

[AS REPORTED FROM THE JUSTICE AND LAW REFORM
COMMITTEE]

House of Representatives, 26 September 1995.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

House of Representatives, 11 October 1995.

Words struck out are shown in italics within double bold round brackets, or with double black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. D. A. M. Graham

**(WAIKATO-TAINUI) WAIKATO RAUPATU CLAIMS
SETTLEMENT**

ANALYSIS

Title
Preamble
1. Short Title and commencement
2. Interpretation of Act generally
3. Act to bind the Crown

PART I

APOLOGY BY THE CROWN TO WAIKATO

4. Apology
4A. Text in Maori
4B. Text in English

PART II

PROVISIONS RELATING TO SETTLEMENT

5. Interpretation of terms

Effect of Settlement

6. Meaning of Raupatu claims
7. No further inquiries into Raupatu claims

Provisions Relating to Land

8. Transfer of land
9. Right of land holding trustee to acquire residual Crown land in certain circumstances
10. Rights of land holding trustee in regard to property that it has previously elected not to take
11. Noting of right to acquire residual Crown land on certificates of title
12. Removal of resumptive memorials from land within Waikato claim area
12A. Power to amend Second Schedule
13. Power of the Crown to compulsorily acquire property for purpose of settlement

No. 104—3

Price Code: K

*(Waikato-Tainui) Waikato Raupatu
Claims Settlement*

<p>14. Issue of certificates of title</p> <p style="text-align: center;"><i>Provisions Relating to Trusts</i></p> <p>15. Land holding trustee authorised to acquire land</p> <p>16. Provision for registration of land in name of Pootatau Te Wherowhero</p> <p>16A. Trust deed for land holding trust</p> <p>17. Vesting of Te Rapa and Hopuhopu land in name of Pootatau Te Wherowhero</p> <p>18. Land holding trust not subject to Te Ture Whenua Maori Act 1993</p> <p>19. Land holding trust not subject to rule against perpetuities</p> <p>20. Establishment of land acquisition trust</p> <p style="text-align: center;"><i>Appointments to Conservation Board</i></p> <p>21. Amendments to Conservation Act 1987</p> <p style="text-align: center;"><i>Crown Forest Assets</i></p> <p>22. Crown forest assets</p> <p style="text-align: center;"><i>Tainui Maori Trust Board</i></p> <p>23. Cancellation of Tainui Maori Trust Board annuity</p> <p>24. Dissolution of Tainui Maori Trust Board</p> <p>24A. Final accounts of Tainui Maori Trust Board</p>	<p style="text-align: center;"><i>Amendment to Treaty of Waitangi Act 1975</i></p> <p>25. Jurisdiction of Tribunal to consider claims</p> <p style="text-align: center;"><i>Amendments to Transit New Zealand Act 1989</i></p> <p>26. Maori interests to be considered</p> <p>27. Maori interests to be considered</p> <p>28. Authority may declare State highways</p> <p style="text-align: center;"><i>Amendment to Resource Management Act 1991</i></p> <p>29. Conditions of resource consents</p> <p style="text-align: center;"><i>Amendments to Crown Minerals Act 1991</i></p> <p>30. Entry on Crown land for minimum impact activity</p> <p>31. Declaration by Order in Council that access arrangement may be determined by arbitrator</p> <p style="text-align: center;"><i>Amendments to Public Works Act 1981</i></p> <p>32. Sections to be read with Public Works Act 1981</p> <p>33. New sections inserted</p> <p style="padding-left: 20px;">42A. Solatium payment for loss of opportunity to purchase</p> <p style="padding-left: 20px;">42B. Notice of right to apply for solatium payment</p> <p style="text-align: center;">Schedules</p>
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A BILL INTITULED

An Act—

- (a) To record the apology given by the Crown to *(Waikato-Tainui) Waikato* in the deed of settlement signed on the 22nd day of May 1995 by both representatives of the Crown and representatives of *(Waikato-Tainui) Waikato*, being an apology by the Crown for, among other things, sending its forces across the Mangatawhiri river in July 1863, unfairly labelling *Waikato* as rebels, and subsequently confiscating their land; and
- (b) To give effect to certain provisions of that deed of settlement, being a deed that settles the Raupatu claims

New

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INAA HOKI -

- A. E mau ake nei te Aapiti Tuatahi mo teenei Ture, e whakau-poko ana i roto i te Reo Maaori me te Reo Paakehaa i ngaa Tikanga o Te Tiriti o Waitangi:

New

Te Kiingitanga

- 5 B. I te tau 1858 ka whakaarahia a Pootatau Te Whero-
whero hei Kiingi hei whakakotahi i ngaa Iwi; hei pupuru i
o raatou mana rangatira, i o raatou mana whai rawa me
ngaa tikanga o ia Iwi, aa, i mua anoo hoki i ngaa mahi
whakatara e whakatu mai ana i mua i a raatou i te
tokomaha haere o ngaa taangata whai i teenei whenua; i
10 te mahara o Waikato ko raatou te Iwi Kaitiaki mo te
Kiingitanga, he kaupapa e mau tonu nei i a raatou mai
raano:
- 15 C. Ko aua rangatira i tuku pono i o raatou whenua ki raro i
te mana o Pootatau Te Wherowhero i tuku mana
motuhake mo aua whenua, mo ngaa kawenga toiora o
ngaa iwi, araa na eenei whakanitenga i hono ai aua
nohoanga-aa-iwi ki te Kiingitanga kia kore ai o raatou
whenua e riro i te hoko:
- 20 D. Noo te Kaawanatanga o Niu Tiireni o taua waa te
whakaaro he kawenga whakatete ki te mana o te Kuini
te aaronga o te Kiingitanga me te whakararu hoki i ngaa
mahi hoko whenua a taua Kaawanatanga, naareira,
kaaore i whakaae kia whai tuuranga te Kiingitanga, aa,
kia whakamanangia raanei he hononga tata ki te Kiin-
gitanga:
- 25 *Ngaa Whakaeke, Ngaa Pakanga me Ngaa Muru Whenua O*
Waikato
- 30 E. He mea aata whiriwhiri naa te Kaawanatanga o Niu
Tiireni taana tukunga i ngaa hooia a Te Karauna i te
marama o Hoongongoi 1863 ka poka noa te whakaeke o
Waikato ki te Tonga o te Awa o Mangataawhiri, koia nei
te tiimatanga o ngaa pakanga ki te Kiingitanga me ngaa
iwi. Tae rawa aatu ki te marama o Paengawhaawhaa
1864, i te roa o te whawhai ki te tiaki i o raatou whenua,
ka tauii a Waikato me oona hoa i mua i ngaa ope hooia
35 tokomaha aatu a te Karauna, ka whai whakaruruhau ki
Te Rohe Pootae:

New

- F. I raro i te Ture o Niu Tiireni 1863 Mo Te Whakanoho i Te Hunga Maarie, araa, i te Iwi Paakehaa, ka whakamanahia e te Karauna taana Whakaritenga-A-Kaunihera, i whakawhiua ai a Waikato i te raupatatanga o te 1.2 miriona o ngaa eka o o raatou whenua. He mahi ture kore teenei na te Karauna, i riro ai ngaa whenua i tukuna ki raro i te mana o te Kiingitanga. Noo muri ka utua e te Karauna eeteahi moni iti nei, aa, ka whakahokia eeteahi pitopito o aua whenua engari kaaore i whai taitara. Kotahi koata o aua whenua i whakahokia peeneitia, eengari ko te aahua nei kaaore i whakahokia ki ngaa taangata i whawhai mo te Kiingitanga: 5
- G. Ko te rawakore, ko te pootangotango, ko te whakamamae, koia eenei ngaa peehanga tino toimaha i hoorapa ki runga ki ngaa iwi o Waikato i oo raatou nohoanga i Waikato ki te raki me Waikato ki te tonga o te Awa o Mangataawhiri, te mutunga mai o ngaa parekura whakaeke i whakawhiua ai raatou. I runga aatu i eenei, ko te tini o te tangata i matemate, ko te paahuatanga o a raatou rawa, o a raatou taaonga, o a raatou taputapu, o o raatou kaainga me te murunga o o raatou whenua ka here whiitiki ai eenei parekawakawa o te Raupatu mai i o raatou whakatupuranga tatuu mai ana ki eenei whakatupuranga: 15 20
- H. Ahakoa anoo, puumau tonu te Kiingitanga hei taahuhu waiora mo ngaa iwi mai i taua waa o te Raupatu; aa, mai i te tau 1865 te tukunga a oona manukura i aa raatou pitihana ki te Karauna kia whakauungia te tika me te pono, kia whakahokia mai o raatou whenua: 25 30

Te Komihana A Te Karauna

- I. I te tau 1926 ka whakatuuria te Komihana a te Karauna (the Sim Commission), hei whiriwhiri, i raro i ngaa tikanga o taua Ture o Niu Tiireni Mo Te Whakanoho i Te Hunga Maarie, araa, te Iwi Paakehaa, 1863 me oona menemana: i aua murunga whenua: 35

New

- J. Na runga i ngaa whakakitenga me ngaa whakaritenga a te Komihana (Sim Commission), ka whakaaengia, i raro i te Ture Whakatau Mo Ngaa Kereeme Whenua A Ngaa Maaori o Waikato-Maniapoto 1946, kia utua, ia tau, he moni ki roto i te Tahua Ma Ngaa Maaori o Tainui (Tainui Maaori Trust Fund), ma Te Pooari Maaori o Tainui (Tainui Maaori Trust Board), hei whakahaere mo te painga o aua mema o ngaa iwi o te Takiwaa o Waikato noo raatou ngaa whenua i raupatutia:

Te Taraipiunara o Waitangi

- K. I te tau 1985 ka tuhia e Te Taraipiunara o Waitangi ki taana Riipoata mo Manukau (Wai 8), i te 17 o ngaa whaarangi, eenei kupu: "E maarama noa atu ana ngaa whakaaturanga, mai i ngaa tuhituhinga a Taa John Gorst o te tau 1864; ki ngaa whakaaturanga o te Riipoata a te Komihana a te Karauna (Sim Commission) o te ono tekau tau i muri mai, tae mai ana ki ngaa rangahau koorero o te rau tau i muri mai o te Raupatu; kotahi tonu a raatou whakakitenga, teeraa kiihai rawa atu ngaa Iwi o Waikato i tuu whakakeke, engari he mea whakaeke poka noa naa ngaa hooia a te Karauna, he mahi i haangai tonu te whakatuukinotanga i te Upoko Tuarua (Article II) o te Tiriti o Waitangi":

Te Whakatutuki Mo Ngaa Take Raupatu A Waikato

- L. I te 16 o ngaa raa o Poutuu-te-rangi 1987 ka whakatakotoria e Robert Te Kotahi Mahuta, i raro i te Ture o Te Tiriti o Waitangi 1975, he tono ki te Taraipiunara o Waitangi mo ngaa take raupatu. I reehitia taua tono Wai 30, he tono i raro i toona ingoa; me te taha ki ngaa mema o te iwi o Waikato; o te Pooari Maaori o Tainui; me Ngaa Marae Toopu:

*New**Te Kooti Piira*

- M. Kei te tihaehae tonu te mamae o aua ra o te patunga a te Raupatu i a Waikato i roto i ngaa uri o eenei ra, he aahuatanga i whakaatu i roto i ngaa oati-a-pukapuka i raupapatia e ngaa kaumaatua me ngaa kuia mo ngaa kai whakapae *R T Mahuta and Tainui Maori Trust Board v Attorney-General (1989) 2 NZLR 513:* 5
- N. I tuhia e te Kooti Piira, ina raa, kiihai rawa ngaa whakaaturanga a Te Riipoata a Te Karauna (Sim Commission), i kawē “. . . i te aaronga tuuturu o te kino o te patunga a Te Raupatu i ngaa Iwi o Waikato, i te paahuatanga o o raatou whai oranga, o o raatou whaainga rawa me aa raatou mahi whanaketanga hei painga mo raatou; araa, ko ngaa moni i utua ia tau e Te Kaawanatanga i muri mai he tino iti rawa aatu “ki te taha o ngaa waariu moni o eenei rangi.” Ko te whakatau a Te Kooti Piira teeraa, “Hei whakarite ki ngaa tikanga o Te Tiriti o Waitangi, e tino maarama ana me aata whiriwhiri he utunga whai kiko, whai hua anoo hoki, kia rite ki ngaa waariu moni o eenei rangi.” 10 15 20

Ngaa Whakaritenga Ki Te Karauna

- O. I te tau 1989 ka tiimata ngaa whakariteritenga i waenganui i Te Karauna me Waikato. Ka haangai tonu te whai a Waikato i te kaupapa take tupuna—te take tuatahi, “i riro whenua atu, me hoki whenua mai”; te take tuarua,—“ko te moni hei utu mo te hara”: 25
- P. I te tau 1993, hei tohu whakarata, ka whakamanatia e Te Karauna Te Papa Hooia o Hopuhopu ki raro i te ingoa o Pootatau Te Wherowhero hei painga mo ngaa Iwi o Waikato: 30
- Q. I te whakamanawa kia tutuki te kereeme a Waikato, mee te whakamaamaa hoki i te toimahatanga o te aaronga whakamau o ngaa tau maha, naa te ngaakau pono o teetehi ki teetehi i kawē ngaa whiriwhiringa me ngaa whakariteritenga i waenganui i Te Karauna me Waikato: 35

New

Te Whakatutukitanga o Ngaa Take

5 R. E whakaae ana Te Karauna he tino toimaha te mahi
tuukino i utaina ki runga ki ngaa Iwi o Waikato, naa te
mea naa Te Karauna i takatakahi ngaa Tikanga o Te
Tiriti o Waitangi, kaatahi ka whakawhiua a Waikato ki
aana hooia, ka nohongia ngaa whenua, te mutunga iho
10 he raupatu i aua whenua i raro i taa raatou tohu whaka-
ingoa, kaaore rawa nei i tika, “he Iwi whakakeke a
Waikato”:

Te Whakatutuki Mo Ngaa Take Raupatu A Waikato

- 15 S. No muri—
- (a) I te aata whiriwhiringa a Te Karauna me Waikato i
ngaa Tikanga o te Tiriti o Waitangi; i ngaa kupu
whakapuakanga ake a Te Komihana a Te Karauna
(Sim Commission); i ngaa whakakitenga me ngaa
whakataunga a taua Komihana i raro anoo i aua
kupu whakapuakanga; i ngaa utunga i
20 whakawhiwhia ki a Waikato (me eeraa atu o ngaa
utunga i whakawhiwhia i raro i ngaa whakakitenga
me ngaa whakataunga a taua Komihana); ka tatuu
pai te whakaae a Te Karauna me Waikato mo te
tino iti o aua utunga; aa,
- 25 (b) I maarama pai Te Karauna mo te hoohonu o te
tikanga o te take tupuna a Waikato “he whenua mo
te whenua”; aa
- 30 (c) Kua tau maarire te whakaae a Te Karauna me
Waikato koia teenei te waa hei whakatutuki ma Te
Karauna i ngaa whakatikatikatanga katoa mo te
taahuhu utunga e whakaotingia ai ngaa take
Raupatu a Waikato,—naareira, no te 21 o ngaa raa
o te marama o Hakihea 1994, ka whakauuria teenei
rongomau e Te Karauna me Robert Te Kotahi
Mahuta mo te taha ki ngaa Iwi o Waikato, ki te
35 Pukapuka Whakaupoko Whakaae hei whakamana i
te whakatutukitanga o aua take; anaa, no te 22 o
ngaa raa o Haratua 1995, ka hainangia e Te
Karauna, e Waikato hoki, Te Pukapuka Whakaae

New

(he kape kei te Pukapuka E3 o te Taapiritanga Mo Ngaa Riipoata a Te Whare Paaremata 1995):

- T. Kei te Waahanga Tuatahi o teenei Ture e whakaatu ana, i roto i te Reo Maaori me te Reo Paakehaa o taua Pukapuka Whakaae, ngaa Kupu Whakapaa i taapaea e Te Karauna ki ngaa Iwi o Waikato: 5
- U. Ko ngaa whenua i whakawhitingia ki a Waikato i raro i ngaa whakaritenga a Te Pukapuka Whakaae ka whakatoopuria ki raro i teetehi Taahuhu Kaitiaki ma Waikato hei whakatu; aa ko teetehi waahanga o aua whenua ka reehitatia ki raro i te ingoa o Pootatau Te Wherowhero, i raro anoo i ngaa whakaritenga a teenei Ture, hei ingoa whakaari i te tukunga mana motuhake a ngaa tuupuna rangatira ki raro i a Pootatau Te Wherowhero; i te whakauunga anoo hoki o aua tuku i whakakaupapangia i roto i Te Kawenata e raatou i noho pumau ki raro i Te Kiingitanga: 15
- V. Ma taua Pukapuka Whakataahuhu i ngaa Kaitiaki ma Waikato nei hei whakarite, hei whakatau kia kaua rawa aua whenua ka reehitatia ki raro i te ingoa o Pootatau Te Wherowhero e riro i te hoko, e mooketitia ki teetehi atu, e taea raanei te tuku, te whakawhiti raanei ki teetehi tangata, ki teetehi roopu; araa, kaaore rawa e taea te whakawehe atu i raro i te ingoa o Pootatau Te Wherowhero ma te whakaae pumau anake o ngaa "Kaitiaki o Te Ingoa o Pootatau Te Wherowhero" kua whakaingoa-tia i roto i taua Pukapuka mo Ngaa Kaitiaki: 25
- W. Naa te iti noaiho o ngaa whenua kua mahue mai ki Te Karauna o aua whenua i raupatutia, kaaore i taea te tohatoha kia tauriterite te tuku o aua whenua ki ngaa hapuu toru tekau ma toru o te Raupatu, nooreira ko te taahuhu utunga kua whakakaupapatia e te Pukapuka Whakaae kua whakataungia hei painga mo te katoa o ngaa Iwi o Waikato i raro i te mana o Te Kiingitanga: 35
- X. Na Te Pukapuka Whakaae—
(a) I whakataairi te whakaaetanga a Te Karauna, teeraa ko te whakatutukitanga i whakamanahia e

New

taua Pukapuka kiihai i whakaiti, i takatakahi
raanei;—

- 5 - i te Tiriti o Waitangi me oona Tikanga;
 - i te aahua mo ngaa mahi whakahaere a Te
 Karauna me Waikato i raro i ngaa Tikanga o te
 Tiriti o Waitangi;
10 - i ngaa kaupapa whai mana i raro i te Tiriti o
 Waitangi, taapiri atu ki ngaa mana ranga-
 tiratanga:

(b) I whakataairi te ohu whakaae a Waikato mo te tika,
mo te whakaotinga me te rongomau o taua tau-
mata Whakaae:

WHEREAS—

- 15 A. The Treaty of Waitangi is set out, in Maori and in
 English, in the **First Schedule** to this Act:

Kiingitanga

- 20 B. In 1858 Pootatau Te Wherowhero was raised up as King
 to unite the iwi, and preserve their rangatiratanga and
 their economic and cultural integrity, under his authority
 in the face of increasing settler challenges, Waikato
 regarding themselves as principal kaitiaki of the Kiin-
 gitanga and as remaining so ever since:
25 C. Those chiefs who formally pledged their land to Pootatau
 Te Wherowhero gave up ultimate authority over the land
 to him, along with ultimate responsibility for the well-
 being of the people, and through this bound their com-
 munities to the Kiingitanga, resisting further alienation of
 their land:
30 D. The New Zealand Government at the time perceived the
 Kiingitanga as a challenge to the Queen's sovereignty and
 as a hindrance to Government land purchase policies,
 and did not agree to any role for, or formal relationship
 with, the Kiingitanga:

Invasion, Hostilities, and Confiscations of Waikato Land

- E. In July 1863, after considered preparations by the New Zealand Government, military forces of the Crown unjustly invaded the Waikato south of the Mangatawhiri river, initiating hostilities against the Kīngitanga and the people. By April 1864, after persistent defence of their lands, Waikato and their allies had fallen back before the larger forces of the Crown and had taken refuge in the King Country: 5
- F. By Orders in Council under the New Zealand Settlements Act 1863, the Crown unjustly confiscated approximately 1.2 million acres of land, from the Tainui iwi in order to punish them and gain control of the land placed by them under the protection of the Kīngitanga (although the Crown subsequently paid small amounts of monetary compensation and returned (by Crown grants to individuals other than those who had fought for the Kīngitanga) approximately one-quarter of the land confiscated), by Crown grants, but not under customary title and generally not to those who had fought for the Kīngitanga, approximately one-quarter of the land confiscated): 15 20
- G. Widespread suffering, distress, and deprivation were caused to the Waikato iwi (both north and south of the Mangatawhiri river) as a result of the war waged against them, the loss of life, the destruction of their taonga and property, and the confiscations of their lands, and the effects of the Raupatu have lasted for generations: 25
- H. The Kīngitanga has continued to sustain the people since the Raupatu, and its leaders have petitioned the Crown for justice and for the return of land since 1865: 30

Royal Commission

- I. A Royal Commission (the Sim Commission) was appointed in 1926 to consider the confiscations under the New Zealand Settlements Act 1863 and its amendments:
- J. In response to the Sim Commission's findings and recommendations, compensation was granted pursuant to the Waikato-Maniapoto Maori Claims Settlement Act 1946 by the payment of an annual sum of money into the Tainui Maori Trust Fund, to be administered by the Tainui Maori Trust Board for the benefit of those members of the Maori tribes in the Waikato District whose lands had been confiscated: 35 40

Waitangi Tribunal

- 5 K. In 1985 the Waitangi Tribunal wrote in the Manukau Report (Wai 8) at page 17: “It can simply be said that from the contemporary record of Sir John Gorst in 1864, from the Report of the Royal Commission sixty years after that, and from historical research almost a century removed from the event, all sources agree that the Tainui people of the Waikato never rebelled but were attacked by British troops in direct violation of Article II of the Treaty of Waitangi”:
- 10 L. On 16 March 1987 Robert Te Kotahi Mahuta, on behalf of himself and on behalf of the members of Waikato-Tainui, the Tainui Maori Trust Board, and Ngaa Marae Toopu, submitted a claim to the Waitangi Tribunal under the Treaty of Waitangi Act 1975 in relation to the Raupatu, that claim being registered with the Waitangi Tribunal as Wai 30:
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Court of Appeal

- 20 M. The injustice of the Raupatu is as keenly felt by (*Waikato-Tainui*) *Waikato* today as in the past, as has been testified by (*Waikato-Tainui*) *Waikato* kaumaatua and kuia in the affidavits filed by the plaintiffs in *R T Mahuta and Tainui Maori Trust Board v Attorney-General* [1989] 2 NZLR 513:
- 25 N. The Court of Appeal noted in that case that the Sim Commission’s report had failed to convey “. . . an expressed sense of the crippling impact of Raupatu on the welfare, economy and potential development of Tainui”, and that the subsequent annual monetary payments made by the Government were trivial “in present day money values”, and concluded that “Some form of more real and constructive compensation is obviously called for if the Treaty is to be honoured”:
- 30

Negotiations with the Crown

- 35 O. In 1989 the Crown and (*Waikato-Tainui*) *Waikato* entered into direct negotiations in which (*Waikato-Tainui*) *Waikato* pursued compensation on the basis of their long established principles of ‘land for land’—‘i riro whenua atu, me hoki whenua mai’ (‘as land was taken land must be returned’) and ‘ko te moni hei utu mo te hara’ (‘the money is the acknowledgment by the Crown of their crime’):
- 40

*(Waikato-Tainui) Waikato Raupatu
Claims Settlement*

- P. In 1993 as a goodwill gesture the Crown vested the Hopuhopu Military Base in Pootatau Te Wherowhero for the benefit of *(Waikato-Tainui) Waikato*:
- Q. The Crown and *(Waikato-Tainui) Waikato* have negotiated with each other in good faith in an endeavour to settle the *(Waikato-Tainui) Waikato* claim and to remove the sense of grievance felt over time by *(Waikato-Tainui) Waikato*: 5

Settlement of Claims

- R. The Crown now acknowledges that grave injustice was done to *(Waikato-Tainui) Waikato* when the Crown, in breach of the Treaty of Waitangi, sent its forces into the Waikato, occupied and subsequently confiscated *(Waikato-Tainui) Waikato* land, and unfairly labelled *(Waikato-Tainui) Waikato* as rebels: 10
- S. After— 15

Struck Out

- (a) The Crown and Waikato-Tainui had considered the Treaty of Waitangi, the terms of reference, findings, and recommendations of the Sim Commission, and the compensation already paid or provided to Waikato-Tainui (including the compensation provided in response to the findings and recommendations of the Sim Commission) and had agreed on the inadequacy of that compensation; and 20

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New

5 (a) The Crown and Waikato had considered the Treaty
of Waitangi, the particular terms of reference of
the Sim Commission, the findings and recom-
mendations made by the Sim Commission in accor-
dance with those terms of reference, and the com-
pensation already paid or provided to Waikato
10 (including the compensation provided in response
to the findings and recommendations of the Sim
Commission) and had agreed on the inadequacy of
that compensation; and

(b) The Crown had recognised the significance of the
“land for land” principle to (*Waikato-Tainui*)
15 Waikato; and

(c) The Crown and (*Waikato-Tainui*) Waikato had
agreed that the Crown should now make full and
final restitution to (*Waikato-Tainui*) Waikato in
respect of the Raupatu claims,—

20 the Crown and Robert Te Kotahi Mahuta on behalf of
Waikato-Tainui, accordingly recorded, on the 21st day of
December 1994, in a heads of agreement their agree-
ment in principle to the matters required to effect a
settlement of those claims, and, on the 22nd day of May
25 1995, the Crown and Waikato-Tainui signed a deed of
settlement (a copy of which is now contained in **Paper (100)**
E3 of the Appendix to the Journals of the House of Representatives 1995):

T. The text, in Maori and in English, of the apology given by
the Crown to (*Waikato-Tainui*) Waikato in the deed of
settlement is recorded in **Part I** of this Act:

30 U. Land transferred to (*Waikato-Tainui*) Waikato under the
deed of settlement will be held communally in a trust to
be established by (*Waikato-Tainui*) Waikato and part of
that land will be registered in the name of Pootatau Te
Wherowhero as provided for in this Act, that name giving
35 expression to the significance of the pledges made by the
chiefs to Pootatau Te Wherowhero and of the reaffirma-
tions of those pledges, as expressed in the kawenata, by
those who have continued in support of the Kiingitanga:

- V. The trust deed for the trust to be established by *(Waikato-Tainui) Waikato* will provide that no land of the trust that is registered in the name of Pootatau Te Wherowhero shall be sold or mortgaged to, or be capable of being vested in or transferred to, any person or body, and that no land may be transferred out of the name of Pootatau Te Wherowhero without the consent of the “custodians of Te Wherowhero title” referred to in that trust deed: 5
- W. As the Crown now holds only a small proportion of the land originally confiscated and the land now held cannot be evenly distributed among the thirty-three *(hapuu) hapu* affected by the Raupatu, the restitution provided for in the deed of settlement is to be for the benefit of all *(Waikato-Tainui) Waikato* collectively, under the mana of the Kūngitanga: 10 15
- X. By the deed of settlement—
- (a) The Crown has acknowledged that the settlement provided for in that deed does not diminish or in any way affect the Treaty of Waitangi or any of its articles or the ongoing relationship between the Crown and *(Waikato-Tainui) Waikato* in terms of the Treaty of Waitangi or undermine any rights under the Treaty of Waitangi, including ranga tiratanga rights; and 20
- (b) *(Waikato-Tainui) Waikato* have acknowledged that the settlement provided for in that deed is fair, final, and durable: 25

BE IT THEREFORE ENACTED by the Parliament of New Zealand as follows: 30

1. Short Title and commencement—(1) This Act may be cited as the *(Waikato-Tainui) Waikato Raupatu Claims Settlement Act 1995*. 30

(2) Subject to sections 12A (4), 21 (3), 22 (5), (and 27 (2)) 27 (2), and 32 (2) of this Act, this Act shall come into force on a date to be appointed by the Governor-General by Order in Council; and one or more Orders in Council may be made bringing different provisions of this Act into force on different dates. 35

2. Interpretation of Act generally—It is the intention of Parliament that the provisions of this Act shall be interpreted in a manner that best furthers the agreements expressed in the deed of settlement. 40

3. Act to bind the Crown—This Act binds the Crown.

PART I

APOLOGY BY THE CROWN TO (*WAIKATO-TAINUI*) WAIKATO

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5 **4. Apology by the Crown**—(1) This Part of this Act records the apology given by the Crown to Waikato-Tainui in the deed of settlement.

(2) The text of the apology in Maori is as follows:

10 “1. E whakaae ana Te Karauna ko oona reo ko oona mana i hara ki nga tikanga o Te Tiriti o Waitangi i taa raatou whakawhiunga i te Kiingitanga me Waikato ki ngaa hooia i Mangataawhiri i te marama o Hongongoi 1863 i raro i ta raatou tohu whakaingoa. ‘he iwi whakakeke a Waikato’.

15 “2. E whakaatu ana Te Karauna i toona pouri tino hoohonu, aa, kaaore he mutunga o taana tuku whakapaa mo ngaa taangata i mate i ngaa parekura whakaeke o aana hooia, aa, mo te taaorotanga hoki o ngaa whenua tae atu ki te whakararurarutanga o te nohoanga o ngaa Iwi.

20 “3. E whakaae ana Te Karauna teeraa ko ngaa raupatutanga o ngaa whenua me ngaa rawa i whakamanahia e te Ture Mo Te Whakanoho i Te Hunga Maarie, ara, te Iwi Paakeha 1863, a Te Paaremata o Niu Tireni he mahi tino hee, e peehi kino nei i a Waikato mai raano. E noho pani tonu nei raatou i roto i te rawakoretanga me te hauwareatanga o ngaa mahi toko i te
25 ora, o ngaa mahi whanaketanga mo ngaa Iwi o Waikato.

30 “4. E maarama pai ana Te Karauna teeraa ko teenei pouritanga tino toimaha, kaaore nei anoo kia whakatikaina i raro i te Tiriti o Waitangi kei te whakataairi i eenei puutake e rua a Waikato: ‘i riro whenua atu, me hoki whenua mai’ te tuatahi; ‘ko te moni hei utu mo te hara’ te tuarua. Hei whakatutuki, e whakaae ana Te Karauna ki te whakahoki ki te iwi ngaa whenua e taea ai i roto i teenei whakaaetanga kei raro i toona mana i Waikato.

35 “5. E whakaae ana Te Karauna teeraa anoo ngaa whenua raupatu o Waikato te tino taakoha nui ki te rangatiratanga me te whanaketanga o Niu Tireni ahakoa kei te noho rawakore

Struck Out

tonu te Iwi o Waikato i oona whenua me ngaa hua o aua whenua.

“6. Nooreira ka kimi Te Karauna, mo te taha ki ngaa Iwi Katoa o Niu Tireni, i te huarahi e whakamaarie ai i eenei tuukinotanga, araa, mo te waahanga e taea ai, aa, i teenei whakatutukitanga o teenei take whakamaui o Te Raupatu. He whakaotinga teenei i raro i ngaa take raarangi o Te Pukupuka Whakaaetanga i hainatia i te 22 o ngaa raa o Haratua 1995, maana hei arahi atu ki te ao hou o te mahi tahi ki Te Kiingitanga me Waikato.”

(3) The text of the apology in English is as follows:

New

4. Apology—This Part of this Act records the apology given by the Crown to Waikato in the deed of settlement. 15

4A. Text in Maori—The text of the apology in Maori is as follows:

“1. E whakaae ana Te Karauna ko oona reo ko oona mana i hara ki nga tikanga o Te Tiriti o Waitangi i taa raatou whakawhiunga i te Kiingitanga me Waikato ki ngaa hooia i Mangataawhiri i te marama o Hongongoi 1863 i raro i ta raatou tohu whakaingoa. ‘he iwi whakakeke a Waikato’.

“2. E whakaatu ana Te Karauna i toona pouri tino hoohonu, aa, kaaore he mutunga o taana tuku whakapaa mo ngaa taangata i mate i ngaa parekura whakaeke o aana hooia, aa, mo te taaorotanga hoki o ngaa whenua tae atu ki te whakararurarutanga o te nohoanga o ngaa Iwi. 25

“3. E whakaae ana Te Karauna teeraa ko ngaa raupatutanga o ngaa whenua me ngaa rawa i whakamanahia e te Ture Mo Te Whakanoho i Te Hunga Maarie, ara, te Iwi Paakeha 1863, a Te Paaremata o Niu Tireni he mahi tino hee, e pechi kino nei i a Waikato mai raano. E noho pani tonu nei raatou i roto i te rawakoretanga me te hauwareatanga o ngaa mahi toko i te ora, o ngaa mahi whanaketanga mo ngaa Iwi o Waikato. 30

New

5 “4. E maarama pai ana Te Karauna teeraa ko teenei pouritanga tino toimaha, kaaore nei anoo kia whakatikaina i raro i te Tiriti o Waitangi kei te whakataairi i eenei puutake e rua a Waikato: ‘i riro whenua atu, me hoki whenua mai’ te tuatahi; ‘ko te moni hei utu mo te hara’ te tuarua. Hei whakatutuki, e whakaae ana Te Karauna ki te whakahoki ki te iwi ngaa whenua e taea ai i roto i teenei whakaaetanga kei raro i toona mana i Waikato.

10 “5. E whakaae ana Te Karauna teeraa anoo ngaa whenua raupatu o Waikato te tino taakoha nui ki te rangatiratanga me te whanaketanga o Niu Tireni ahakoa kei te noho rawakore tonu te Iwi o Waikato i oona whenua me ngaa hua o aua whenua.

15 “6. Nooreira ka kimi Te Karauna, mo te taha ki ngaa Iwi Katoa o Niu Tireni, i te huarahi e whakamaarie ai i eenei tuukinotanga, araa, mo te waahanga e taea ai, aa, i teenei whakatutukitanga o teenei take whakamau o Te Raupatu. He whakaotinga teenei i raro i ngaa take raarangi o Te Pukupuka
20 Whakaaetanga i hainatia i te 22 o ngaa raa o Haratua 1995, maana hei arahi atu ki te ao hooou o te mahi tahi ki Te Kiingitanga me Waikato.”

4B. Text in English—The text of the apology in English is as follows:

25 “1. The Crown acknowledges that its representatives and advisers acted unjustly and in breach of the Treaty of Waitangi in its dealings with the Kiingitanga and Waikato in sending its forces across the Mangataawhiri in July 1863 and in unfairly labelling Waikato as rebels.

30 “2. The Crown expresses its profound regret and apologises unreservedly for the loss of lives because of the hostilities arising from its invasion, and at the devastation of property and social life which resulted.

35 “3. The Crown acknowledges that the subsequent confiscations of land and resources under the New Zealand Settlements Act 1863 of the New Zealand Parliament were wrongful, have caused Waikato to the present time to suffer feelings in relation to their lost lands akin to those of orphans,

and have had a crippling impact on the welfare, economy and development of Waikato.

“4. The Crown appreciates that this sense of grief, the justice of which under the Treaty of Waitangi has remained unrecognised, has given rise to Waikato’s two principles ‘i riro whenua atu, me hoki whenua mai’ (as land was taken, land should be returned) and ‘ko to moni hei utu mo te hara’ (the money is the acknowledgment by the Crown of their crime). In order to provide redress the Crown has agreed to return as much land as is possible that the Crown has in its possession to Waikato.

“5. The Crown recognises that the lands confiscated in the Waikato have made a significant contribution to the wealth and development of New Zealand, whilst the Waikato tribe has been alienated from its lands and deprived of the benefit of its lands.

“6. Accordingly, the Crown seeks on behalf of all New Zealanders to atone for these acknowledged injustices, so far as that is now possible, and, with the grievance of raupatu finally settled as to the matters set out in the Deed of Settlement signed on 22 May 1995 to begin the process of healing and to enter a new age of co-operation with the Kūingitanga and Waikato.”

PART II

PROVISIONS RELATING TO SETTLEMENT

5. Interpretation of terms—In this Act, unless the context otherwise requires,—

“Crown body” means the Crown, a Crown entity, a State enterprise, or any company that is wholly owned by a Crown entity or a State enterprise:

“Crown entity” has the same meaning as in section 2 (1) of the Public Finance Act 1989; and includes the New Zealand Railways Corporation:

“Deed of settlement” means the deed of settlement signed on the 22nd day of May 1995 by representatives of the Crown and Waikato-Tainui; and includes that deed of settlement as from time to time amended in accordance with its terms:

“Director-General” means the Director-General of Survey and Land Information:

“District Land Registrar” means the District Land Registrar of the Land Registration District concerned:

“Excluded claims” has the meaning given to it by **section 6 (2)** of this Act:

5 “Land acquisition trust” has the same meaning as in the deed of settlement:

“Land holding trust” has the same meaning as in the deed of settlement:

10 “Land holding trustee” means the trustee for the time being of the land holding trust acting in that capacity:

New

15 “Minister” means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act:

20 “Raupatu” means the confiscation of land in the (*Waikato-Tainui*) Waikato claim area, and includes the related invasion, hostilities, war, loss of life, destruction of taonga and property, and consequent suffering, distress, and deprivation, referred to in **recitals E to G** of the Preamble to this Act:

“Raupatu claims” has the meaning given to it by **section 6 (1)** of this Act:

25 “Residual Crown land”—

(a) Means every freehold parcel of real property (including improvements) situated in the (*Waikato-Tainui*) Waikato claim area that is owned by the Crown, or by any of the bodies described in Attachment 11 to the deed of settlement, at the date on which **section 9** of this Act comes into force; but—

30 (b) Does not include—

35 (i) Any settlement property (other than a settlement property that (*Waikato-Tainui*) Waikato elect under clause 8 of the deed of settlement not to take); or

40 (ii) Any settlement property that is stated in Attachment 2 to the deed of settlement to be owned by Electricity Corporation of New Zealand Limited or any wholly-owned subsidiary of that company:

“Settlement properties” and “settlement property” have the same meanings as in the deed of settlement; and a “settlement property” includes any part of a settlement property:

“State enterprise” has the same meaning as in section 2 of the State-Owned Enterprises Act 1986: 5

“(Waikato-Tainui) Waikato” means the Waikato descendants of the Tainui Waka who suffered or were affected by the confiscation of their land by the New Zealand Government under the New Zealand Settlements Act 1863, being members of the following hapu of (Waikato-Tainui) Waikato: 10

Ngaitai	Ngaati Ruru	
Ngaati Tamaaoho	Ngaati Werokoko	
Ngaati Koheriki	Ngaati Paretakawa	15
Ngaati Te Ata	Ngaati Ngutu	
Te Aakitai	Ngaati Hikairo	
Ngaati Paretauaa	Ngaati Puhiawe	
Ngaati Tiipaa	Ngaati Mahuta (North and South)	20
Ngaati Aamaru	Ngaati Te Wehi	
Ngaati Naho	Ngaati Whawhaakia	
Ngaati Hine	Ngaati Kuiaarangi	
Ngaati Taratikitiki	Ngaati Tai	
Ngaati Pou	Ngaati Raukawa ki Panehakua	25
Ngaati Maahanga	Ngaati Tahinga	
Ngaati Tamainupo	Tainui-a-whiro	
Ngaati Wairere	Ngaati Apakura	
Ngaati Makirangi	Ngaati Hauaa:	30
Ngaati Koroki		

“(Waikato-Tainui) Waikato claim area” —

(a) Means the land bordered with bold black lines on Survey Office plan number 60113, lodged in the office of the Department of Survey and Land Information at Hamilton and approved for Parliamentary purposes, a copy of which is attached as Attachment 1 to the deed of settlement; but 35

(b) Does not include the Waiuku block or the Wairoa block:

“Wairoa block” means that piece of land known as the East Wairoa Block and described under that name in the First Schedule to the Order in Council made on the 30th day of January 1865 under the New Zealand Settlements Act 1863, and published in the *Gazette* of the 31st day of January 1865 at page 15: 40
45

5 “Waiuku block” means those pieces of land known as
Waiuku Block North and Waiuku Block South and
described under those names in Schedules 6 and 7 to
the Order in Council made on the 29th day of
December 1864 under the New Zealand Settlements
Act 1863, and published in the *Gazette* of the 5th day
of January 1865 at page 1.

Effect of Settlement

10 **6. Meaning of Raupatu claims**—(1) In this Act, the term
“Raupatu claims”—

- (a) Means all claims arising out of, or relating to, the Raupatu
or any aspect of the Raupatu; and
- (b) Includes all claims arising from the loss of land and of
interests in land in the (*Waikato-Tainui*) Waikato
15 claim area by confiscation; and
- (c) Includes all claims to coal, other minerals, and forests
within the (*Waikato-Tainui*) Waikato claim area; and
- (d) Includes the following parts of the Wai 30 claim to the
Waitangi Tribunal, namely, the claims set out in—
20 (i) The Statement of Claim of the 16th day of
March 1987 (#1.1 on Waitangi Tribunal record); and
(ii) The Amended Statement of Claim of the 16th
day of March 1987 (#1.1 (a)); and
(iii) The Letter of the 12th day of August 1987
25 (#1.1 (b)); and
(iv) The Statement of Claim of the 17th day of June
1991 (#1.1 (c)); and
- (e) Includes the claims made in the Wai 306 claim to the
Waitangi Tribunal, being the claim made by Garth
30 Banks on behalf of Ngaati Haua; and
- (f) Includes the claims made in the Wai 494 claim to the
Waitangi Tribunal, being the claim made by Taka o
te Rangi Taka on behalf of Ngaati Koheriki; and

New

- 35 (fa) Includes such of the claims made in the Wai 530 claim to
the Waitangi Tribunal (being a claim made by Patara
Peremana on behalf of Nga Uri o Whawhakia) as are
based on Raupatu in the Waikato claim area; and
- 40 (fb) Includes such of the claims made in the Wai 537 claim to
the Waitangi Tribunal (being a claim made by

New

Richard Tamihana on behalf of Ngati Tahinga Iwi and Nga Uri o Tahinga Trust Board) as are based on Raupatu in the Waikato claim area; and

- (g) Includes all claims specified in paragraphs (a) to (ff) (fb) of this definition, whether or not those claims— 5
- (i) Are past, current, or future; or
 - (ii) Are founded on rights arising by or in common law (including customary law and aboriginal title), the Treaty of Waitangi, statute, or otherwise; or 10
 - (iii) Are made or held by, or on behalf of, all of (Waikato-Tainui) Waikato or one or more individuals, marae, or (*hapuu*) *hapu*; but
- (h) Does not include the excluded claims.
- (2) In this Act, the term “excluded claims” means— 15
- (a) Any claims by (Waikato-Tainui) Waikato to the rivers and harbours within the (Waikato-Tainui) Waikato rohe, including those parts of the Wai 30 claim to the Waitangi Tribunal relating to—
- (i) The Waikato River (being the claims set out in paragraph A1–5 of the statement of claim dated the 16th day of March 1987); and 20
 - (ii) The West Coast Harbours, as defined in the deed of settlement (being the claims set out in paragraph C8–9 of the statement of claim dated the 16th day of March 1987); and 25
- (b) Any claims by (Waikato-Tainui) Waikato to the Wairoa block or the Waiuku block; and

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- (c) Any claims by individual hapuu of Waikato-Tainui to non-Raupatu land outside the Waikato-Tainui claim area; and 30
- (d) The Wai 185 claim to the Waitangi Tribunal, being the claim by A. Wirihana in relation to the Pepepe land.

New

- (c) Any claims by individual hapu of Waikato to non-Raupatu land outside the Waikato claim area; and
- 5 (d) The claims made in the Wai 185 claim to the Waitangi Tribunal, being the claim made by A. Wirihana in relation to the Pepepe land; and
- (e) The claims made in the Wai 100 claim to the Waitangi Tribunal, being the claim made by Huhurere Tukukino; and
- 10 (f) Any claims made to the Waitangi Tribunal, whether before or after the commencement of this section, by the Hauraki Maori Trust Board, including the claims made by the Hauraki Maori Trust Board and Toko Renata te Taniwha in the Wai 373 claim to the
- 15 Waitangi Tribunal; and
- (g) The claims made in the Wai 454 claim to the Waitangi Tribunal, being the claim made by Walter Taipari and Adrian Taipari on behalf of the descendants of Ngati Hauauru, a hapu of Ngati Maru; and
- 20 (h) The claims made in the Wai 495 claim to the Waitangi Tribunal, being the claim made by Mahuta Pitau Williams on behalf of the descendants of Ngati Tawhaki of Ngati Tamatera; and
- 25 (i) The claims made in the Wai 349 claim to the Waitangi Tribunal, being the claim made by Tewiremu Mataia and Heraputea Williams on behalf of the tangata whenua of the Hauraki Tribal Region.

7. No further inquiries into Raupatu claims—

30 (1) Without limiting the acknowledgments expressed in, or any provision of, the deed of settlement, it is hereby declared that the settlement of the Raupatu claims to be effected pursuant to that deed is final.

(2) Notwithstanding any other enactment or rule of law, as from the commencement of this section, no court or tribunal

35 shall have jurisdiction to inquire or further inquire into, or to make any finding or recommendation in respect of—

- (a) Any or all of the Raupatu claims; or
- (b) The validity of the deed of settlement; or
- 40 (c) The adequacy of the benefits provided to (*Waikato-Tainui*) Waikato under the deed of settlement or this Act.

Provisions Relating to Land

- 8. Transfer of land**—(1) Notwithstanding any other enactment or rule of law, for the purposes of giving effect to the deed of settlement, the Crown (acting through the Commissioner of Crown Lands) is hereby authorised to do any one or more of the following: 5
- (a) Purchase or otherwise acquire any settlement property from a Crown body:
 - (b) Lease any settlement property to any Crown body:
 - (c) Subject to sections 40 to 42 of the Public Works Act 1981 and to any other equivalent enactments (but without limiting subsections (4) and (5) of this section), transfer any settlement property to the land holding trustee: 10
 - (d) Sign any memorandum of transfer or lease, or any other document, or do any other thing for the purposes of any such purchase, acquisition, lease, or transfer. 15
- (2) Nothing in subsection (1) of this section limits—
- (a) Part IVA of the Conservation Act 1987; or
 - (b) Sections 10 and 11 of the Crown Minerals Act 1991; or
 - (c) Any other enactment or rule of law under which any easement, encumbrance, restriction, or other interest in or in respect of any land is created or exists. 20
- (3) Nothing in—
- (a) Parts II and IIA of the Land Settlement Promotion and Land Acquisition Act 1952; or 25
 - (b) Section 11 or Part X of the Resource Management Act 1991—
- shall apply with respect to—
- (c) Any transfer of any settlement property from a Crown body to another Crown body or to the land holding trustee for the purpose of giving effect to the deed of settlement; or 30
 - (d) Any leasing of any settlement property from a Crown body or the land holding trustee to a Crown body for the purpose of giving effect to the deed of settlement; 35
or
 - (e) Anything incidental to, or required for the purposes of, any such transfer or leasing.
- (4) Notwithstanding sections 40 to 42 of the Public Works Act 1981, the chief executive of the Department of Survey and Land Information shall not be required by those sections to offer to sell to a Crown body any settlement property acquired from that Crown body under section 13 of this Act; but this 40

subsection does not limit any obligation of that chief executive under those sections or any other enactment to offer to sell such a settlement property to any other person.

5 (5) Notwithstanding section 24(4) of the State-Owned Enterprises Act 1986, nothing in sections 40 to 42 of the Public Works Act 1981 shall apply with respect to any settlement property that is both—

10 (a) A settlement property to which section 8A of the Treaty of Waitangi Act 1975 applies on the day before the day on which this section comes into force; and

(b) A settlement property that is to be transferred from a Crown body to another Crown body or to the land holding trustee, for the purposes of giving effect to the deed of settlement.

15 (6) Nothing in the Land Act 1948 shall apply with respect to any settlement property that is to be transferred from a Crown body to another Crown body or to the land holding trustee, for the purposes of giving effect to the deed of settlement.

New

20 (6A) Nothing in the Land Act 1948 restricts the period for which a lease may be granted under subsection (1)(b) of this section.

25 (7) In this section, the term “Crown body” includes a body that was a Crown body at the date on which the deed of settlement was signed.

9. Right of land holding trustee to acquire residual Crown land in certain circumstances—(1) Where a Crown body (or any body that was a Crown body at the date on which this section comes into force or on which the body first acquired the residual Crown land concerned, whichever is the later) proposes to sell any residual Crown land to any person other than—

(a) Another Crown body; or

35 (b) A person who is entitled to purchase the land pursuant to an offer made under—

(i) Section 40 of the Public Works Act 1981 or that section as applied by any other enactment; or

40 (ii) Section 23 (1) or section 24 (4) of the New Zealand Railways Corporation Restructuring Act 1990; or

- (iii) Any enactment equivalent to any of the enactments referred to in subparagraphs (i) and (ii) of this paragraph; or
- (c) The existing tenant of a house situated on any residual Crown land that is— 5
- (i) Land of Housing New Zealand Limited or of the Housing Corporation of New Zealand; or
- (ii) Land held for education purposes by the Crown; or
- (iii) Land held by any Crown body which, at the date on which this section comes into force, has a policy under which houses that are to be sold are first offered for purchase by the existing tenants; or 10
- (d) A person who has, at the date on which this section comes into force, a legal right to purchase the land; 15
- or
- (e) A person who is entitled to purchase the land under the terms of any gift, endowment, or trust relating to the land, or under any enactment or rule of law,—
- the body shall give to the land holding trustee notice of the proposed sale setting out the price and other proposed terms of sale and offering to sell the land to the land holding trustee on those terms. 20

New

- (1A) Where, within one month after the date on which the land holding trustee receives a notice under **subsection (1)** of this section from a Crown body or other body (time being of the essence), the land holding trustee— 25
- (a) Accepts the offer set out in the notice by giving written notice of acceptance to the body; or 30
- (b) Otherwise agrees with the body in writing to purchase the land concerned,—
- a contract for the sale and purchase of that land shall be thereby constituted between the body and the land holding trustee and that contract may be enforced accordingly. 35

Struck Out

- (2) If, within one month from the date of receiving a notice under **subsection (1)** of this section from a Crown body or other

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5 body (time being of the essence), the land holding trustee does not accept the offer set out in the notice by giving written notice of acceptance to the body, or otherwise agree with the body in writing to purchase the land concerned, the body—

New

10 (2) If, within one month after the date on which the land holding trustee receives a notice under **subsection (1)** of this section from a Crown body or other body (time being of the essence), a contract for the sale and purchase of the land to which the notice relates is not constituted under **subsection (1A)** of this section, the body—

15 (a) May, at any time during the period of 2 years following the expiry of one month from the date of receipt of the notice under **subsection (1)** of this section by the land holding trustee, sell the land to any person it wishes on terms not more favourable to the purchaser than those set out in that notice; but

20 (b) May not sell the land after the expiry of that 2-year period without first re-offering it to the land holding trustee in accordance with **subsection (1)** of this section, and **subsection (1A)** of this section and this subsection shall apply to any such re-offer.

25 (3) Where a body—

(a) Has offered to sell any residual Crown land to the land holding trustee under **subsection (1)** of this section; and

(b) Wishes to again offer that land for sale, but on terms more favourable to the purchaser than the terms of the first offer,—

30 the body may do so, so long as it first re-offers the land for sale on the more favourable terms to the land holding trustee in accordance with **subsection (1)** of this section; and **(subsection (2)) subsections (1A) and (2)** of this section shall apply to any such re-offer.

35 (4) The obligation of a Crown body or other body under **subsections (1) to (3)** of this section in respect of any particular land shall terminate on the completion of the sale of the land—

(a) To the land holding trustee; or

(b) In accordance with **subsection (2)** of this section; or
 (c) To a person of a kind referred to in any of **paragraphs (b) to (e)** of **subsection (1)** of this section,—
 whichever first occurs.

(5) Nothing in this section affects or derogates from, and the rights created by this section are subject to,— 5

(a) The terms of any gift, endowment, or trust relating to, and the rights of any holders of mortgages or other securities over, residual Crown land or any improvements on any such land: 10

(b) Any other enactment or rule of law that must be complied with before any residual Crown land is disposed of:

(c) Any feature of the title to any residual Crown land which prevents or limits a body's right to transfer the land or any improvements on the land: 15

(d) Any legal requirement which impedes a body's ability to sell or otherwise dispose of any residual Crown land or any improvements on any such land and which the body cannot satisfy after taking reasonable steps to do so (and, for the avoidance of doubt, "reasonable steps" does not include initiating a change in the law). 20

(6) Nothing in this section affects or derogates from the right of a Crown body to sell or otherwise dispose of any Crown body, or requires a Crown body to offer to the land holding trustee any Crown body that is to be sold or otherwise disposed of. 25

(7) In the case of residual Crown land that is a settlement property that *(Waikato-Tainui) Waikato* have elected under clause 8 of the deed of settlement not to take, this section shall be read subject to **section 10** of this Act. 30

New

(7A) Where any residual Crown land—

(a) Becomes, under **subsection (1A)** of this section, subject to a contract for the sale and purchase of that land; or 35

(b) Is transferred (without breaching this section) to any person that is not a Crown body,—

this section and **section 10** of this Act shall cease to apply to that residual Crown land.

(8) Clause 10 of the deed of settlement shall cease to have effect from the date on which **sections 10 and 11** of this Act and this section come into force.

5 **10. Rights of land holding trustee in regard to property that it has previously elected not to take**—Where a settlement property becomes residual Crown land by virtue of (Waikato-Tainui) Waikato electing under clause 8 of the deed of settlement not to take that property, **section 9** of this Act shall apply to that property as if—

10 (a) A notice had been given to the land holding trustee under **subsection (1)** of that section offering to sell the property to the land holding trustee for the price and on the other terms on which the property was offered to the land holding trustee under the deed of settlement;
15 and

Struck Out

20 (b) The land holding trustee had not given notice of acceptance of that offer under **subsection (2)** of that section within the time prescribed by that subsection; and

New

25 (b) The land holding trustee had not, within the time prescribed by **subsection (1A)** of that section,—
(i) Given, under that subsection, written notice of acceptance of the offer; or
(ii) Otherwise agreed in writing to purchase the property; and

30 (c) The land holding trustee had received the notice under **subsection (1)** of that section on the date on which the election takes effect.

35 **11. Noting of right to acquire residual Crown land on certificates of title**—(1) As soon as reasonably practicable after the date on which this section comes into force, the Director-General shall issue to the District Land Registrar one or more certificates that identify all the certificates of title for the residual Crown land for which certificates of title have been issued at that date.

(2) As soon as reasonably practicable after the date on which a certificate of title is issued for any residual Crown land, being a date after the date on which this section comes into force, the Director-General shall issue to the District Land Registrar a certificate that identifies the certificate of title concerned. 5

(3) As soon as reasonably practicable after receiving a certificate from the Director-General under either **subsection (1)** or **subsection (2)** of this section, the District Land Registrar shall, without fee, note on the certificate or certificates of title to the land to which the certificate from the Director-General relates, the words “Subject to **section 9 of the (Waikato-Tainui) Waikato Raupatu Claims Settlement Act 1995** (which provides for residual Crown land to be offered for purchase to a land holding trust for *(Waikato-Tainui) Waikato* in certain circumstances)”. 10

Struck Out

15

(4) Before any particular residual Crown land, for which a certificate of title has been issued, is transferred—

- (a) To the land holding trustee; or
- (b) In accordance with **section 9 (2)** of this Act; or
- (c) To a person of a kind referred to in any of **paragraphs (b) to (e) of section 9 (1)** of this Act,— 20

the Crown body or former Crown body concerned shall notify the Director-General of the transfer, and the Director-General shall, before registration of the transfer, issue to the District Land Registrar a certificate stating that the land is to be so transferred and the certificate of title concerned. 25

New

(4) Where any residual Crown land for which a certificate of title has been issued is to be transferred (without breaching **section 9** of this Act) to any person other than a Crown body,— 30

- (a) The transferor shall notify the Director-General of the transfer; and
- (b) The Director-General shall, before registration of the transfer, issue to the District Land Registrar a certificate stating that the land is to be so transferred and identifying the certificate of title concerned. 35

(5) On receipt of a certificate under **subsection (4)** of this section and before registration of the transfer, the District Land

Registrar shall, without fee, delete by endorsement the words previously noted on the certificate of title for the land in accordance with **subsection (3)** of this section.

5 (6) Whenever the Director-General issues a certificate to the District Land Registrar under this section, the Director-General shall send a copy of the certificate to the land holding trustee.

12. Removal of resumptive memorials from land within Waikato claim area—(1) Nothing in—

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- 10 (a) Section 8A to 8C of the Treaty of Waitangi Act 1975 (as inserted by section 4 of the Treaty of Waitangi (State Enterprises) Act 1988); or
- 15 (b) Sections 27B and 27C of the State-Owned Enterprises Act 1986 (as substituted by section 10 of the Treaty of Waitangi (State Enterprises) Act 1988); or
- (c) Parts III and IV of the New Zealand Railways Corporation Restructuring Act 1990; or
- 20 (d) Sections 211 and 212 of the Education Act 1989 (as inserted by section 37 of the Education Amendment Act 1990)—

New

- (a) Sections 8A to 8H of the Treaty of Waitangi Act 1975; or
- (b) Sections 27A to 27C of the State-Owned Enterprises Act 1986; or
- 25 (c) Part III of the New Zealand Railways Corporation Restructuring Act 1990; or
- (d) The amendments made to the Treaty of Waitangi Act 1975 by Part IV of the New Zealand Railways Corporation Restructuring Act 1990; or
- 30 (e) Sections 211 to 213 of the Education Act 1989; or
- (f) Any enactment equivalent to any of the enactments specified in **paragraphs (a) to (e)** of this subsection,—

shall apply in relation to any land within the (*Waikato-Tainui*) *Waikato* claim area.

35 (2) **Subsection (1)** of this section shall apply in relation to any claim submitted to the Waitangi Tribunal under section 6 of

the Treaty of Waitangi Act 1975, whether before or after the commencement of this section.

(3) The Director-General shall, as soon as reasonably practicable after the commencement of this subsection, issue to the District Land Registrar one or more certificates that identify each certificate of title relating to land within the *(Waikato-Tainui) Waikato* claim area that contains a memorial entered pursuant to any of the enactments referred to in **subsection (1)** of this section. 5

Struck Out 10

(4) The District Land Registrar shall, as soon as reasonably practicable after receiving a certificate referred to in **subsection (3)** of this section and without fee, cancel each such memorial on a certificate of title identified in the certificate.

New 15

(4) The District Land Registrar shall, as soon as reasonably practicable after receiving a certificate issued to that District Land Registrar under **subsection (3)** of this section and without fee,—

- (a) Register the certificate against each certificate of title identified in the certificate; and 20
- (b) Cancel each memorial that, pursuant to any of the enactments referred to in **subsection (1)** of this section, is entered on a certificate of title identified in the certificate. 25

(5) Subject to **subsection (6)** of this section, **subsections (1) to (4)** of this section do not apply in respect of—

- (a) The land specified in the **Second Schedule** to this Act; or
- (b) The Maramarua land, as described in Attachment 10 to the deed of settlement. 30

(6) Subject to **subsection (7)** of this section, the Governor-General may, by one or more Orders in Council, apply **subsections (1) to (4)** of this section to the whole or part of the Maramarua land referred to in **subsection (5) (b)** of this section.

New

5 (7) No Order in Council shall be made under **subsection (6)** of this section in respect of any land unless the Minister is of the opinion that a final determination or a final recommendation has been made in respect of any relevant claims (including claims made by the Hauraki Maori Trust Board) in respect of the land to which the Order in Council relates.

New

10 **12A. Power to amend Second Schedule**—(1) Subject to **subsections (2) and (3)** of this section, the Governor-General may from time to time, by Order in Council, amend the **Second Schedule** to this Act by adding thereto descriptions of additional pieces of land.

15 (2) The Governor-General shall not make an Order in Council under **subsection (1)** of this section unless the Governor-General is satisfied, on the advice of the Minister of Justice, that the pieces of land described in the order are pieces of land within the Waikato claim area that should not cease to be subject to the enactments referred to in **section 12 (1)** of this Act.

20 (3) No Order in Council shall be made under this section after the 14th day of November 1995.

(4) This section shall come into force on the day on which this Act receives the Royal assent.

25 **13. Power of the Crown to compulsorily acquire property for purpose of settlement**—(1) Where the Crown is obliged by the deed of settlement to transfer to the land holding trustee a property of a Crown body (or any body that was a Crown body at the date on which the deed of settlement was signed), the Minister of Lands may, after consultation
30 with—

(a) Any Minister of the Crown for the time being responsible for that body; and

(b) Any Minister of the Crown who is a shareholder of the body,—

35 acquire the (*settlement*) property under Part II of the Public Works Act 1981 as if the (*settlement*) property were land

required for both Government work and a public work and Parts II, IV, V, VI, and VII of that Act and the First, Third, Fourth, and Fifth Schedules to that Act shall, subject to the modifications set out in the **Third Schedule** to this Act and to all other necessary modifications, apply accordingly. 5

(2) The existence on the certificate of title to any property acquired pursuant to **subsection (1)** of this section of a memorial under any of the enactments referred to in **section 12 (1)** of this Act shall not be taken into account in any assessment of compensation made under the Public Works Act 1981 in relation to the acquisition of that property. 10

(3) Where a lease of a property acquired pursuant to **subsection (1)** of this section has been or is to be granted to the body from whom the property is acquired, that lease shall be taken into account in any assessment of compensation made under the Public Works Act 1981 in relation to the acquisition of that property. 15

(4) In this section, the term “property” means a settlement property specified in the deed of settlement in the form in which it was signed on the 22nd day of May 1995. 20

14. Issue of certificates of title—Where any settlement property, or residual Crown land, for which no certificate of title has been issued under the Land Transfer Act 1952—

(a) Is vested in the Crown; but

(b) Is to be acquired by the land holding trustee— 25
then, notwithstanding any other enactment or rule of law, the District Land Registrar shall, 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 settlement property or residual Crown land in the name of the Crown, and that certificate of title shall be subject to, and shall have the benefit of, any relevant easements, encumbrances, restrictions, and other interests. 30

Provisions Relating to Trusts 35

15. Land holding trustee authorised to acquire land—Notwithstanding section 26 of the Maori Trust Boards Act 1955, for the purpose of giving effect to the deed of settlement, the land holding trustee is hereby authorised to do either or both of the following: 40

- (a) Acquire from the Crown any settlement property or residual Crown land, whether or not subject to any lease to, or other interest of, any other person:
- (b) Sign any document or do any other thing for the purposes of any such acquisition.

5

16. Provision for registration of land in name of Pootatau Te Wherowhero—(1) Notwithstanding the Land Transfer Act 1952 or any other enactment or rule of law, the land holding trustee may direct in writing that any land, or interest in land, that is registrable or registered under that Act in the name of the land holding trustee—

10

(a) Be registered in the name of Pootatau Te Wherowhero, rather than in the name of the land holding trustee; or

15

(b) Be no longer registered in the name of Pootatau Te Wherowhero, and instead be registered in the name of the land holding trustee.

(2) If the District Land Registrar receives—

20

(a) A direction in writing from the land holding trustee under **subsection (1) (a)** of this section; or

(b) A direction in writing from the land holding trustee under **subsection (1) (b)** of this section, together with—

25

(i) A certificate in writing from the land holding trustee as to the persons who are at that time “custodians of Te Wherowhero title” within the meaning of the trust deed for the land holding trust; and

(ii) A written consent to that direction executed by each such person,—

30

the District Land Registrar shall give effect to that direction.

(3) Where any land or interest in land is registered under the Land Transfer Act 1952 in the name of Pootatau Te Wherowhero,—

35

(a) The land holding trustee shall have all the rights, duties, and powers of the registered proprietor of that land or interest (except that the land or interest shall continue to be registered in that name unless a direction is given under **subsection (1) (b)** of this section), and shall exercise and perform every such right, duty, and power in its own name and not in the name of Pootatau Te Wherowhero; and

40

(b) The District Land Registrar shall have regard to **paragraph (a)** of this subsection.

(4) The presentation to the District Land Registrar of a direction in writing—

(a) Executed or purporting to be executed by the land holding trustee; and

(b) Relating to any land registrable or registered in the name of the land holding trustee or in the name of Pootatau Te Wherowhero; and

(c) In the case of a direction given under **subsection (1) (b)** of this section, containing a consent executed or purporting to be executed by each of the persons who are required by **subsection (2) (b)** of this section to execute the consent; and

(d) Containing a recital that the direction is given under **paragraph (a)** or **paragraph (b)** (as the case may be) of **subsection (1)** of this section—

shall, in the absence of evidence to the contrary, be sufficient evidence that the direction has been given under that paragraph and that any consents required by **subsection (2) (b)** of this section have been given.

New

16A. Trust deed for land holding trust—The land holding trustee—

(a) Shall, in accordance with section 128 (2) of the Land Transfer Act 1952 and within one month after the date on which this section comes into force, deposit with both the District Land Registrar of the North Auckland Land Registration District and the District Land Registrar of the South Auckland Land Registration District a duplicate or attested copy of the trust deed for the land holding trust; and

(b) Shall, in accordance with section 128 (2) of the Land Transfer Act 1952 and within one month after the date on which any variation, amendment, or addition is made to the trust deed for the land holding trust, deposit with both the District Land Registrar of the North Auckland Land Registration District and the District Land Registrar of the South Auckland Land Registration District a duplicate or attested copy of that variation, amendment, or addition.

17. Vesting of Te Rapa and Hopuhopu land in name of Pootatau Te Wherowhero—(1) On the date on which this section comes into force,—

5 (a) The Te Rapa land and the Hopuhopu land shall, by virtue of this section, vest in the land holding trustee upon the trusts declared in the trust deed for the land holding trust; and

10 (b) The land holding trustee shall be deemed to have directed in writing under **section 16 (1) (a)** of this Act that the Te Rapa land and the Hopuhopu land shall be registered in the name of Pootatau Te Wherowhero.

(2) As soon as practicable after the date on which this section comes into force, the District Land Registrar shall, after any surveys that are necessary have been completed, issue
15 certificates of title under the Land Transfer Act 1952 for the Te Rapa land and the Hopuhopu land in the name of Pootatau Te Wherowhero, and those certificates of title—

20 (a) Shall be subject to sections 10 and 11 of the Crown Minerals Act 1991 and to Part IVA of the Conservation Act 1987 (as applied by **subsection (5)** of this section); and

(b) Shall be subject to, and shall have the benefit of, any relevant easements, encumbrances, restrictions, and other interests.

25 (3) In this section, the term “Hopuhopu land” means—

(a) All that piece of land containing 50.4750 hectares, more or less, being Allotment 541, Parish of Pepepe, as shown on ML 22198, lodged in the office of the Chief Surveyor at Hamilton; and

30 (b) All those pieces of land containing together 137.8640 hectares, more or less, being Allotments 386 to 390, Komakorau Parish, as shown on ML 22197, lodged in the office of the Chief Surveyor at Hamilton.

35 (4) In this section, the term “Te Rapa land” means all that piece of land containing 29.1710 hectares, more or less, being Section 1, S.O. 59507, as shown on S.O. Plan 59507, lodged in the office of the Chief Surveyor at Hamilton.

40 (5) Each vesting of land in the land holding trustee by **subsection (1) (a)** of this section shall be deemed to be a disposition of land by the Crown for the purposes of Part IVA of the Conservation Act 1987.

18. Land holding trust not subject to Te Ture Whenua Maori Act 1993—Nothing in Te Ture Whenua Maori Act

1993 shall apply to the land holding trust or to any land that is registrable or registered in the name of the land holding trustee or in the name of Pootatau Te Wherowhero.

19. Land holding trust not subject to rule against perpetuities—(1) It is hereby declared that the land holding trust shall not be subject to any enactment or rule of law restricting the period for which a trust may run. 5

Struck Out

(2) It is hereby declared that no lease of a settlement property to a Crown body shall be subject to any enactment or rule of law restricting the period for which a lease may be granted. 10

New

(2) Neither the rule against perpetuities nor section 17 of the Perpetuities Act 1964 shall apply in relation to the rights conferred by section 9 of this Act. 15

20. Establishment of land acquisition trust—For the purposes of giving effect to the deed of settlement,—

- (a) The Crown is hereby authorised to establish the land acquisition trust; and 20
- (b) Any Minister of the Crown may on behalf of the Crown sign one or more deeds or other documents, and do any other thing, that may be necessary to establish the trust.

Appointments to Conservation Board 25

21. Amendments to Conservation Act 1987—(1) Section 6P of the Conservation Act 1987 (as inserted by section 5 of the Conservation Law Reform Act 1990) is hereby amended by omitting from subsection (1) the expression “and (7)”, and substituting the expression “(7), and (7A)”. 30

(2) Section 6P of the Conservation Act 1987 (as so inserted) is hereby further amended by inserting, after subsection (7), the following subsection:

“(7A) The Board whose area of jurisdiction includes most of the Waikato-Tainui claim area within the meaning of section 5 of 35

the (*Waikato-Tainui*) *Waikato Raupatu Claims Settlement Act 1995* shall consist of not more than 12 persons, being—

“(a) Not more than 11 persons appointed under subsection (2) of this section; and

5 “(b) The person who for the time being is recognised as the Head of Kahui Ariki, or a person appointed by the Minister on the nomination of the person so recognised.”

10 (3) This section shall come into force on the 1st day of September 1996.

Crown Forest Assets

22. Crown forest assets—(1) In this Act,—

15 “Claimants” means the claimants in respect of the Waitangi Tribunal claim registered as Wai 30, being Robert Te Kotahi Mahuta on behalf of himself and on behalf of the members of *Waikato-Tainui*, the members of the *Tainui Maori Trust Board* and *Ngaa Marae Toopu*:

20 “Crown forestry licence” means a licence granted under section 14 of the *Crown Forest Assets Act 1989*:

“Crown Forestry Rental Trust” and “trust” means the trust established under section 34 of the *Crown Forest Assets Act 1989*:

25 “Licensed land” has the same meaning as in the *Crown Forest Assets Act 1989*:

30 “Maramarua forest land” means all those pieces of land situated in the Land Registration District of South Auckland containing together 5698.2000 hectares, more or less, being Lots 1 and 2, D.P. S56867, and Lot 1, D.P. S56868:

35 “Onewhero forest land” means all those pieces of land situated in the Land Registration District of South Auckland containing together 1074.1965 hectares, more or less, being Lot 1, D.P. S53139, Lot 1, D.P. S53140, Sections 1 and 2, Block X, Onewhero Survey District, and Section 6, Block XIII, Onewhero Survey District.

(2) On the date on which this subsection comes into force,—

Struck Out

- (a) The Waitangi Tribunal shall be deemed to have made a final recommendation under section 8HB (1) (a) of the Treaty of Waitangi Act 1975 that the whole of the Onewhero forest land be returned to Maori ownership, subject to any relevant Crown forestry licence, by being transferred to Waikato-Tainui in accordance with the deed of settlement, and there shall be no further payment of any compensation under section 36 (1) (b) of the Crown Forest Assets Act 1989; and 5 10
- (b) The provisions of the Crown Forest Assets Act 1989, and of the Crown Forestry Rental Trust, shall apply accordingly.

New

- (a) The Waitangi Tribunal shall be deemed to have made a final recommendation under section 8HB (1) (a) of the Treaty of Waitangi Act 1975 that the whole of the Onewhero forest land be returned to Maori ownership, subject to any relevant Crown forestry licence, by being transferred to the land holding trustee, but section 36 (1) (b) of the Crown Forest Assets Act 1989 shall not apply; and 20
- (b) The provisions of the Treaty of Waitangi Act 1975 and of the Crown Forest Assets Act 1989 (other than section 36 (1) (b)) and of the Crown Forestry Rental Trust deed shall apply accordingly. 25

- (3) On the date on which this subsection comes into force,—

Struck Out

- (a) The Waitangi Tribunal shall be deemed to have made a final recommendation under section 8HB (1) (a) of the Treaty of Waitangi Act 1975 that the whole of the Maramarua forest land be returned to Maori ownership, subject to any relevant Crown forestry licence, by being transferred to Waikato-Tainui in 30 35

Struck Out

- 5 accordance with the deed of settlement, and there shall be no further payment of any compensation under section 36 (1) (b) of the Crown Forest Assets Act 1989; and
- (b) The provisions of the Crown Forest Assets Act 1989, and of the Crown Forestry Rental Trust deed, shall apply accordingly.

New

- 10 (a) The Waitangi Tribunal shall be deemed to have made a final recommendation under section 8HB (1) (a) of the Treaty of Waitangi Act 1975 that the whole of the Maramarua forest land (or such part of the
- 15 Maramarua forest land as is specified in the Order in Council bringing this subsection into force) be returned to Maori ownership, subject to any relevant Crown forestry licence, by being transferred to the land holding trustee, but section 36 (1) (b) of the Crown Forest Assets Act 1989 shall not apply; and
- 20 (b) The provisions of the Treaty of Waitangi Act 1975 and of the Crown Forest Assets Act 1989 (other than section 36 (1) (b)) and of the Crown Forestry Rental Trust deed shall apply accordingly.

- (4) On the date on which this subsection comes into force,—
- 25 (a) The Waitangi Tribunal shall be deemed to have made a final recommendation under section 8HB (1) (b) of the Treaty of Waitangi Act 1975 that all of the licensed land in the (*Waikato-Tainui*) *Waikato* claim area, other than the Onewhero forest land and the
- 30 Maramarua forest land, not be liable to return to Maori ownership; and
- (b) The provisions of the Treaty of Waitangi Act 1975 and of the Crown Forest Assets Act 1989, and of the Crown Forestry Rental Trust deed, shall apply accordingly.

Struck Out

(5) No Order in Council may be made bringing **subsection (3)** of this section into force unless a final determination has been made by an appropriate authority, or agreement has been reached between the claimants and the Hauraki Maori Trust Board, to the effect that the competing claim by that trust board to the Maramarua forest land is subject to the claim made by the claimants to that land. 5

New

(5) No Order in Council may be made bringing **subsection (3)** of this section into force unless, in the opinion of the Minister,— 10

(a) A final recommendation has been made by the Waitangi Tribunal, or a final determination has been made by an appropriate judicial authority, on both the claim made by the claimants to the Maramarua forest land and the competing claim made by the Hauraki Maori Trust Board to the Maramarua forest land; or 15

(b) An agreement has been reached between the claimants and the Hauraki Maori Trust Board on both the claim made by the claimants to the Maramarua forest land and the claim made by the Hauraki Maori Trust Board to the Maramarua forest land. 20

(5A) The Order in Council bringing **subsection (3)** of this section into force shall—

(a) State whether the whole or part of the Maramarua forest land is to be transferred to the land holding trustee; and 25

(b) Where only part of the Maramarua forest land is to be transferred to the land holding trustee, identify the part of that land that is to be so transferred. 30

(6) Nothing in this section shall prejudice any right which *(Waikato-Tainui) Waikato* may have to apply to the trustee of the Crown Forestry Rental Trust for payment of their costs for the preparation and presentation of their claim to the Maramarua forest land. 35

Tainui Maori Trust Board

23. Cancellation of Tainui Maori Trust Board annuity—(1) Subsections (2), (2A), and (3) of section 7 of the Maori Trust Boards Act 1955 are hereby repealed.

5 (2) The following enactments are hereby consequentially repealed:

(a) Section 8 (1) (b) of the Maori Purposes Act 1977:

(b) Section 5 of the Maori Purposes Act 1978.

24. Dissolution of Tainui Maori Trust Board—(1) In this section and in the **Fourth Schedule** to this Act,—

10 “Appointed day” means the date of commencement of this section:

15 “Successor” means the body corporate or other person named as the successor to the Trust Board by the Governor-General by Order in Council:

“Trust Board” means the Tainui Maori Trust Board.

(2) On the appointed day,—

(a) The undertaking of the Trust Board shall, by virtue of this section, vest in the successor; and

20 (b) The Trust Board shall be deemed to be dissolved; and

(c) Every person holding office as a member of the Trust Board shall cease to hold that office.

(3) The provisions of the **Fourth Schedule** to this Act shall apply in respect of the dissolution of the Trust Board, and the vesting of its undertaking in the successor, under this section.

25 (4) The following enactments are hereby repealed:

(a) Section 7 of the Maori Trust Boards Act 1955:

(b) Section 12 of the Maori Purposes Act 1968.

New

30 **24A. Final accounts of Tainui Maori Trust Board**—

(1) As soon as reasonably practicable after the commencement of **section 24** of this Act, the body corporate or other person named as the successor to the Tainui Maori Trust Board by the Governor-General by Order in Council shall cause to be prepared final accounts of the Tainui Maori Trust Board as at the close of the day before the date of the commencement of that section.

35 (2) A copy of the final accounts of the Tainui Maori Trust Board, together with a copy of the report of the Audit Office

New

on those accounts, shall be sent to the Minister of Maori Affairs by the body corporate which, or person who, causes those final accounts to be prepared.

(3) A copy of the final accounts, together with a copy of the report of the Audit Office on those accounts, shall be laid before the House of Representatives by the Minister of Maori Affairs as soon as practicable after their receipt by that Minister.

Amendment to Treaty of Waitangi Act 1975

25. Jurisdiction of Tribunal to consider claims— Section 6 of the Treaty of Waitangi Act 1975 (as amended by section 40 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992) is hereby amended by adding the following subsection:

“(8) Notwithstanding anything in this Act or in any other Act or rule of law, as from the commencement of this subsection, the Tribunal shall 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 Raupatu claims, as defined in sections 5 and 6 of the (Waikato-Tainui) Waikato Raupatu Claims Settlement Act 1995; or

“(b) The deed of settlement, as defined in section 5 of the (Waikato-Tainui) Waikato Raupatu Claims Settlement Act 1995; or

“(c) The benefits provided to Waikato-Tainui under that deed of settlement or the (Waikato-Tainui) Waikato Raupatu Claims Settlement Act 1995.”

Amendments to Transit New Zealand Act 1989

26. Maori interests to be considered—(1) The Transit New Zealand Act 1989 is hereby amended by repealing section 27, and substituting the following section:

“27. No project that affects or is likely to affect Maori land, land registered in the name of Pootatau Te Wherowhero under section 16 of the (Waikato-Tainui) Waikato Raupatu Claims Settlement Act 1995, or Maori historical, cultural, or spiritual interests shall be included in any district land transport programme or regional land transport programme unless the local authority responsible for the project has consulted,—

“(a) In the case of land registered in the name of Pootatau Te
Wherowhero or interests relating to that land, the
land holding trustee (as defined in **section 5** of the
(*Waikato-Tainui*) *Waikato Raupatu Claims Settlement Act 1995*); or

5 “(b) In any other case, every iwi or hapu that in the opinion
of the local authority will or may be affected by the
project,—

and the local authority is satisfied after such consultation that
the project should proceed.”

10 (2) **Subsection (1)** of this section, and **section 27** of the Transit New
Zealand Act 1989 (as substituted by **subsection (1)** of this section)
shall be deemed, as from the close of the 30th day of June
1996, to be repealed.

27. Maori interests to be considered—(1) The Transit
15 New Zealand Act 1989 is hereby amended by repealing section
42L (as enacted by section 18 (1) of the Transit New Zealand
Amendment Act 1995), and substituting the following section:

20 “42L. No output or capital project which affects or is likely to
affect Maori land, land registered in the name of Pootatau Te
Wherowhero under **section 16** of the **(*Waikato-Tainui*) *Waikato Raupatu*
Claims Settlement Act 1995, or Maori historical, cultural, or spiritual
interests shall be included in a national roading programme, a
safety (administration) programme, State highways
programme, a regional programme, or a district roading
25 programme unless the Board, the Land Transport Safety
Authority, the Authority, regional council, or territorial
authority preparing the programme has consulted,—**

30 “(a) In the case of land registered in the name of Pootatau Te
Wherowhero or interests relating to that land, the
land holding trustee (as defined in **section 5** of the
(*Waikato-Tainui*) *Waikato Raupatu Claims Settlement Act 1995*); or

35 “(b) In any other case, every iwi or hapu that in the opinion
of the Board, the Land Transport Safety Authority,
the Authority, regional council, or territorial
authority will or may be affected by the project,—

and the Board, the Land Transport Safety Authority, the
Authority, regional council, or territorial authority is satisfied
after such consultation that the project should proceed.”

40 (2) No Order in Council may be made bringing **subsection (1)** of
this section into force before the 1st day of July 1996.

28. Authority may declare State highways—Section 60 of
the Transit New Zealand Act 1989 is hereby amended by

repealing subsection (4), and substituting the following subsection:

“(4) No declaration shall be made under subsection (1) of this section which affects or is likely to affect Maori land, land registered in the name of Pootatau Te Wherowhero under section 16 of the *(Waikato-Tainui) Waikato Raupatu Claims Settlement Act 1995*, or Maori historical, cultural, or spiritual interests, unless the Authority has consulted,—

“(a) In the case of land registered in the name of Pootatau Te Wherowhero or interests relating to that land, the land holding trustee (as defined in section 5 of the *(Waikato-Tainui) Waikato Raupatu Claims Settlement Act 1995*); or

“(b) In any other case, every iwi or hapu that in the opinion of the Authority will or may be affected by the declaration,—

and the Authority is satisfied after such consultation that the declaration should be made.”

Amendment to Resource Management Act 1991

29. Conditions of resource consents—Section 108 (9) of the Resource Management Act 1991 is hereby amended by inserting in paragraph (b), after the word “otherwise”, the words “and excluding land registered in the name of Pootatau Te Wherowhero under section 16 of the *(Waikato-Tainui) Waikato Raupatu Claims Settlement Act 1995*”.

Amendments to Crown Minerals Act 1991

30. Entry on Crown land for minimum impact activity—Section 51 of the Crown Minerals Act 1991 is hereby amended by adding the following subsections:

“(3) No person may, without the consent of the land holding trustee (as defined in section 5 of the *(Waikato-Tainui) Waikato Raupatu Claims Settlement Act 1995*), enter on any land that is both—

“(a) Registered in the name of Pootatau Te Wherowhero under section 16 of that Act; and

“(b) Regarded as waahi tapu by the land holding trustee within the meaning of that Act—

for the purpose of carrying out a minimum impact activity.

“(4) Subsection (1) (b) of this section shall apply in relation to land registered in the name of Pootatau Te Wherowhero under section 16 of the *(Waikato-Tainui) Waikato Raupatu Claims Settlement Act 1995* as if that land were Maori land and as if the land holding trustee were the local iwi authority of that land.”

5 **31. Declaration by Order in Council that access arrangement may be determined by arbitrator**—Section 66 (1) (b) of the Crown Minerals Act 1991 is hereby amended by inserting, after the words “Maori Land,”, the words “or land registered in the name of Pootatau Te Wherowhero under section 16 of the (*Waikato-Tainui*) Waikato Raupatu Claims Settlement Act 1995.”.

New

Amendments to Public Works Act 1981

10 **32. Sections to be read with Public Works Act 1981**—
(1) This section and the next succeeding section shall be read together with and deemed part of the Public Works Act 1981* (in that section referred to as the principal Act).

15 (2) This section and the next succeeding section shall come into force on the day on which this Act receives the Royal assent.

*1981, No. 85

Amendments: 1982, No. 182; 1983, No. 150; 1987, No. 62; 1987, No. 67; 1987, No. 110; 1987, No. 201; 1988, No. 43; 1991, No. 87

20 **33. New sections inserted**—The principal Act is hereby amended by inserting, after section 42, the following sections:

“42A. **Solatium payment for loss of opportunity to purchase**—(1) Where—

25 “(a) A recommendation made or deemed to have been made by the Waitangi Tribunal under section 8A of the Treaty of Waitangi Act 1975 for the return to Maori ownership of any land that is held for a public work takes effect as a final recommendation; or

30 “(b) Any provision of an Act of Parliament returns to Maori ownership any land that immediately before being so returned was held for a public work,—

any person (being the person from whom that land was acquired or the successor of the person from whom that land was acquired) who would, but for section 8A (5) of the Treaty of
35 Waitangi Act 1975 or the effect of the Act of Parliament by which the land was returned to Maori ownership, have received in respect of that land in the normal course of events an offer under section 40 or section 41 of this Act may, at the time at which the offer would have been made, apply to the Land

New

Valuation Tribunal for a *solatium* payment from the Crown for the loss of the opportunity to purchase the land.

“(2) Every person who makes an application to the Land Valuation Tribunal under **subsection (1)** of this section shall, as soon as practicable after making that application, serve a copy of that application on the chief executive of the Department of Survey and Land Information. 5

“(3) Subject to **subsection (4)** of this section, the Land Valuation Tribunal shall, in assessing the amount of any *solatium* payment payable under this section, take into account— 10

“(a) The fact that the person from whom the land was acquired was paid, at the time of acquisition, the then market price as agreed or assessed; and

“(b) Any other payments made to the person from whom the land was acquired; and 15

“(c) The fact that the offer under section 40 or section 41 would, in most cases, have been an offer to sell the land at the current market value of the land as determined by a valuation carried out by a registered valuer; and 20

“(d) The reasonable likelihood of the offeree being financially capable of accepting the offer; and

“(e) The degree of attachment that the offeree has to the land, including, in particular, the degree of attachment that exists by reason of the offeree or members of the offeree’s family or both having been associated with the land over a considerable period of time; and 25

“(f) The likely market value of the opportunity to purchase the land. 30

“(4) No *solatium* payment payable under this section in respect of the loss of the opportunity to purchase any land shall exceed \$20,000.

“42B. **Notice of right to apply for *solatium* payment—** 35
(1) Where the chief executive of the Department of Survey and Land Information is advised by a State enterprise within the meaning of the State-Owned Enterprises Act 1986 that any land held by that State enterprise for a public work is no longer

New

required for a public work, that chief executive shall ascertain—

5 “(a) Whether an offer under section 40 or section 41 of this Act is required to be made to any person in respect of that land; and

10 “(b) Whether, in his or her opinion, any person is entitled to apply to the Land Valuation Tribunal under **section 42A** of this Act for a *solatium* payment for the loss of the opportunity to purchase that land.

15 “(2) Where the chief executive of the Department of Survey and Land Information ascertains, under **subsection (1)** of this section, that any person is, in the opinion of that chief executive, entitled to apply to the Land Valuation Tribunal under **section 42A** of this Act for a *solatium* payment in respect of the loss of the opportunity to purchase that land, that chief executive shall advise that person in writing of that person’s entitlement.”

SCHEDULES

Preamble, recital A

FIRST SCHEDULE

THE TREATY OF WAITANGI

(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.

ARTICLE THE FIRST

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 or Individual Chiefs respectively exercise or possess, or may be supposed to exercise or to possess over their respective Territories as the sole Sovereigns thereof.

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.

FIRST SCHEDULE—*continued*

THE TREATY OF WAITANGI—*continued*

(THE TEXT IN ENGLISH)—*continued*

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.*]

(THE TEXT IN MAORI)

KO WIKITORIA, te Kuini o Ingarani, i tana mahara atawai ki nga Rangatira me nga Hapu o Nu Tirani i tana hiahia hoki kia tohungia ki a ratou o ratou rangatiratanga, me to ratou wenua, a kia mau tonu hoki te Rongo ki a ratou me te Atanoho hoki kua wakaaro ia he mea tika kia tukua mai tetahi Rangatira hei kai wakarite ki nga Tangata maori o Nu Tirani-kia wakaaetia e nga Rangatira maori te Kawanatanga o te Kuini ki nga wahikatoa o te Wenua nei me nga Motu-na te mea hoki he tokomaha ke nga tangata o tona Iwi Kua noho ki tenei wenua, a e haere mai nei.

Na ko te Kuini e hiahia ana kia wakaritea te Kawanatanga kia kaua ai nga kino e puta mai ki te tangata Maori ki te Pakeha e noho ture kore ana.

Na, kua pai te Kuini kia tukua a hau a Wiremu Hopihona he Kapitana i te Roiara Nawi hei Kawana mo nga wahi katoa o Nu Tirani e tukua aiane, amua atu ki te Kuini e mea atu ana ia ki nga Rangatira o te wakaminenga o nga hapu o Nu Tirani me era Rangatira atu enei ture ka korerotia nei.

Ko te Tuatahi

Ko nga Rangatira o te Wakaminenga me nga Rangatira katoa hoki ki hai i uru ki taua wakaminenga ka tuku rawa atu ki te Kuini o Ingarani ake tonu atu-te Kawanatanga katoa o o ratou wenua.

Ko te Tuarua

Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangatira ki nga hapu-ki nga tangata katoa o Nu Tirani te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa. Otiia ko nga Rangatira o te Wakaminenga me nga Rangatira katoa atu ka tuku ki te Kuini te hokonga o era wahi wenua e pai ai te tangata nona te Wenua-ki te ritenga o te utu e wakaritea ai e ratou ko te kai hoko e meatia nei e te Kuini hei kai hoko mona.

(*Waikato-Tainui*) *Waikato Raupatu*
Claims Settlement

FIRST SCHEDULE—*continued*

THE TREATY OF WAITANGI—*continued*

(THE TEXT IN MAORI)—*continued*

Ko te Tuatoru

Hei wakaritenga mai hoki tenei mo te wakaaetanga ki te Kawanatanga o te Kuini-Ka tiakina e te Kuini o Ingarani nga tangata maori katoa o Nu Tirani ka tukua ki a ratou nga tikanga katoa rite tahi ki ana mea ki nga tangata o Ingarani.

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

Na ko matou ko nga Rangatira o te Wakaminenga o nga hapu o Nu Tirani ka huihui nei ki Waitangi ko matou hoki ko nga Rangatira o Nu Tirani ka kite nei i te ritenga o enei kupu, ka tangohia ka wakaaetia katoatia e matou, koia ka tohungia ai o matou ingoa o matou tohu.

Ka meatia tenei ki Waitangi i te ono o nga ra o Pepueri i te tau kotahi mano, e waru rau e wa te kau o to tatou Ariki.

Ko nga Rangatira o te wakaminenga.

Struck Out

Section 12 (5) (a)

SECOND SCHEDULE

LAND IN RESPECT OF WHICH RESUMPTIVE MEMORIALS ARE NOT CANCELLED

1. All that piece of land containing 577 square metres, more or less, situated in Block XV, Rangiriri Survey District, being Allotment 842 and part Allotment 52, Parish of Taupiri, and Lot 101 on Deposited Plan 8976, and being all the land comprised and described in certificate of title No. 44A/188 (South Auckland Registry).
2. All that piece of land containing 529 square metres, more or less, being Section 1, S.O. 57429, and being the balance of the land comprised and described in certificate of title, Volume 128, folio 188 (South Auckland Registry).

SECOND SCHEDULE—*continued*

New

SECOND SCHEDULE

Section 12 (5) (a)

LAND IN RESPECT OF WHICH RESUMPTIVE MEMORIALS ARE NOT CANCELLED

1. All that piece of land containing 512.6981 hectares, more or less, situated in Blocks IX and X, Maramarua Survey District, being Sections 1, 2, 3, 4, and 5, S.O. Plan 58118, and being all the land comprised and described in certificate of title No. 56D/715 (South Auckland Registry).

2. All that piece of land containing 70.3040 hectares, more or less, situated in Block XI, Rangiriri Survey District, being Lot 1 on Deposited Plan S. 1323, Lot 1 on Deposited Plan S. 16165, Lot 1 on Deposited Plan S. 16330, Lots 1 and 2 on Deposited Plan 23139, Lot 1 and part Lot 2 on Deposited Plan 35569, part Lot 2 on Deposited Plan 23084, Allotments 16A1, 16A2A, parts Allotments 16B, 16C, 17, and 17A, and part Allotments 16A, 18A2, 18B, and 18C, Parish of Pepepe, excluding those mines and minerals excluded in *Gazette* Notices S. 635419, S. 555731, S. 544785, H. 053946, H. 104311, S. 578664, H. 153599, H. 395367 and S. 513323 and Proclamation S. 635421, M.L. 15142, M.L. 17608, M.L. 18214, M.L. 15406, M.L. 10591, M.L. 17514, S.O. 51592 and S.O. 49293, and being all the land comprised and described in certificate of title No. 53A/584 (South Auckland Registry).

3. All that piece of land containing 139.0021 hectares, more or less, situated in Block VI, Maramarua Survey District, being Allotments 526 and 770 and part Allotments 302, 337, 338, 339, and 340, Parish of Whangamarino, and being all the land comprised and described in certificate of title No. 42D/984 (South Auckland Registry).

4. All that piece of land containing 3020 square metres, more or less, situated in Block VIII, Onewhero Survey District, and being all the land comprised and described in certificate of title No. 50A/935 (South Auckland Registry).

Section 13 (1)

THIRD SCHEDULE

MODIFICATIONS OF PROVISIONS OF PUBLIC WORKS ACT 1981 APPLICABLE TO
ACQUISITION OF SETTLEMENT PROPERTY

1. For the purposes of section 13 of this Act, the following provisions of Part II of the Public Works Act 1981 and of the Third Schedule to that Act shall not apply, namely:

- (a) Section 23 (1) (b) (iv):
- (b) Section 23 (3):
- (c) Sections 24 and 25:
- (d) Form B in the Third Schedule.

2. For the purposes of section 13 of this Act, section 23 (1) (b) of the Public Works Act 1981 shall have effect as if, for subparagraphs (ii) and (iii), there were substituted the following subparagraph:

“(ii) A statement that the land is to be acquired under section 13 of the *(Waikato-Tainui) Waikato Raupatu Claims Settlement Act 1995*; and”.

3. For the purposes of section 13 of this Act, section 26 of the Public Works Act 1981 shall have effect as if, for subsection (1), there were substituted the following subsection:

“(1) After the expiration of the period of 20 working days specified in the notice served under section 23 (1) (c) of this Act, the land intended to be taken shall be taken in the following manner:

“(a) Subject to the provisions of section 32 of this Act,—

“(i) A survey plan shall be prepared, in duplicate, showing accurately the position and extent of the land proposed to be taken; and

“(ii) Such plan shall be signed by the Chief Surveyor as evidence of its accuracy; and

“(iii) A duplicate print of the title plan shall be prepared; and

“(b) The Minister shall recommend the Governor-General to issue a Proclamation taking the land.”

4. For the purposes of section 13 of this Act, the First Schedule to the Public Works Act 1981 shall have effect as if, for the form set out in that Schedule, there were substituted the following form:

“NOTICE OF INTENTION TO TAKE LAND IN *[Insert name of City or District]* FOR
THE PURPOSE OF GIVING EFFECT TO THE *(WAIKATO-TAINUI) WAIKATO*
RAUPATU CLAIMS SETTLEMENT

To *[Full Name]* of *[Address]*

1. Take notice that the Minister of Lands proposes to take under the Public Works Act 1981 your interest in the land described in the Schedule to this notice.

2. The land is to be acquired under section 13 of the *(Waikato-Tainui) Waikato Raupatu Claims Settlement Act 1995*.

3. A plan of the land intended to be taken is attached.

[May be deleted if all the land is in a surveyed lot.]

4. Your interest in the land will not be acquired until at least 20 working days after the service of this notice on you.

THIRD SCHEDULE—*continued*

MODIFICATIONS OF PROVISIONS OF PUBLIC WORKS ACT 1981 APPLICABLE TO
ACQUISITION OF SETTLEMENT PROPERTY—*continued*

YOUR RIGHT TO COMPENSATION

5. This notice relates to the taking of your interest in the land and not to your right to compensation. Under the Public Works Act 1981 you are entitled to full compensation for your interest in the land. If this compensation cannot be agreed between you and the Minister of Lands, it can be determined in separate proceedings before the Land Valuation Tribunal.

WARNING

THIS NOTICE CONCERNS YOUR RIGHTS OVER THE LAND
REFERRED TO. IF YOU ARE IN ANY DOUBT ABOUT ITS EFFECT,
YOU SHOULD OBTAIN LEGAL ADVICE IMMEDIATELY.

Do not delay.

[*Insert name*] Land District

[*Give general description of the land required to be taken, including the postal address or some other readily identifiable description of the place where the land is situated*].

[*Add legal description of land*]

Dated at this day of 19.....

[*Signature*]
Minister of Lands”

5. For the purposes of section 13 of this Act, Form A in the Third Schedule to the Public Works Act 1981 shall have effect as if—

- (a) For the words “or [*Name of local authority*] for the purpose of [*Insert name of public work mentioned in Proclamation or declaration*]”, there were substituted the words “so that it can be transferred to (*Waikato-Tainui*) Waikato pursuant to the (*Waikato-Tainui*) Waikato Raupatu claims settlement”; and
- (b) For the words “said work”, there were substituted the words “taking of the land described in Table A below”; and
- (c) For the words “said land and the construction of the said public work”, there were substituted the words “land described in Table A below”.

—

Section 24

FOURTH SCHEDULE

PROVISIONS RELATING TO DISSOLUTION OF TAINUI MAORI TRUST BOARD

1. **Interpretation**—In this Schedule and in section 24 of this Act, unless the context otherwise requires,—

“Inland Revenue Acts” has the same meaning as in section 3 (1) of the Tax Administration Act 1994:

“Instrument” includes—

(a) Any instrument (other than this Act) of any form or kind that creates, evidences, modifies, or extinguishes rights, interests, or liabilities or would do so if it or a copy of it were lodged, filed, or registered under any enactment; and

(b) Any judgment, order, or a process of a court:

“Liabilities” means liabilities, debts, charges, duties, and obligations of every description (whether present or future, actual or contingent, and whether payable or to be observed or performed in New Zealand or elsewhere):

“Property” means property of every kind, whether tangible or intangible, real or personal, corporeal or incorporeal and, without limiting the generality of the foregoing, includes—

(a) Choses in action and money:

(b) Goodwill:

(c) Rights, interests, and claims of every kind in or to property, whether arising from, accruing under, created or evidenced by, or the subject of, an instrument or otherwise and whether liquidated or unliquidated, actual, contingent, or prospective:

“Rights” means all rights, powers, privileges, and immunities, whether actual, contingent, or prospective:

“Security” means a mortgage or charge (whether legal or equitable), debenture, bill of exchange, promissory note, guarantee, indemnity, instrument by way of security, lien, pledge, or other security for the payment of money or for the discharge of any other obligation or liability, and in any case whether upon demand or otherwise, whether present or future and whether actual or contingent; and includes an agreement or undertaking to give or execute, whether upon demand or otherwise, any of the foregoing:

“Undertaking”, in relation to the Trust Board, means the property, rights, and liabilities of the Trust Board and, without limiting the generality of the foregoing, includes its rights, duties, and powers as a trustee.

2. **Consequential provisions on vesting of undertaking**—

(1) Without limiting the generality of section 24 of this Act, the following provisions shall apply on and after the appointed day:

(a) A reference (express or implied) to the Trust Board in any other Act, or in any regulation, order, or notice made or given under any enactment, or in any contract, instrument, register, record, notice, security, document, or communication made, given, passed or executed before or after the appointed day shall, unless the context otherwise requires, be read and construed as a reference to the successor:

FOURTH SCHEDULE—*continued*

PROVISIONS RELATING TO DISSOLUTION OF TAINUI MAORI TRUST BOARD—
continued

- (b) All contracts (including contracts of employment), agreements, conveyances, deeds, leases, licences, securities, and other instruments, undertakings, and notices (whether or not in writing) entered into by, made with, given to or by, or addressed to the Trust Board (whether alone or with any other person) before the appointed day and subsisting immediately before the appointed day shall, to the extent that they were previously binding on and enforceable by, against, or in favour of the Trust Board, be binding on and enforceable by, against, or in favour of the successor as fully and effectually in every respect as if, instead of the Trust Board, the successor had been the person by whom they were entered into, with whom they were made, or to or by whom they were given or addressed, as the case may be:
- (c) Any instruction, order, direction, mandate, or authority given to the Trust Board shall be deemed to have been given to the successor.
- (2) Nothing effected or authorised by this Act—
- (a) Shall be regarded as placing the Trust Board or the successor or any other person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
- (b) Shall be regarded as placing the Trust Board, the successor, or any other person, in breach of—
- (i) Any enactment, rule of law, or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property; or
- (ii) The Privacy Act 1993 or any other enactment, rule of law, or contractual provision relating to the collection, use, or disclosure of any information; or
- (c) Shall release any surety wholly or in part from all or any of the surety's obligations; or
- (d) Shall be regarded as giving rise to a right for any person to—
- (i) Terminate or cancel or modify any contract or agreement; or
- (ii) Enforce or accelerate the performance of an obligation; or
- (iii) Require the performance of an obligation not otherwise arising for performance; or
- (e) Shall invalidate or discharge any contract or security; or
- (f) Shall affect the rights of the successor in respect of any promise, covenant, warranty, or guarantee given to it by any person relating to the liabilities of the Trust Board.
- 3. Continuity of legal proceedings—**(1) This section applies to—
- (a) Any action, arbitration, or proceeding, or cause of action, arbitration, or proceeding which, immediately before the appointed day, is pending or existing by, against, or in favour of the Trust Board or to which the Trust Board is a party:
- (b) Any cause of action, arbitration, or proceeding that arises on or after the appointed day in respect of any contract entered into by the Trust Board or any act done or omitted to be done by or to the Trust Board, as the case may be, before the appointed day that

FOURTH SCHEDULE—*continued*PROVISIONS RELATING TO DISSOLUTION OF TAINUI MAORI TRUST BOARD—
continued

would, but for this Act, be available to, against, or in favour of the Trust Board or to which the Trust Board could have been a party.

(2) Any action, arbitration, or proceeding and any cause of action, arbitration, or proceeding to which this section applies shall not abate or be discontinued or be prejudicially affected by this Act, but may be prosecuted and, without amendment of any writ, pleading, or other document, continued and enforced by, against, or in favour of the successor in its own name to the same extent that it might have been prosecuted, continued, and enforced by, against, or in favour of the Trust Board if this Act had not been passed.

4. Books and documents to remain evidence—(1) Any document, matter, or thing which, if this Act had not been passed, would have been admissible in evidence in respect of any matter for or against the Trust Board shall, on and after the appointed day, be admissible in evidence in respect of the same matter for or against the successor.

(2) In this clause, “document” has the same meaning as in section 2 (1) of the Evidence Amendment Act (No. 2) 1980.

5. Registers—(1) No Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers shall be obliged solely by reason of the foregoing provisions of this Act to change the name of the Trust Board to that of the successor in those books or registers or in any document.

(2) The presentation to any Registrar or other person of any instrument (whether or not comprising an instrument of transfer) by the successor—

(a) Executed or purporting to be executed by the successor; and

(b) Relating to any property held immediately before the appointed day by the Trust Board; and

(c) Containing a recital that the property has become vested in the successor by virtue of the provisions of this Act—

shall, in the absence of evidence to the contrary, be sufficient evidence that the property is vested in the successor.

(3) Without limiting *subclause (1)* or *subclause (2)* of this clause, where any security issued by any person or any rights or interests in property of any person are, by virtue of this Act, vested in the successor, that person, on presentation of a certificate signed by a member or officer of the successor, stating that that security or any such rights or interests have, by virtue of this Act, vested in the successor, shall, notwithstanding any other enactment or rule of law or the provisions of any instrument, register the successor as the holder of that security or as the person entitled to such rights or interests, as the case may be.

(4) In *subclause (3)* of this clause, “security” has the same meaning as in section 2 (1) of the Securities Act 1978.

(5) Except as provided in this clause, nothing in this Act derogates from the provisions of the Land Transfer Act 1952.

6. Transitional provisions relating to taxes and duties—For the purposes of the Inland Revenue Acts, and any other enactment that

FOURTH SCHEDULE—*continued*

PROVISIONS RELATING TO DISSOLUTION OF TAINUI MAORI TRUST BOARD—
continued

imposes or provides for the collection of a tax, duty, levy, rate, or other charge,—

- (a) On and from the appointed day the Trust Board and the successor shall be deemed to be the same person; and
- (b) All transactions entered into by, and acts of, the Trust Board before the appointed day shall be deemed to have been entered into by, or to be those of, the successor and to have been entered into or performed by the successor at the time when they were entered into or performed by the Trust Board.