi Tribunal Report 1993; and 15
 - (iv) the claims of 21 October 1993.
 - (2) In this Act, **Pouakani historical claims** does not include any claim by a Pouakani claimant to the Waikato River. 20

11 **Meaning of Pouakani boundary claims**

In this Act, **Pouakani boundary claims** means all claims (whether or not researched, registered, or notified) made at any time by a Pouakani claimant arising out of or relating to—

- (a) the location or surveying of the external boundaries of the Pouakani Block, or the boundaries of its internal subdivisions; or 25
- (b) the ownership of that land and any resources within those boundaries as at the settlement date.

Part 3

30

Settlement of claims

12 **Settlement of Pouakani historical claims and Pouakani boundary claims to be final**

- (1) The settlement of the Pouakani boundary claims and the Pouakani historical claims to be effected under the deed of settlement and this Act is final, and the Crown is released and discharged from any obligations, liabilities, and duties in respect of those claims. 35

- (2) **Subsection (1)** does not limit the acknowledgements expressed in, or any of the provisions of, the deed of settlement.
- (3) Despite any other enactment or rule of law, no court, judicial body, or tribunal has jurisdiction to inquire or further inquire into, or to make any finding or recommendation in respect of,—
 - (a) any or all of the Pouakani boundary claims and Pouakani historical claims; or
 - (b) the validity of the deed of settlement; or
 - (c) the adequacy of the redress provided to the Pouakani governance entity and others under this Act or under the deed of settlement; or
 - (d) this Act.
- (4) **Subsection (3)** does not exclude the jurisdiction of a court, judicial body, or tribunal in respect of the interpretation or implementation of the deed of settlement or this Act.

Compare: 1998 No 97 s 461; 1999 No 118 s 9

13 Jurisdiction of Waitangi Tribunal to consider claims

Section 6 of the Treaty of Waitangi Act 1975 is amended by adding the following subsections:

- “(15) Despite anything in this Act or in any other Act or rule of law, on and from the settlement date (as defined in **section 9** of the Pouakani Claims Settlement Act **2000**), the Tribunal does not have jurisdiction to inquire or further inquire into, or to make any finding or recommendation in respect of,—
 - “(a) any or all of the Pouakani boundary claims and the Pouakani historical claims, as defined in **section 9** of the Pouakani Claims Settlement Act **2000**; or
 - “(b) the validity of the deed of settlement, as defined in **section 9** of the Pouakani Claims Settlement Act **2000**; or
 - “(c) the adequacy of the redress provided to the Pouakani governance entity and others under the deed of settlement or the Pouakani Claims Settlement Act **2000**; or
 - “(d) the Pouakani Claims Settlement Act **2000**.
- “(16) **Subsection (15)** does not exclude the jurisdiction of the Tribunal in respect of the interpretation or implementation of the deed of settlement or the Pouakani Claims Settlement Act **2000**.

Compare: 1998 No 97 s 462; 1999 No 118 s 10”

14 Enactments relating to protections for land subject to Pouakani historical claims and Pouakani boundary claims no longer to apply

- (1) Nothing in the enactments listed in **subsection (2)** applies in relation to any land (other than the land described in **subsection (3)**)— 5
- (a) comprised in or formerly comprised in certificate of title 49D/847 (South Auckland Registry); or
- (b) comprised in the Pouakani Block.
- (2) The enactments are— 10
- (a) sections 8A to 8HA of the Treaty of Waitangi Act 1975:
- (b) the amendments made to the Treaty of Waitangi Act 1975 by Part IV of the New Zealand Railways Corporation Restructuring Act 1990:
- (c) sections 27A to 27C of the State-Owned Enterprises Act 1986: 15
- (d) sections 211 to 213 of the Education Act 1989:
- (e) Part III of the New Zealand Railways Corporation Restructuring Act 1990.
- (3) **Subsection (1)** does not apply to that part of the land described as **0000** in S.O. Plan **000**. 20

Compare: 1998 No 97 s 463; 1999 No 118 s 11

15 Removal of resumptive memorials

- (1) The chief executive must, as soon as reasonably practicable after the settlement date, issue to the Registrar a certificate that identifies each certificate of title that— 25
- (a) relates solely to land referred to in **section 14(1)(a) and (b)** (other than the land described in **section 14(3)**); and
- (b) contains a memorial entered under any of the enactments referred to in **section 14(2)**. 30
- (2) Each certificate must state that it is issued under this section.
- (3) The Registrar must, as soon as reasonably practicable after receiving a certificate issued under **subsection (1)**, and without fee to the registered proprietor or to the Pouakani governance entity,— 35
- (a) register the certificate against each certificate of title identified in the certificate; and
- (b) cancel each memorial that, under any of the enactments referred to in **section 14(2)**, is entered on a certificate of title identified in the certificate. 40

- (4) **Subsection (3)** does not require the Registrar to note any duplicate certificate of title.

Compare: 1998 No 97 s 464; 1999 No 118 s 12

16 Crown may dispose of Pouakani Forest if forest not transferred to Pouakani governance entity 5

- (1) If the Pouakani Forest is not transferred to the Pouakani governance entity under clause 5.2 of the deed of settlement—
- (a) the Crown may sell or otherwise dispose of the Pouakani Forest; and
 - (b) the Minister for State Owned Enterprises and the Minister of Finance may, by notice in the *Gazette* declare that the Pouakani Forest is no longer Crown forest land and, on the publication of the notice, the land is Crown land subject to the Land Act 1948. 10

- (2) This section applies despite anything in the Crown Forest Assets Act 1989. 15

- (3) If the Pouakani Forest is sold or otherwise disposed of under this section it ceases to be Crown forest land within the meaning of section 2(1) of the Crown Forest Assets Act 1989.

Compare: 1998 No 97 s 38 20

17 Settlement for benefit of Pouakani

- (1) The settlement is for the benefit of, and binding upon, the Pouakani people, and not for the benefit of any individual, particular whanau, particular marae, or particular hapu (except to the extent determined otherwise after the settlement date by the Pouakani governance entity in accordance with its governance procedures). 25

- (2) **Subsection (1)** does not apply to clause 7.2.4 of the deed of settlement or **section 29** of this Act.

Compare: 1998 No 97 s 467; 1999 No 118 s 13 30

Miscellaneous

- 18 Rule against perpetuities not to apply**
- The rule against perpetuities or any relevant provisions of the Perpetuities Act 1964 do not apply to any document entered into to give effect to the deed of settlement, if the application 35

of that rule or the provisions of that Act would otherwise make the document invalid or ineffective.

Compare: 1998 No 97 s 466; 1999 No 118 s 14

Part 4

General provisions as to transfer and vesting of settlement properties 5

19 Power to transfer settlement properties

- (1) For the purposes of giving effect to the deed of settlement, the Crown (acting through the Commissioner of Crown Lands) is authorised to do 1 or more of the following: 10
 - (a) transfer the fee simple estate in any settlement property to a Pouakani recipient:
 - (b) sign a memorandum of transfer, or any other document, or do any other thing for the purposes of such a transfer.
- (2) In exercising the powers conferred by **subsection (1)**, the Crown is not required to comply with any other enactment that would otherwise regulate or apply to the sale or other disposition of the settlement property. 15
- (3) If the fee simple estate in the Pouakani Forest is transferred to a Pouakani recipient the Pouakani Forest ceases to be Crown forest land within the meaning of section 2(1) of the Crown Forest Assets Act 1989. 20
- (4) If an action is required to be undertaken by the Registrar under this Act, it is without fee to the registered proprietor or to the Pouakani recipient. 25

Compare: 1998 No 97 s 20(1)–(3); 1999 No 118 s 15(1)–(3)

20 Application of other enactments

- (1) Nothing in section 11 or Part X of the Resource Management Act 1991 applies to— 30
 - (a) the transfer or vesting of a settlement property for the purpose of giving effect to the deed of settlement; or
 - (b) any matter incidental to, or required for the purpose of, the transfer or vesting of a settlement property for the purpose of giving effect to the deed of settlement.
- (2) Neither this Act nor any transfer or vesting of the fee simple estate in a settlement property under this Act, limits section 10 or section 11 of the Crown Minerals Act 1991. 35

- (3) The transfer or vesting of the fee simple estate in a settlement property under this Act is a disposition for the purposes of Part IVA of the Conservation Act 1987, but sections 24(2A), 24A, and 24AA of that Act do not apply to the disposition.

Compare: 1998 No 97 s 45

5

21 Issue of certificates of title

- (1) **Subsection (2)** applies if the fee simple estate in any settlement property for which no certificate of title has been issued or currently exists under the Land Transfer Act 1952—

- (a) is vested in, or held by, the Crown; but 10
- (b) is to be transferred to, or vested in, a Pouakani recipient under the deed of settlement.

- (2) If this subsection applies, then, despite any other enactment or rule of law, the Registrar must, at the request of the Commissioner of Crown Lands and after completion of such survey (if any) as may be necessary, issue a certificate of title under the Land Transfer Act 1952 for the fee simple estate in the settlement property in the name of the Crown, and that certificate of title is subject to, and has the benefit of, any relevant easements, encumbrances, restrictions, and other interests, details of which must be set out in the request of the Commissioner. 15
20

Compare: 1998 No 97 s 46

Part 5

Transfer and vesting of settlement properties

Subpart 1—Settlement of Pouakani historical claims 25

Transfer of Pouakani Forest

22 Crown may sell Crown forestry assets

- (1) The Crown may sell Crown forestry assets for the purpose of giving effect to the deed of settlement. 30
- (2) This section applies despite anything in the Crown Forest Assets Act 1989.
- (3) In this section, **Crown forestry assets** has the meaning that it has in section 2(1) of the Crown Forest Assets Act 1989.

23 Covenants to complete survey work

- (1) Despite any enactment or rule of law, the covenant granted under paragraph 3.3 of attachment 5.4 of the deed of settlement—
- (a) must be registered by the Registrar under section 126A of the Property Law Act 1952 if the Registrar receives a copy of that covenant certified by the Minister; and 5
 - (b) whether registered or not, has effect and is enforceable even if the covenant is positive and there is no dominant tenement. 10
- (2) Despite anything in the Land Transfer Act 1952, even though the covenant granted under paragraph 3.3 of attachment 5.4 of the deed of settlement is in respect of land for which no certificate of title has been issued under that Act—
- (a) the Minister may request the Registrar to register the covenant under that Act by constituting it a folium in the register book; and 15
 - (b) the Registrar must register the covenant accordingly.

Compare: 1998 No 97 s 39

24 Section 24H(6) of Conservation Act 1987 to apply 20

- (1) Section 24H(6) of the Conservation Act 1987 applies to the Pouakani governance entity in relation to any marginal strip adjoining the Pouakani Forest, while the entity is the registered proprietor of the Pouakani Forest, as if—
- (a) the Pouakani governance entity were the holder of a Crown forestry licence under the Crown Forest Assets Act 1989; and 25
 - (b) the Minister of Conservation had appointed the Pouakani governance entity to be the manager of the marginal strip. 30
- (2) In this section, **marginal strip** has the same meaning as in section 2(1) of the Conservation Act 1987.

25 Minister of Conservation may grant easements

- (1) The Minister of Conservation may grant any easement required to enable the Crown to comply with paragraphs 3.4.3 and 3.5 of attachment 5.4 to the deed of settlement. 35
- (2) An easement granted under **subsection (1)**—

- (a) is registrable under section 17ZA(2) of the Conservation Act 1987, as if it were a deed to which that provision applied; and
- (b) is enforceable in accordance with its terms, despite Part IIIB of the Conservation Act 1987. 5

Compare: 1998 No 97 s 41

26 Permission of council not required to form private road or private way

The permission of a council (within the meaning of Part XXI of the Local Government Act 1974) is not required for the laying out, or forming of, a private road or private way, or for the granting or reserving of a right of way over a private way, required for the purposes of, or incidental to, section 5 of the deed of settlement. 10

Compare: 1998 No 97 s 20(7) 15

27 Preservation order cancelled

(1) The order of the High Court dated 28 August 1987 made in relation to the proceedings *Attorney-General for and on behalf of the Department of Conservation v J H Paki & Others of the Pouakani B9B Trust* is cancelled on and from the effective date. 20

(2) In this section, **effective date** means either—

- (a) the selection date (as defined by clause 5.1 of the deed of settlement) if the Pouakani governance entity has not given notice under clause 5.2.3 of the deed of settlement by that date; or 25
- (b) the transfer date (as defined by clause 5.1 of the deed of settlement) if the Pouakani governance entity has given that notice.

Subpart 2—Settlement of Pouakani boundary claims 30

Confirmation of western boundary of Pouakani Block

28 Confirmation of western boundary of Pouakani Block

(1) The western boundary of the Pouakani Block as defined in section 29 of the Native Land Court Acts Amendment Act 1889 (as confirmed by the 1996 decision of the Maori Land 35

- Court (6 December 1996, Gisborne, 68 Taupo minute book 122 A-L)) is confirmed.
- (2) Despite **subsection (1)**, the survey of the western boundary of the Pouakani Block as approved by the Native Land Court in 1891 is valid in so far as the survey determined, or has been relied upon for, the internal subdivisions within the Pouakani Block and the Maraeroa Block. 5
- (3) The ownership by the Crown of the area of land described in **subsection (4)** is confirmed and is not affected by this section.
- (4) For the purposes of **subsection (3)**, the area of land is the area of land (other than the land referred to in **subsection (5)**) within— 10
- (a) the western boundary of the Pouakani Block as defined in section 29 of the Native Land Court Acts Amendment Act 1889 (as confirmed by the 1996 decision of the Maori Land Court (6 December 1996, Gisborne, 68 Taupo minute book 122 A-L)) ; and 15
- (b) the western boundary of the Pouakani Block as approved by the Native Land Court in 1891.
- (5) The existing ownership of the land comprised in certificate of title 44C/4 (South Auckland Registry), as at 19 November 1999, is confirmed and is not affected by this section. 20

Pouakani B9B Block

29 Pouakani B9B Block

- (1) The boundaries of Block B9B are those that, on the completion of survey, are shown on ML Plan 22432. 25
- (2) In this section and in **section 30**, **Block B9B** means Pouakani B9B Block (South Auckland Registry).

30 Issue of certificate of title for Block B9B

- (1) The Registrar must issue a certificate of title under the Land Transfer Act 1952 for the fee simple estate in Block B9B in the name of Pouakani B9B Trust as Māori freehold land, the boundaries of which are those that, on the completion of survey, are shown on ML Plan 22432. 30
- (2) The certificate of title must be issued as soon as reasonably practicable after the date of vesting under **section 29(2)(b)**, and, in any event, no later than— 35
- (a) 12 months after the date of vesting under **section 29(2)(b)**;
or

- (b) such later date as may be agreed to in writing between the Pouakani governance entity and the Crown.
- (3) Subject to **subsection (4)**, that certificate of title must include—
 - (a) a sufficient description of any easement, mortgage, or other registrable or notifiable encumbrance over Block B9B; and 5
 - (b) a memorial containing—
 - (i) a brief description of the rights, powers, terms, covenants, conditions, and restrictions attaching to it; and 10
 - (ii) a reference to the notice supplied by the Minister under **subsection (5)**.
- (4) An encumbrance that is not registrable under the Land Transfer Act 1952 is not required, by virtue of this section, to be registered against the certificate of title issued under **subsection (1)**. 15
- (5) The Minister must supply the Registrar with a notice, containing a description of any registrable or notifiable encumbrances subject to which, or with the benefit of which, the land for which a certificate of title is to be issued under **subsection (1)** is vested, or advising that there are no such encumbrances— 20
 - (a) as soon as reasonably practicable after the coming into force of this Act; and
 - (b) in any case, in sufficient time to enable the Registrar to carry out the functions of the Registrar under this section. 25

Vesting of stewardship land

- 31 Stewardship land vested in Pouakani governance entity**
- (1) On the settlement date or on the date that the Chief Surveyor approves the plan of the boundaries of the stewardship land, whichever occurs later,— 30
 - (a) the stewardship land ceases to be a conservation area for the purposes of the Conservation Act 1987; and
 - (b) the fee simple estate in the stewardship land is vested in the Pouakani governance entity as Māori freehold land, subject to those encumbrances disclosed by the Crown to the Pouakani Claims Trust under clause 6.5.10(a) of the deed of settlement. 35

- (2) In this section and in **section 32, stewardship land** means the land that, on the completion of survey, is comprised in sections 1 and 2 of S.O. Plan 61501.
- 32 Issue of certificate of title for stewardship land**
- (1) The Registrar must issue a certificate of title under the Land Transfer Act 1952 for the fee simple estate in the stewardship land as Māori freehold land. 5
- (2) The certificate of title must be issued as soon as reasonably practicable after the date of vesting under **section 31(1)(b)**, and, in any event, no later than— 10
- (a) 12 months after the date of vesting under **section 31(1)(b)**; or
- (b) such later date as may be agreed to in writing between the Pouakani governance entity and the Crown.
- (3) Subject to **subsection (4)**, that certificate of title must include— 15
- (a) a sufficient description of any easement, mortgage, or other registrable or notifiable encumbrance over the stewardship land; and
- (b) a memorial containing— 20
- (i) a brief description of the rights, powers, terms, covenants, conditions, and restrictions attaching to it; and
- (ii) a reference to the notice supplied by the Minister under **subsection (5)**.
- (4) An encumbrance that is not registrable under the Land Transfer Act 1952 is not required, by virtue of this section, to be registered against the certificate of title issued under **subsection (1)**. 25
- (5) The Minister must supply the Registrar with a certificate, containing a description of any registrable or notifiable encumbrances subject to which, or with the benefit of which, the land for which a certificate of title is to be issued under **subsection (1)** is vested, or advising that there are no such encumbrances— 30
- (a) as soon as reasonably practicable after the coming into force of this Act; and 35
- (b) in any case, in sufficient time to enable the Registrar to carry out the functions of the Registrar under this section.

Part 6 Cultural redress

33 Interpretation

(1) In this Part and in **Schedule 2 and Schedule 3**,—

consent authority has the same meaning as in section 2(1) of the Resource Management Act 1991 5

Crown MOU land means that part of the MOU land that is owned by the Crown, as identified on the map attached to the memorandum of understanding

Crown-owned area of Titiraupenga means the area described in **Schedule 3**, the general location of which is indicated on the plans referred to in that schedule 10

effective date means the date that is 6 months after the settlement date

memorandum of understanding means the memorandum of understanding referred to in **sections 43 to 47** that is to be entered into by the Crown and the Pouakani governance entity under clause 3.3 of the deed of settlement 15

MOU land means the land to which the memorandum of understanding applies, as identified on the map attached to that memorandum 20

resource consent has the same meaning as in section 87 of the Resource Management Act 1991

statement of joint aspirations means the statement made by the Pouakani people and the Crown contained in **Schedule 2** 25

statutory acknowledgement means the acknowledgement made by the Crown under **section 35** in respect of the Crown-owned area of Titiraupenga, and on the terms set out in **sections 35 to 42 and 48 to 50**

Titiraupenga means the area identified as Titiraupenga on the map attached to the memorandum of understanding. 30

(2) The references to the plans included in **Schedule 3** are included for the purposes of indicating the general location of the Crown-owned area of Titiraupenga, and are not intended to establish the precise boundaries of the Crown-owned area of Titiraupenga. 35

*Statement of joint aspirations***34 Statement of joint aspirations**

The Crown gives jointly with the Pouakani people the statement of joint aspirations contained in **Schedule 2**.

Statutory acknowledgement

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35 Statutory acknowledgement by the Crown

The Crown acknowledges the statements made by the Pouakani people of the particular cultural, spiritual, historic, and traditional association of the Pouakani people with the Crown-owned area of Titiraupenga, the text of which is set out in **Schedule 3**.

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Compare: 1998 No 97 s 206

36 Purposes of statutory acknowledgement

Without limiting **sections 48 to 50**, the only purposes of the statutory acknowledgement are—

15

- (a) to require that consent authorities forward summaries of resource consent applications to the Pouakani governance entity as required by regulations made under **section 37**; and
- (b) to require that consent authorities, the Historic Places Trust, and the Environment Court have regard to the statutory acknowledgement in relation to the Crown-owned area of Titiraupenga, as provided in **sections 38 to 40**; and
- (c) to enable the Pouakani governance entity and any member of the Pouakani people to cite the statutory acknowledgement as evidence of the association of the Pouakani people to the Crown-owned area of Titiraupenga, as provided in **section 41**.

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Compare: 1998 No 97 s 215

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37 Distribution of applications to Pouakani governance entity

- (1) The Governor-General may, by Order in Council and on the recommendation of the Minister for the Environment, make regulations, as contemplated by clause 3.2.2 of the deed of settlement,—

35

- (a) providing for consent authorities to forward to the Pouakani governance entity a summary of any applications received for resource consents for activities within, adjacent to, or impacting directly on the Crown-owned area of Titiraupenga; and 5
- (b) providing for the Pouakani governance entity to waive its rights to be notified under such regulations.
- (2) Nothing in regulations made under this section affects in any way the discretion of a consent authority as to—
 - (a) whether to notify an application under sections 93 and 94 of the Resource Management Act 1991; and 10
 - (b) whether the Pouakani governance entity may be an affected person under those sections.

Compare: 1998 No 97 s 207

38 Consent authorities to have regard to statutory acknowledgement 15

From the effective date, and without derogating from its obligations under Part II of the Resource Management Act 1991, a consent authority must have regard to the statutory acknowledgement— 20

- (a) in forming an opinion, for the purposes of section 93(1)(e) of the Resource Management Act 1991, as to whether the Pouakani governance entity is likely to be directly affected by an application for activities within, adjacent to, or impacting directly on the Crown-owned area of Titiraupenga; and 25
- (b) in forming an opinion, for the purposes of either section 94(1)(c)(ii) or section 94(3)(c) of the Resource Management Act 1991, as to whether the Pouakani governance entity is a person who may be adversely affected by the granting of a resource consent for activities within, adjacent to, or impacting directly on the Crown-owned area of Titiraupenga; and 30
- (c) in satisfying itself, for the purposes of section 94(2)(b) of the Resource Management Act 1991, as to whether the Pouakani governance entity is a person who may be adversely affected by the granting of a resource consent for activities within, adjacent to, or impacting directly on the Crown-owned area of Titiraupenga. 35

Compare: 1998 No 97 s 208 40

39 Environment Court to have regard to statutory acknowledgement under section 274 of Resource Management Act 1991

From the effective date, and without derogating from its obligations under Part II of the Resource Management Act 1991, the Environment Court must have regard to the statutory acknowledgement in determining, for the purposes of section 274 of the Resource Management Act 1991, whether the Pouakani governance entity has an interest, greater than the public generally, in proceedings relating to an application for a resource consent for activities within, adjacent to, or impacting directly on the Crown-owned area of Titiraupeunga.

Compare: 1998 No 97 s 209

40 Historic Places Trust and Environment Court to have regard to statutory acknowledgement under sections 14 and 20 of Historic Places Act 1993

- (1) From the effective date, the Historic Places Trust and the Environment Court must have regard to the statutory acknowledgement in forming an opinion, for the purposes of section 14 or section 20(1) of the Historic Places Act 1993, as to whether the Pouakani governance entity is directly affected in relation to an archaeological site within the Crown-owned area of Titiraupeunga.
- (2) In this section, **archaeological site** has the same meaning as in section 2 of the Historic Places Act 1993.

Compare: 1998 No 97 s 210

41 Use of statutory acknowledgement with submissions

- (1) The Pouakani governance entity and any member of the Pouakani people may, as evidence of the Pouakani people's association with the Crown-owned area of Titiraupeunga, cite the statutory acknowledgement in submissions to, and in proceedings before, a consent authority, the Environment Court, or the Historic Places Trust concerning activities within, adjacent to, or impacting directly on the Crown-owned area of Titiraupeunga.
- (2) The content of the statement of association, as recorded in the statutory acknowledgement, is not, by virtue of the statutory acknowledgement, binding as deemed fact on—
 - (a) consent authorities; and

- (b) the Environment Court; and
 - (c) the Historic Places Trust; and
 - (d) parties to proceedings before those bodies; and
 - (e) any other person able to participate in those proceedings. 5
- (3) Despite **subsection (2)** the statutory acknowledgement may be taken into account by the bodies and persons specified in that subsection.
- (4) **Subsections (2) and (3)** are for the avoidance of doubt.
- (5) Neither the Pouakani governance entity nor any member of the Pouakani people is precluded from stating that the Pouakani people have an association with the Crown-owned area of Titiraupenga that is not described in the statutory acknowledgement. 10
- (6) The content and existence of the statutory acknowledgement do not derogate from a statement made under **subsection (5)**. 15

Compare: 1998 No 97 s 211

42 Recording of statutory acknowledgement on statutory plans

- (1) Local authorities with jurisdiction in respect of the Crown-owned area of Titiraupenga must attach information recording the statutory acknowledgement to— 20
- (a) all regional policy statements, regional plans, district plans, and proposed plans (as defined in section 2 of the Resource Management Act 1991) that— 25
 - (i) cover, wholly or partly, the Crown-owned area of Titiraupenga; and
 - (ii) are prepared under the Resource Management Act 1991; and
 - (b) all proposed policy statements, of the kind referred to in the First Schedule of the Resource Management Act 1991, that— 30
 - (i) cover, wholly or partly, the Crown-owned area of Titiraupenga; and
 - (ii) are prepared under the Resource Management Act 1991. 35
- (2) The attachment of information to a policy statement or plan under **subsection (1)** to a document referred to in that subsection—

- (a) may be by way of reference to this Part or by setting out the statutory acknowledgement in full; and
- (b) is for the purpose of public information only, and the information is neither part of the document (unless adopted by the relevant regional council or district council) nor subject to the provisions of the First Schedule of the Resource Management Act 1991. 5

Compare: 1998 No 97 s 220

Memorandum of understanding

43 Authorisation to enter into and amend memorandum of understanding 10

- (1) The Minister of Conservation (as the Minister of the Crown responsible for the management or administration of the Crown MOU land) has power to enter into, and amend, the memorandum of understanding. 15
- (2) The memorandum of understanding may be amended only by written agreement between the Minister of Conservation and the Pouakani governance entity.

Compare: 1998 No 97 s 212

44 Alienation of land terminates memorandum of understanding 20

- (1) In the event that any Crown MOU land is alienated by the Crown, the memorandum of understanding is automatically terminated in so far as it applies to the land that has been alienated. 25
- (2) In this section, **alienated**, in relation to Crown MOU land, means the Crown—
 - (a) is no longer responsible for the management of the land; and
 - (b) has either— 30
 - (i) transferred the estate in fee simple in the land to a person who is not a party to the deed of settlement; or
 - (ii) granted a new lease over the land to a person who is not a party to the deed of settlement, the term of the lease (including any right of renewal or extension) being at least 50 years. 35

Compare: 1998 No 97 s 214

45 Memorandum of understanding subject to Crown obligations

The memorandum of understanding and any amendments to it are entered into subject to, and without restriction on,—

- (a) the obligations of the Minister of Conservation, the Director-General of Conservation, and the Department of Conservation to discharge their respective powers, duties, and functions in accordance with existing law and Government policy from time to time; and 5
- (b) the Crown's powers to amend policy and to introduce legislation amending existing law. 10

Compare: 1998 No 97 s 283; 1999 No 118 s 19

46 Enforceability of memorandum of understanding

- (1) The Minister of Conservation must comply with the memorandum of understanding as long as it remains in force. 15
- (2) If the Minister of Conservation fails unreasonably to comply with the memorandum of understanding, the Pouakani governance entity may, subject to the Crown Proceedings Act 1950, enforce the memorandum of understanding by way of public law action against the Minister of Conservation. 20
- (3) Despite **subsection (2)**, damages are not available as a remedy for failure to comply with the memorandum of understanding.

Compare: 1998 No 97 s 285(1)–(3); 1999 No 118 s 21(1), (2), (4)

47 Noting of memorandum of understanding

- (1) The existence of the memorandum of understanding, as amended from time to time, and a summary of the terms of the memorandum must be noted in all conservation management strategies and conservation management plans that affect the MOU land. 25
- (2) Noting of the memorandum of understanding under this section is for the purpose of public notice only, and is not an amendment to a strategy or plan for the purpose of section 171 of the Conservation Act 1987. 30

Compare: 1998 No 97 s 284; 1999 No 118 s 20

Effect of statement of joint aspirations, statutory acknowledgement, and memorandum of understanding

48 Exercise of powers, duties, and functions

Except as expressly provided in **sections 36 and 38 to 41**,—

- (a) neither the statutory acknowledgement nor the statement of joint aspirations affects, or may be taken into account in, the exercise of a power, duty, or function by a person or entity under a statute, regulation, or bylaw; and 5
- (b) without limiting **paragraph (a)**, no person or entity, in considering a matter or making a decision or recommendation under a statute, regulation, or bylaw, may give greater or lesser weight to the Pouakani people's association with the Crown-owned area of Titiraupenga or aspirations for Titiraupenga (as described in the statutory acknowledgement or the statement of joint aspirations, as the case may be) than that person or entity would give under the relevant statute, regulation, or bylaw if— 10
 - (i) no statutory acknowledgement existed in respect of the Crown-owned area of Titiraupenga; and 15
 - (ii) no statement of joint aspirations existed in respect of Titiraupenga. 20

Compare: 1998 No 97 s 217

49 Rights not affected

Except as expressly provided in **sections 34 to 42, 48, and 50**, neither the statutory acknowledgement nor the statement of joint aspirations affects the lawful rights or interests of a person who is not a party to the deed of settlement.

Compare: 1998 No 97 s 218

50 Limitation of rights

Except as expressly provided in **sections 34 to 49**, the statutory acknowledgement, the statement of joint aspirations, and the memorandum of understanding (except as expressly provided in the memorandum of understanding) do not have the effect of granting, creating, or providing evidence of an estate or interest in, or any rights of any kind whatsoever relating to,

the Crown-owned area of Titiraupenga or the Crown MOU land, as the case may be.

Compare: 1998 No 97 s 219

Amendment to Resource Management Act 1991

51 Amendment to Resource Management Act 1991 5

Schedule 11 of the Resource Management Act 1991 is amended by adding the following item:

“Pouakani Claims Settlement Act **2000**”.

Preamble, recital A

Schedule 1 The Treaty of Waitangi

(The text in Māori)

KO WIKITŌRIA, te Kuini o Ingarani, i tāna mahara atawai ki ngā Rangitira me ngā Hapū o Nu Tīrani i tāna hiahia hoki kia tohungia ki a rātou ō rātou rangatiratanga, me tō rātou wenua, ā kia mau tonu hoki te Rongo ki a rātou me te Ātanoho hoki kua wakaaro ia he mea tika kia tukua mai tētahi Rangatira hei kaiwakarite ki ngā Tāngata māori o Nū Tīrani-kia wakaetia e ngā Rangatira māori te Kāwanatanga o te Kuini ki ngā wāhi katoa o te Wenua nei me ngā Motu-nā te mea hoki he tokomaha kē ngā tāngata o tōna Iwi Kua noho ki tēnei wenua, ā, e haere mai nei.

Nā ko te Kuini e hiahia ana kia wakaritea te Kāwanatanga kia kaua ai ngā kino e puta mai ki te tāngata Māori ki te Pākehā e noho ture kore ana.

Nā, kua pai te Kuini kia tukua ahau a Wiremu Hopihona, he Kāpitana i te Roiara Nawi hei Kāwana mō ngā wāhi katoa o Nū Tīrani i tukua āianeī, āmua ki te Kuini e mea atu ana ia ki ngā Rangatira o te wakaminenga o ngā Hapū o Nū Tīrani me ērā Rangatira atu ēnei ture ka kōrerotia nei.

Ko te Tuatahi

Ko ngā Rangatira o te Wakaminenga me ngā Rangatira katoa hoki kihai i uru ki taua wakaminenga ka tuku rawa atu ki te Kuini o Ingarani ake tonu atu-te Kāwanatanga katoa o ō rātou wenua.

Ko te Tuarua

Ko te Kuini o Ingarani ka wakarite ka wakaae ki ngā Rangatira ki ngā hapū - ki ngā tāngata katoa o Nū Tīrani te tino Rangatiratanga o ō rātou wenua ō rātou kāinga me ō rātou tāonga katoa. Otiia ko ngā Rangatira o te Wakaminenga me ngā Rangatira katoa atu ka tuku ki te Kuini te hokonga o ērā wāhi wenua e pai ai te tangata nōna te Wenua-ki te ritenga o te utu e wakaritea ai e rātou ko te kaihoko e meatia nei e te Kuini hei kaihoko mōna.

Ko te Tuatoru

Hei wakaritenga mai hoki tēnei mō te wakaetanga ki te Kāwanatanga o te Kuini-Ka tiakina e te Kuini o Ingarani ngā tāngata Māori katoa o Nū Tīrani. Ka tukua ki a rātou ngā tikanga katoa rite tahi ki āna mea ki ngā tāngata o Ingarani.

(Signed) WILLIAM HOBSON,
Consul and Lieutenant-Governor.

Nā ko mātou, ko ngā Rangatira o te Wakaminenga o ngā Hapū o Nū Tīrani ka huihui nei ki Waitangi ko mātou hoki ko ngā Rangatira o Nū Tīrani ka kite nei i te ritenga o ēnei kupu, ka tangohia ka wakaaetia katoatia e mātou, koia ka tohungia ai ō mātou ingoa ō mātou tohu.

5

Ka meatia tēnei ki Waitangi i te ono o ngā rā o Pepueri i te tau kotahi mano, e waru rau e wā tekau o tō tātou Ariki.

Ko ngā Rangatira o te wakaminenga.

(The text in English)

HER MAJESTY VICTORIA Queen of the United Kingdom of Great Britain and Ireland regarding with Her Royal Favour the Native Chiefs and Tribes of New Zealand and anxious to protect their just Rights and Property and to secure to them the enjoyment of Peace and Good Order has deemed it necessary in consequence of the great number of Her Majesty's Subjects who have already settled in New Zealand and the rapid extension of Emigration both from Europe and Australia which is still in progress to constitute and appoint a functionary properly authorised to treat with the Aborigines of New Zealand for the recognition of Her Majesty's Sovereign authority over the whole or any part of those islands—Her Majesty therefore being desirous to establish a settled form of Civil Government with a view to avert the evil consequences which must result from the absence of the necessary Laws and Institutions alike to the native population and to Her subjects has been graciously pleased to empower and to authorise me William Hobson a Captain in Her Majesty's Royal Navy Consul and Lieutenant Governor of such parts of New Zealand as may be or hereafter shall be ceded to her Majesty to invite the confederated and independent Chiefs of New Zealand to concur in the following Articles and Conditions.

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ARTICLE THE FIRST

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The Chiefs of the Confederation of the United Tribes of New Zealand and the separate and independent Chiefs who have not become members of the Confederation cede to Her Majesty the Queen of England absolutely and without reservation all the rights and powers of Sovereignty which the said Confederation of Individual Chiefs respectively exercise or possess, or may be supposed to exercise or to possess over their respective Territories as the sole Sovereigns thereof.

35

ARTICLE THE SECOND

Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession; but the Chiefs of the United Tribes and the individual Chiefs yield to Her Majesty the exclusive right of Preemption over such lands as the proprietors thereof may be disposed to alienate at such prices as may be agreed upon between the respective Proprietors and persons appointed by Her Majesty to treat with them in that behalf.

ARTICLE THE THIRD

In consideration thereof Her Majesty the Queen of England extends to the Natives of New Zealand Her royal protection and imparts to them all the Rights and Privileges of British Subjects.

W. HOBSON, Lieutenant Governor.

Now therefore We the Chiefs of the Confederation of the United Tribes of New Zealand being assembled in Congress at Victoria in Waitangi and We the Separate and Independent Chiefs of New Zealand claiming authority over the Tribes and Territories which are specified after our respective names, having been made fully to understand the Provisions of the foregoing Treaty, accept and enter into the same in the full spirit and meaning thereof: in witness of which we have attached our signatures or marks at the places and the dates respectively specified.

Done at Waitangi this Sixth day of February in the year of Our Lord One thousand eight hundred and forty.

[Here follow signatures, dates, etc]

Schedule 2

Statement of joint aspirations for Titiraupenga

s 34

Statutory area

The area to which this statement of joint aspirations applies is the area known as Titiraupenga.

5

Titiraupenga regarded as taonga

It is hereby recorded by the Pouakani people and by the Crown that Titiraupenga is regarded as a taonga.

Joint aspirations in respect of Titiraupenga

It is hereby recorded by the Pouakani people and by the Crown that their joint aspirations in respect of Titiraupenga are as follows:

10

- (a) to preserve Titiraupenga in its natural state:
- (b) to preserve the native plants and animals and to exterminate as far as possible the introduced plants and animals:
- (c) to preserve wahi tapu areas and the sites and objects having archaeological, historical, spiritual, or cultural significance.

15

Limitations on effect of statement of joint aspirations

This statement of joint aspirations does not affect, and is not to be taken into account in, the exercise of a power, duty, or function by a person or entity under a statute, regulation, or bylaw.

20

Without limiting the above provision, no person or entity, in considering a matter or making a decision or recommendation under a statute, regulation, or bylaw, may give greater or lesser weight to the Pouakani people's aspirations for Titiraupenga (as described in this statement of joint aspirations) than that person or entity would give under the relevant statute, regulation, or bylaw if no statement of joint aspirations existed in respect of Titiraupenga.

25

Except as expressly provided in this Act, this statement of joint aspirations does not affect the lawful rights or interests of a person who is not a party to the deed of settlement.

30

Except as expressly provided in this Act, this statement of joint aspirations does not, of itself, have the effect of granting, creating, or providing evidence of an estate or interest in, or any rights of any kind whatsoever relating to, the Crown-owned area of Titiraupenga.

s 35

Schedule 3

Statutory acknowledgement for the Crown-owned area of Titiraupenga

Statutory area

The area to which this statutory acknowledgement applies is the area known as the Crown-owned area of Titiraupenga, as shown on S.O. Plan **0000**. 5

Preamble

Under **section 35** of the Pouakani Claims Settlement Act **2000** (clause 3.2.1 of the deed of settlement), the Crown acknowledges the Pouakani people's statement of the Pouakani people's cultural, spiritual, historic, and traditional association to the Crown-owned area of Titiraupenga as set out below. 10

*Pouakani people's association with the Crown-owned area
of Titiraupenga* 15

TITIRAUPENGA

TENEI TAKU MANU

KA EKE KI TE TAUMATA

O TOKU MAUNGA TAPU TITIRAUPENGA

TITIRO ARORANGI ATU 20

KIA PUREORA ETU MAI RA

EEEE!

KEI RARO RA

KO TE HORA-ARUHE

KI TE POU-A-KANI 25

TI HEI MAURI ORA

TITIRAUPENGA

MY BIRD

THAT SOARS TO THE SUMMITS

OF MY SACRED MOUNTAIN TITIRAUPENGA 30

AND SURVEYS

PUREORA THAT STANDS MAJESTIC

EEEE!

*OVERLOOKING
THE ANCESTRAL GARDENS AND THE CELESTIAL
DECLARATION OF "MINE" (TE POU A KANI)
TI HEI MAURI ORA*

Titiraupenga and Pureora journeyed long and far to find others of 5
their kind. Despite horrendous adversity they struggled on until
eventually upon the desolate plain of despair they resolved to meet
their end together and embraced for one last time. Ranganui, Sky
father, was so moved by the strength of their spirit and love that he
turned them to stone granting them immortality to serve as symbols 10
of good. Their "family" are dotted throughout the continents and
oceans of this world.

Later Tarapikau, the guardian and traveller of mountain trails, who
resides in many places of Aotearoa, used to rest on the sacred peak 15
of Titiraupenga to greet the first light of the new day as he could
survey the vast interior while gathering the warmth of the sun's first
rays.

The Patupaearehe or fairy people's laughter can still be heard in the
swift running streams of Titiraupenga Maunga. They are the care- 20
takers of the native flora and always ensure that the streams run free.
Shy yet playful, they embody the spirit of the child and are part of
the story of the Titiraupenga Mountain.

Te Ririo, younger brother of Takaka, is a forest guardian also associ-
ated with Titiraupenga. He tolerated no disrespect and to anger him 25
was to invite misfortune or even death. He was left offerings, of
food, by only the most highly born individuals such as Te Tuiri and
Te Heu Heu.

Kupe, the great explorer/navigator, and his descendants were the
first to explore the interior of the North Island following their dis- 30
covery of Aotearoa and they settled in the areas that afforded the
best conditions for survival. The Kahupungapunga people settled on
Titiraupenga and the surrounding lands. Food was plentiful as the
great forests of the region abounded with large flocks of Kereru and
other bird life. The streams and forests provided the food, medicinal 35
and other needs of these people of the land.

In more recent times Tia, an ancestor of renown to people of the
Arawa canoe, named many natural features as he journeyed through
the central North Island. He eventually settled on the northern slopes
of Titiraupenga with the tangata whenua and is very highly regarded

as the tipuna of the Pouakani people. Upon his death he was interred near the peak of the mountain.

The tipuna Te Wano is also associated with Titiraupenga. Nearing the time of his passing he asked his relatives of Tokaanu to carry him up the slopes of Titiraupenga to gaze for one last time at the lands of his people, Ngati Apakura. He died and was buried on Titiraupenga. The settlements of Kaiwha, Pukerimu, Huiarau and Marae Totara were just some of the settlements on the slopes of Titiraupenga. Trails from the four points of the compass met and connected these places with people of other areas who traded many commodities. Greenstone journeyed along one such sacred trail and was sometimes left in the shallows of a sacred Titiraupenga stream before continuing on. In times of trouble, gongs were sounded at certain places along these trails to announce impending arrivals. Titiraupenga and Pureora stand today as they always have, ancient sentinels in the stream of time, who have worn the cloak of Tane (the native forest) with the ageless dignity of the Tuakana that they are.

MA TE MEA NGARO

TATAU E TIAKI MANAKI

NA TO KOUTOU MOKAI TAMAITI 20

LET THE DIVINE ONE

PROTECT AND GUIDE US ALL

FROM YOUR MOKAI – TAMAITI

Purposes of statutory acknowledgment

Under **section 36** of the Pouakani Claims Settlement Act **2000** (clause 3.2.5 of the deed of settlement), and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are— 25

- (a) to require that consent authorities forward summaries of resource consent applications to the Pouakani governance entity as required by regulations made under **section 37** of the Pouakani Claims Settlement Act **2000** (clause 3.2.2 of the deed of settlement); and 30
- (b) to require that consent authorities, the Historic Places Trust, and the Environment Court have regard to this statutory acknowledgement in relation to the Crown-owned area of Titiraupenga, as provided in **sections 38 to 40** of the Pouakani 35

Claims Settlement Act **2000** (clause 3.2.3 of the deed of settlement); and

- (c) to enable the Pouakani governance entity and any member of the Pouakani people to cite this statutory acknowledgement as evidence of the association of the Pouakani people to the Crown-owned area of Titiraupenga, as provided in **section 41** of the Pouakani Claims Settlement Act **2000** (clause 3.2.4 of the deed of settlement). 5

Limitations on effect of statutory acknowledgement

Except as expressly provided in **sections 36 and 38 to 41** of the Pouakani Claims Settlement Act **2000** (clauses 3.2.3 to 3.2.5 of the deed of settlement),— 10

- (a) this statutory acknowledgement does not affect, and is not to be taken into account in, the exercise of a power, duty, or function by a person or entity under a statute, regulation, or bylaw; and 15
- (b) without limiting **paragraph (a)**, no person or entity, in considering a matter or making a decision or recommendation under a statute, regulation, or bylaw, may give greater or lesser weight to the Pouakani people’s association with the Crown-owned area of Titiraupenga (as described in this statutory acknowledgement) than that person or entity would give under the relevant statute, regulation, or bylaw if no statutory acknowledgement existed in respect of the Crown-owned area of Titiraupenga. 20 25

Except as expressly provided in the Pouakani Claims Settlement Act **2000**, this statutory acknowledgement does not affect the lawful rights or interests of a person who is not a party to the deed of settlement.

Except as expressly provided in the Pouakani Claims Settlement Act **2000**, this statutory acknowledgement does not have the effect of granting, creating, or providing evidence of an estate or interest in, or any rights of any kind whatsoever relating to, the Crown-owned area of Titiraupenga. 30

This statutory acknowledgement does not preclude the Crown from providing a statutory acknowledgement in respect of the Crown-owned area of Titiraupenga to persons other than the Pouakani people. 35