

Version  
as at 12 April 2022



## Pouakani Claims Settlement Act 2000

Public Act      2000 No 90  
Date of assent      12 December 2000  
Commencement      see section 2

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#### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**This Act is administered by the Office for Māori Crown Relations—Te Arawhiti.**

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## Preamble

### He kōrero tāhuhu

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

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

- (2) Ko te tono a te iwi o Pouakani, he mea rēhita ki te Rōpū Whakamana i te Tiriti, i te tau 1987, i raro i te Wai 33, ka mutu, ko tāna, e whai utunga ana mō ngā mamae i pā ki te iwi. Ko te tono nei i whakatakotoria e John Hanita Paki mōna, mō ngā Kaitiaki, mōte hunga hoki e whai pānga atu ana ki ngā whenua tōpū e kīia nei ko Titiraupenga rāua ko Pouakani B9B. I rongohia te tono i waenganui i ngā marama o Mei, o Oketopa o te tau 1989, ā, i putaina e te Rōpū Whakamana i te Tiriti tana pūrongo i te tau 1993.

*Ngā kitenga a te Rōpū Whakamana i te Tiriti*

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

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

*Ngā kitenga a te Kōti Whenua Māori*

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

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

- (5) I muri o te whakatau nei a te Kōti Whenua Māori, e tautoko ana i a Mr Paki me ngātāngata o Pouakani, i hikina e te Kōti te tono, kia taea ai e ngā taha e rua te whitiwhiti kōrero mēnākoinā te hiahia, kia taea rānei te whakatakoto i ētahi atu Whakahau ā-ture e pā ana ki te tono:
- (6) Nō te marama o Tihema o te tau 1997, i whakaūtia e te Rūnanga Kāwanatanga te Whakaaetanga o te Mana Kōkiri o Pouakani; mātēnei i whai mana ai ngā kaiwhakarite o Pouakani ki te whitiwhiti kōrero me te Karauna kia taea te whakatau kōrero pūmau, tūturu hoki, kia ea ai ngā tono a Pouakani i roto i ngā tau, ā, kia makere mai hoki ngā mamae e rangona nei e ngātāngata o Pouakani:

- (7) I hainahia Ngā Whakaritenga mō ngā Whitiwhiti Kōrero e ngā kaiwhakarite o te Karauna me te hunga o Pouakani i te 9 o Hune o te tau 1998:
- (8) E whakamihi ana te Karauna i te mea kua 23 tau a John Hanita Paki e mahi ana kia whakatauhia te tono mō Pouakani, me te mea anō, kua pau tana kaha me te wā i ana whitiwhiti kōrero me te Karauna:

*Whakamutunga o ngā Kerēme*

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

**Background in English**

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

*Claim under the Treaty of Waitangi Act 1975*

- (2) The Pouakani claim, registered with the Waitangi Tribunal as Wai 33 in 1987, sought compensation for the Pouakani grievances. The claim was lodged by John Hanita Paki on behalf of himself, the trustees, and the beneficial owners of the lands in the Titiraupenga and Pouakani B9B Trusts. The claim was heard between May and October 1989, and the Tribunal issued its report in 1993:

*Findings of the Waitangi Tribunal*

- (3) The Tribunal found that—
  - (a) in 1889, the boundaries of the 1887 Maraeroa block had not been fixed by the Native Land Court because the requirements of the Native Land Act 1880, under which the order had been made, had not been complied with. The Tribunal concluded, therefore, that the boundary between the Maraeroa and Pouakani blocks as surveyed by Stubbing in 1892, and drawn on ML6406 and on subsequent plans, is correct:
  - (b) significant areas of land, including Pouakani No 1 Block, were acquired by the Crown in payment of survey costs, in addition to the purchase of individual interests, but Māori did not always receive in return a properly surveyed title:
  - (c) in reaching the conclusion that there was nothing illegal or unacceptable in contemporary practice in the transactions on the Maraeroa and Pouakani blocks in the 1880s and 1890s, the Tribunal was still left with a strong sense of Māori grievance and frustration:
  - (d) Māori paid a disproportionate cost for Pakeha settlement, but little provision was made for Māori participation in the suggested benefits of the introduction of capital and settlers. The system of Native Land Court investigation of title and individualisation of interests in land, which

could be sold piecemeal, contributed largely to social disruption, dissension over issues of mana and territory, massive debts, costly mistakes in survey boundaries in some cases, and failure to survey in others, and costly litigation:

- (e) a *prima facie* case was presented that the Crown acquired excessive amounts of land in payment of survey costs and other charges in the Rohe Potae. The Tribunal also acknowledged that further investigation would be required to determine this matter definitively:
- (f) because not all the boundaries of the lands in the 1891 Title Orders creating Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) blocks had been surveyed, those orders would not have been registrable in the Land Transfer Office and registered titles could not have been issued for them. The Native Land Court created fresh boundaries in 1899 when, on the application of the Crown, the court divided the lands between the Crown and the Māori owners who had not sold. Because not all the boundaries were surveyed, with the passage of time the survey work, for which the owners had paid 343 acres of their land in 1899, became almost valueless. The Crown in general does have an obligation to ensure the completion of surveys of agreed boundaries, and to compensate Māori owners for the deficiencies of the Auckland Survey Office in the 1890s which led the Māori owners of Pouakani B9B block into costly litigation:
- (g) in past Crown administration of the forest that is now the Pureora Forest Park, there has been inadequate concern for Māori perspectives in the management of a forest which is regarded as a taonga by local tribes:

*Findings of the Māori Land Court*

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

*Negotiations between the Pouakani people and the Crown*

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

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

*Settlement of claims*

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

## 1 Title

This Act is the Pouakani Claims Settlement Act 2000.

## 2 Commencement

- (1) This Act comes into force on a date to be appointed by the Governor-General by Order in Council.
- (2) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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### Legislation Act 2019 requirements for secondary legislation made under this section

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 2(1): Pouakani Claims Settlement Act 2000 brought into force, on 1 March 2001, by clause 2 of the Pouakani Claims Settlement Act Commencement Order 2001 (SR 2001/19).

Section 2(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## 3 Purpose

The purpose of this Act is—

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



#### 4 Act to bind the Crown

This Act binds the Crown.

### Part 1 Acknowledgements and apology by the Crown to the Pouakani people

#### 5 Acknowledgements and apology

This Part records the acknowledgements and apology given by the Crown to the Pouakani people in the deed of settlement.

#### 6 Text in Māori

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

- 1 E rongono ana te Karauna i te mamae o ngā tāngata o Pouakani i te whaka-  
haere o ngā Ture Whenua Māori i roto i tō rātou rohe.
- 2 E whakaae ana a te Karauna i hē te mahi me te pā mai o ngā Ture  
Whenua Māori ki ngā tāngata o Pouakani. Ko ēnei hē, e pā ana ki te  
āhua o te whakatakoto, o te whakatikatika me te hoko i ngā taitara ki ō  
rātou whenua, ā, e hāngai ana ki—
  - (a) *Te Ripa Tauārai Whakateuru o te Poraka Whenua o Pouakani:* Ko  
te whakatoihara i kitea i te whakataunga e te Kōti Whenua Māori i  
te tau 1891, i te ripa tauārai whakateuru o te Poraka o Pouakani.  
Ko te tukunga iho o tēnei, he rahi tonu te whenua i mahue ki waho  
o te Poraka o Pouakani, ahakoa i whakaurua katoatia i te rohero-  
henga e te Ture Whakarerekē i te Kōti Whenua Māori 1889.
  - (b) *Te Hē o Ngā Rūri:* Ko te whakatoihara i pupū ake i te hē o ngā-  
mahi rūri o ngā wāhanga o te Poraka o Pouakani. Ko te tukunga  
iho o ēnei mahi, ko te riro pokanoa o ngā whenua o ētahi o ngā  
tāngata whai pānga, me te kore riro mai o ngā taitara o ētahi o ngā  
whenua.
- 3 E whakaae ana te Karauna, nā runga i te mea kāore i tiakina e ia ngā-  
pānga whenua e hiahiatia ana e ngā tāngata o Pouakani kia pupuritia, i  
takahia e ia ngā mātāpono o te Tiriti o Waitangi.
- 4 E mea ana te Karauna, kāore he ārikarika o tōna pōuri mō tana kore tiaki  
pai i ngā pānga whenua i hiahia nei ngā tāngata kāinga kia pupuritia.
- 5 Ka noho pōuri te Karauna mō ngā mahi hē e whakaaetia ana i mahia, ka  
mutu, ka whakataungia te take i waenganui i a ia me ngā tāngata o Poua-  
kani, kia pai ai te ahua atu ki tētahi wā mahi tahi, mahi pai, tētahi ki  
tētahi.

## 7 Text in English

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

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

## Part 2 Interpretation

### 8 Interpretation of Act generally

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

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

### 9 Interpretation of terms

In this Act, unless the context otherwise requires,—

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

- (a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign’s birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and
- (b) a day in the period commencing with 25 December in any year, and ending with the close of 15 January in the following year; and
- (ba) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
- (c) the days observed as the anniversaries of the provinces of Wellington and Auckland

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

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

**Crown**—

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

**deed of settlement**—

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

**encumbrance** means a lease, licence, permit, easement, access arrangement, consent, or third party right, whether registered or unregistered as at 19 November 1999

**Heritage New Zealand Pouhere Taonga** has the meaning given in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014

**Māori freehold land** has the same meaning as in section 4 of Te Ture Whenua Maori Act 1993

**Minister** means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

**Pouakani B9B Trust**—

- (a) means the trust known by that name created by an order of the Māori Land Court on 4 June 1986 (as substituted by a new trust order made by that court on 3 December 1991); and
- (b) includes that trust under any other name

**Pouakani Block** means the Pouakani Block, South Auckland Land District

**Pouakani boundary claims** has the meaning set out in section 11

**Pouakani claimant** means any of the following:

- (a) the Pouakani people:
- (b) 1 or more individuals, whanau, marae, or hapu of the Pouakani people:
- (c) the Pouakani governance entity:
- (d) the Pouakani Claims Trust:
- (e) a trustee of the Pouakani Claims Trust:
- (f) a person acting on behalf of any 1 or more persons or groups referred to in paragraphs (a) to (e):
- (g) a person acting on behalf of any 1 or more persons who comprise a part of, are beneficiaries of, or are members of, any 1 or more persons or groups referred to in paragraphs (a) to (e)

**Pouakani Claims Trust** means the trust known by that name established by deed dated 10 March 1998; and includes that trust under any other name

**Pouakani Forest** has the same meaning as in clause 5.1 of the deed of settlement

**Pouakani governance entity** means the entity to be established under clause 7.5 of the deed of settlement

**Pouakani historical claims** has the meaning set out in section 10

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

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

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

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

**Registrar** means the Registrar-General of Land

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

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

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

Section 9 **business day** paragraph (a): replaced, on 12 April 2022, by wehenga 7 o Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/section 7 of the Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14).

Section 9 **business day** paragraph (ba): inserted, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

Section 9 **Heritage New Zealand Pouhere Taonga**: inserted, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

## 10 Meaning of Pouakani historical claims

- (1) In this Act, **Pouakani historical claims** means—
  - (a) all claims (whether or not researched, registered, or notified) made at any time by a Pouakani claimant and—
    - (i) founded on rights arising from the Treaty of Waitangi, the principles of the Treaty of Waitangi, statute, common law (including customary law and aboriginal title), fiduciary duty, or otherwise; and
    - (ii) arising from or relating to acts or omissions before 21 September 1992—
      - (A) by or on behalf of the Crown; or
      - (B) by or under legislation; and
  - (b) all of the claims referred to in the Wai 33 and Wai 405 claims to the Waitangi Tribunal, including—
    - (i) the claims of 27 March 1987; and
    - (ii) the amended statement of claim of 23 October 1987 referred to in Appendix 2 of the Waitangi Tribunal Report 1993 (The Pouakani Report 1993 (Wai 33)); and
    - (iii) the addendum to the amended statement of claim dated 27 April 1989 and referred to in Appendix 2 of the Waitangi Tribunal Report 1993; and

- (iv) the claims of 21 October 1993.
- (2) In this Act, **Pouakani historical claims** does not include any claim by a Pouakani claimant to the Waikato River.

### **11 Meaning of Pouakani boundary claims**

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

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

## **Part 3 Settlement of claims**

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

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

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

### **13 Jurisdiction of Waitangi Tribunal to consider claims**

*[Repealed]*

Section 13: repealed, on 23 May 2008, by section 7 of the Treaty of Waitangi Amendment Act 2008 (2008 No 34).

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

- (1) Nothing in the enactments listed in subsection (2) applies in relation to any land (other than the land described in subsection (3))—
  - (a) comprised in or formerly comprised in certificate of title 49D/847 (South Auckland Land District); or
  - (b) described in SO Plan 61526.
- (2) The enactments are—
  - (a) sections 8A to 8HA of the Treaty of Waitangi Act 1975;
  - (b) the amendments made to the Treaty of Waitangi Act 1975 by Part 4 of the New Zealand Railways Corporation Restructuring Act 1990;
  - (c) sections 27A to 27C of the State-Owned Enterprises Act 1986;
  - (d) sections 568 to 570 of the Education and Training Act 2020;
  - (e) Part 3 of the New Zealand Railways Corporation Restructuring Act 1990.
- (3) Subsection (1) does not apply to the land described in ML Plan 14984.  
Compare: 1998 No 97 s 463; 1999 No 118 s 11  
Section 14(2)(d): replaced, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

### **15 Removal of resumptive memorials**

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

- (b) cancel each memorial that, under any of the enactments referred to in section 14(2), is entered on a certificate of title identified in the certificate.
- (4) Subsection (3) does not require the Registrar to note any duplicate certificate of title.

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

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

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

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

Compare: 1998 No 97 s 38

## **17 Settlement for benefit of Pouakani people**

- (1) The settlement is for the benefit of, and binding upon, the Pouakani people, and not for the benefit of any individual, particular whanau, particular marae, or particular hapu (except to the extent determined otherwise after the settlement date by the Pouakani governance entity in accordance with its governance procedures).
- (2) Subsection (1) does not apply to clause 7.2.4 of the deed of settlement or section 29 of this Act.

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

### *Miscellaneous*

## **18 Limit on duration of trusts does not apply**

No rule of law or provisions of an Act limiting the duration of a trust, including section 16 of the Trusts Act 2019, apply to any document entered into to give effect to the deed of settlement, if the application of that rule or the provisions of that Act would otherwise make the document invalid or ineffective.

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

Section 18 heading: replaced, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 18: amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).



## **Part 4**

### **General provisions as to transfer and vesting of settlement properties**

#### **19 Power to transfer settlement properties**

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

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

#### **20 Application of other enactments**

- (1) Nothing in section 11 or Part 10 of the Resource Management Act 1991 applies to—
  - (a) the transfer or vesting of a settlement property for the purpose of giving effect to the deed of settlement; or
  - (b) any matter incidental to, or required for the purpose of, the transfer or vesting of a settlement property for the purpose of giving effect to the deed of settlement.
- (2) Neither this Act nor any transfer or vesting of the fee simple estate in a settlement property under this Act, limits section 10 or section 11 of the Crown Minerals Act 1991.
- (3) The transfer or vesting of the fee simple estate in a settlement property under this Act is a disposition for the purposes of Part 4A of the Conservation Act 1987, but sections 24(2A), 24A, and 24AA of that Act do not apply to the disposition.

Compare: 1998 No 97 s 45

**21 Issue of certificates of title**

- (1) Subsection (2) applies if the fee simple estate in any settlement property for which no certificate of title has been issued or currently exists under the Land Transfer Act 1952—
  - (a) is vested in, or held by, the Crown; but
  - (b) is to be transferred to, or vested in, a Pouakani recipient under the deed of settlement.
- (2) If this subsection applies, then, despite any other enactment or rule of law, the Registrar must, at the request of the Commissioner of Crown Lands and after completion of such survey (if any) as may be necessary, issue a certificate of title under the Land Transfer Act 1952 for the fee simple estate in the settlement property in the name of the Crown, and that certificate of title is subject to, and has the benefit of, any relevant easements, encumbrances, restrictions, and other interests, details of which must be set out in the request of the Commissioner.

Compare: 1998 No 97 s 46

**Part 5****Transfer and vesting of settlement properties**

## Subpart 1—Settlement of Pouakani historical claims

*Transfer of Pouakani forest***22 Crown may sell Crown forestry assets**

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

**23 Covenant to complete survey work**

- (1) Despite any enactment or rule of law, the covenant granted under paragraph 3.3 of attachment 5.4 of the deed of settlement—
  - (a) must be registered by the Registrar under section 126A of the Property Law Act 1952 if the Registrar receives a copy of that covenant certified by the Minister; and
  - (b) whether registered or not, has effect and is enforceable even if the covenant is positive and there is no dominant tenement.
- (2) Despite anything in the Land Transfer Act 1952, even though the covenant granted under paragraph 3.3 of attachment 5.4 of the deed of settlement is in

respect of land for which no certificate of title has been issued under that Act,—

- (a) the Minister may request the Registrar to register the covenant under that Act by constituting it a folium in the register book; and
- (b) the Registrar must register the covenant accordingly.

Compare: 1998 No 97 s 39

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

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

#### **25 Minister of Conservation may grant easements**

- (1) The Minister of Conservation may grant any easement required to enable the Crown to comply with paragraphs 3.4.3 and 3.5 of attachment 5.4 to the deed of settlement.
- (2) An easement granted under subsection (1)—
  - (a) is registrable under section 17ZA(2) of the Conservation Act 1987, as if it were a deed to which that provision applied; and
  - (b) is enforceable in accordance with its terms, despite Part 3B of the Conservation Act 1987.

Compare: 1998 No 97 s 41

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

The permission of a council (within the meaning of Part 21 of the Local Government Act 1974) is not required for the laying out, or forming of, a private road or private way, or for the granting or reserving of a right of way over a private way, required for the purposes of, or incidental to, section 5 of the deed of settlement.

Compare: 1998 No 97 s 20(7)

#### **27 Preservation order cancelled**

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

- (2) In this section, **effective date** means either—
- (a) the selection date (as defined by clause 5.1 of the deed of settlement) if the Pouakani governance entity has not given notice under clause 5.2.3 of the deed of settlement by that date; or
  - (b) the transfer date (as defined by clause 5.1 of the deed of settlement) if the Pouakani governance entity has given that notice.

## Subpart 2—Settlement of Pouakani boundary claims

### *Confirmation of western boundary of Pouakani Block*

#### **28 Confirmation of western boundary of Pouakani Block**

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

### *Pouakani B9B Block*

#### **29 Pouakani B9B Block**

- (1) The boundaries of Block B9B are shown on ML Plan 22432.
- (2) In this section and in section 30, **Block B9B** means Pouakani B9B Block (South Auckland Land District).

**30 Issue of certificate of title for Block B9B**

- (1) The Registrar must issue a certificate of title under the Land Transfer Act 1952 for the fee simple estate in Block B9B in the name of Pouakani B9B Trust as Māori freehold land, the boundaries of which are shown on ML Plan 22432.
- (2) The certificate of title must be issued as soon as reasonably practicable after the date of vesting under section 31(1)(b), and, in any event, no later than—
  - (a) 12 months after the date of vesting under section 31(1)(b); or
  - (b) such later date as may be agreed to in writing between the Pouakani governance entity and the Crown.
- (3) Subject to subsection (4), that certificate of title must include—
  - (a) a sufficient description of any easement, mortgage, or other registrable or notifiable encumbrance over Block B9B; and
  - (b) a memorial containing—
    - (i) a brief description of the rights, powers, terms, covenants, conditions, and restrictions attaching to it; and
    - (ii) a reference to the notice supplied by the Minister under subsection (5).
- (4) An encumbrance that is not registrable under the Land Transfer Act 1952 is not required, by virtue of this section, to be registered against the certificate of title issued under subsection (1).
- (5) The Minister must supply the Registrar with a notice, containing a description of any registrable or notifiable encumbrances subject to which, or with the benefit of which, the land for which a certificate of title is to be issued under subsection (1) is vested, or advising that there are no such encumbrances—
  - (a) as soon as reasonably practicable after the coming into force of this Act; and
  - (b) in any case, in sufficient time to enable the Registrar to carry out the functions of the Registrar under this section.

*Vesting of stewardship land*

**31 Stewardship land vested in Pouakani governance entity**

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

- (2) In this section and in section 32, **stewardship land** means the land that, on the completion of survey, is comprised in sections 1 and 2 of S.O. Plan 61501.

### **32 Issue of certificate of title for stewardship land**

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

## **Part 6 Cultural redress**

### **33 Interpretation**

- (1) In this Part and in Schedule 2 and Schedule 3,—
- consent authority** has the same meaning as in section 2(1) of the Resource Management Act 1991
- Crown MOU land** means that part of the MOU land that is owned by the Crown, as identified on the map attached to the memorandum of understanding

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

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

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

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

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

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

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

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

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

#### *Statement of joint aspirations*

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

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

#### *Statutory acknowledgement*

### **35 Statutory acknowledgement by the Crown**

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

Compare: 1998 No 97 s 206

### **36 Purposes of statutory acknowledgement**

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

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

Compare: 1998 No 97 s 215

Section 36(b): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

### 37 Distribution of applications to Pouakani governance entity

- (1) The Governor-General may, by Order in Council and on the recommendation of the Minister for the Environment, make regulations, as contemplated by clause 3.2.2 of the deed of settlement,—
  - (a) providing for consent authorities to forward to the Pouakani governance entity a summary of any applications received for resource consents for activities within, adjacent to, or impacting directly on the Crown-owned area of Titirau-penga; and
  - (b) providing for the Pouakani governance entity to waive its rights to be notified under such regulations.
- (2) Nothing in regulations made under this section affects in any way the discretion of a consent authority as to—
  - (a) whether to notify an application under sections 93 to 94C of the Resource Management Act 1991; and
  - (b) whether the Pouakani governance entity may be adversely affected under those sections.
- (3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1998 No 97 s 207

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#### Legislation Act 2019 requirements for secondary legislation made under this section

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116



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*This note is not part of the Act.*

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Section 37(2)(a): amended, on 1 August 2003, by section 106(1)(a) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 37(2)(b): amended, on 1 August 2003, by section 106(1)(b) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 37(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### **38 Consent authorities must have regard to statutory acknowledgments**

From the effective date, and without derogation from its obligations under Part 2 of the Resource Management Act 1991, a consent authority must have regard to the statutory acknowledgement relating to the Crown-owned area of Titirau-penga in forming an opinion in accordance with sections 93 to 94C of that Act as to whether the Pouakani governance entity is a person who may be adversely affected by the granting of a resource consent for activities within, adjacent to, or impacting directly on, the Crown-owned area of Titirau-penga.

Section 38: substituted, on 1 August 2003, by section 106(2) of the Resource Management Amendment Act 2003 (2003 No 23).

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

From the effective date, and without derogating from its obligations under Part 2 of the Resource Management Act 1991, the Environment Court must have regard to the statutory acknowledgement in determining, for the purposes of section 274 of the Resource Management Act 1991, whether the Pouakani governance entity has an interest, greater than the public generally, in proceedings relating to an application for a resource consent for activities within, adjacent to, or impacting directly on the Crown-owned area of Titirau-penga.

Compare: 1998 No 97 s 209

### **40 Heritage New Zealand Pouhere Taonga and Environment Court to have regard to statutory acknowledgement**

- (1) If, on or after the effective date, an application is made under section 44, 56, or 61 of the Heritage New Zealand Pouhere Taonga Act 2014 for an authority to undertake an activity that will or may modify or destroy an archaeological site within a statutory area,—
  - (a) Heritage New Zealand Pouhere Taonga, in exercising its powers under section 48, 56, or 62 of that Act in relation to the application, must have regard to the statutory acknowledgement relating to the statutory area; and
  - (b) the Environment Court, in determining under section 59(1) or 64(1) of that Act any appeal against a decision of Heritage New Zealand Pouhere Taonga in relation to the application, must have regard to the statutory acknowledgement relating to the Crown-owned area of Titirau-penga,

including in making a determination as to whether the Pouakani governance entity is a person directly affected by the decision.

- (2) In this section, **archaeological site** has the meaning given in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014.

Section 40: replaced, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

#### **41 Use of statutory acknowledgement with submissions**

- (1) The Pouakani governance entity and any member of the Pouakani people may, as evidence of the Pouakani people's association with the Crown-owned area of Titiraupenga, cite the statutory acknowledgement in submissions to, and in proceedings before, a consent authority, the Environment Court, or Heritage New Zealand Pouhere Taonga concerning activities within, adjacent to, or impacting directly on the Crown-owned area of Titiraupenga.
- (2) The content of the statement of association, as recorded in the statutory acknowledgement, is not, by virtue of the statutory acknowledgement, binding as deemed fact on—
- (a) consent authorities; and
  - (b) the Environment Court; and
  - (c) Heritage New Zealand Pouhere Taonga; and
  - (d) parties to proceedings before those bodies; and
  - (e) any other person able to participate in those proceedings.
- (3) Despite subsection (2) the statutory acknowledgement may be taken into account by the bodies and persons specified in that subsection.
- (4) Subsections (2) and (3) are for the avoidance of doubt.
- (5) Neither the Pouakani governance entity nor any member of the Pouakani people is precluded from stating that the Pouakani people have an association with the Crown-owned area of Titiraupenga that is not described in the statutory acknowledgement.
- (6) The content and existence of the statutory acknowledgement do not derogate from a statement made under subsection (5).

Compare: 1998 No 97 s 211

Section 41(1): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 41(2)(c): replaced, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

#### **42 Recording of statutory acknowledgement on statutory plans**

- (1) Local authorities with jurisdiction in respect of the Crown-owned area of Titiraupenga must attach information recording the statutory acknowledgement to—

- (a) all regional policy statements, regional plans, district plans, and proposed plans (as defined in section 2 of the Resource Management Act 1991) that—
    - (i) cover, wholly or partly, the Crown-owned area of Titiraupenga; and
    - (ii) are prepared under the Resource Management Act 1991; and
  - (b) all proposed policy statements, of the kind referred to in Schedule 1 of the Resource Management Act 1991, that—
    - (i) cover, wholly or partly, the Crown-owned area of Titiraupenga; and
    - (ii) are prepared under the Resource Management Act 1991.
- (2) The attachment of information under subsection (1) to a document referred to in that subsection—
- (a) may be by way of reference to this Part or by setting out the statutory acknowledgement in full; and
  - (b) is for the purpose of public information only, and the information is neither part of the document (unless adopted by the relevant regional council or district council) nor subject to the provisions of Schedule 1 of the Resource Management Act 1991.

Compare: 1998 No 97 s 220

### *Memorandum of understanding*

#### **43 Authorisation to enter into and amend memorandum of understanding**

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

Compare: 1998 No 97 s 212

#### **44 Alienation of land terminates memorandum of understanding**

- (1) In the event that any Crown MOU land is alienated by the Crown, the memorandum of understanding is automatically terminated in so far as it applies to the land that has been alienated.
- (2) In this section, **alienated**, in relation to Crown MOU land, means the Crown—
  - (a) is no longer responsible for the management of the land; and
  - (b) has either—
    - (i) transferred the estate in fee simple in the land to a person who is not a party to the deed of settlement; or

- (ii) granted a new lease over the land to a person who is not a party to the deed of settlement, the term of the lease (including any right of renewal or extension) being at least 50 years.

Compare: 1998 No 97 s 214

#### **45 Memorandum of understanding subject to Crown obligations**

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

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

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

#### **46 Enforceability of memorandum of understanding**

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

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

#### **47 Noting of memorandum of understanding**

- (1) The existence of the memorandum of understanding, as amended from time to time, and a summary of the terms of the memorandum must be noted in all conservation management strategies and conservation management plans that affect the MOU land.
- (2) Noting of the memorandum of understanding under this section is for the purpose of public notice only, and is not an amendment to a strategy or plan for the purpose of section 17I of the Conservation Act 1987.

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

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

#### **48 Exercise of powers, duties, and functions**

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

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

Compare: 1998 No 97 s 217

#### **49 Rights not affected**

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

Compare: 1998 No 97 s 218

#### **50 Limitation of rights**

Except as expressly provided in sections 34 to 49, the statutory acknowledgement, the statement of joint aspirations, and the memorandum of understanding (except as expressly provided in the memorandum of understanding) do not have the effect of granting, creating, or providing evidence of an estate or interest in, or any rights of any kind whatsoever relating to, the Crown-owned area of Titiraupenga or the Crown MOU land, as the case may be.

Compare: 1998 No 97 s 219

#### *Amendment to Resource Management Act 1991*

#### **51 Amendment to Resource Management Act 1991**

*Amendment(s) incorporated in the Act(s).*

## Schedule 1

### The Treaty of Waitangi

Preamble, recital A

#### *(The text in Māori)*

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

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

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

#### *Ko te Tuatahi*

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

#### *Ko te Tuarua*

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

#### *Ko te Tuatoru*

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

(Signed) William Hobson,  
Consul and Lieutenant-Governor.

Nā ko mātou, ko ngā Rangatira o te Wakaminenga o ngā Hapū o Nū Tīrani ka huihui nei ki Waitangi ko mātou hoki ko ngā Rangatira o Nū Tīrani ka kite nei i te ritenga o

ēnei kupu, ka tangohia ka wakaaetia katoatia e mātou, koia ka tohungia ai ō mātou ingoa ō mātou tohu.

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

Ko ngā Rangatira o te wakaminenga.

*(The text in English)*

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

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

*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 pri-

ces as may be agreed upon between the respective Proprietors and persons appointed by Her Majesty to treat with them in that behalf.

*Article the Third*

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

W Hobson,  
Lieutenant Governor.

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

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

*[Here follow signatures, dates, etc]*



## Schedule 2

### Statement of joint aspirations for Titiraupenga

s 34

#### *Statutory area*

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

#### *Titiraupenga regarded as taonga*

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

#### *Joint aspirations in respect of Titiraupenga*

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

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

#### *Limitations on effect of statement of joint aspirations*

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

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

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

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

**Schedule 3**  
**Statutory acknowledgement for the Crown-owned area of**  
**Titiraupenga**

s 35

*Statutory area*

The area to which this statutory acknowledgement applies is the area known as the Crown-owned area of Titiraupenga, as shown on SO Plan 61525.

*Preamble*

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

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

*TITIRAUPENGA*

*TĒNEI TAKU MANU*

*KA EKE KI TE TAUMATA*

*O TŌKU MAUNGA TAPU TITIRAUPENGA*

*TITIRO ARORANGI ATU*

*KI A PUREORA E TU MAI RĀ*

*EEEE!*

*KEI RARO RĀ*

*KO TE HORA-ARUHE*

*KI TE POU-A-KANI*

*TIHEI MAURI ORA*

*TITIRAUPENGA*

*MY BIRD*

*THAT SOARS TO THE SUMMITS*

*OF MY SACRED MOUNTAIN TITIRAUPENGA*

*AND SURVEYS*

*PUREORA THAT STANDS MAJESTIC*

*EEEE!*

*OVERLOOKING*

*THE ANCESTRAL GARDENS AND THE CELESTIAL*

*DECLARATION OF “MINE” (TE POU A KANI)*

*TIHEI MAURI ORA*

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

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

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

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

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

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

The tipuna Te Wano is also associated with Titiraupenga. Nearing the time of his passing he asked his relatives of Tokaanu to carry him up the slopes of Titiraupenga to gaze for one last time at the lands of his people, Ngati Apakura. He died and was buried on Titiraupenga. The settlements of Kaiwha, Pukerimu, Huiarau and Marae Totara were just some of the settlements on the slopes of Titiraupenga. Trails from the four points of the compass met and connected these places with people of other areas who traded many commodities. Greenstone journeyed along one such sacred trail and

was sometimes left in the shallows of a sacred Titiraupenga stream before continuing on. In times of trouble, gongs were sounded at certain places along these trails to announce impending arrivals.

Titiraupenga and Pureora stand today as they always have, ancient sentinels in the stream of time, who have worn the cloak of Tane (the native forest) with the ageless dignity of the Tuakana that they are.

*MA TE MEA NGARO*

*TATAU E TIAKI MANAKI*

*NA TO KOUTOU MOKAI TAMAITI*

*LET THE DIVINE ONE*

*PROTECT AND GUIDE US ALL*

*FROM YOUR MOKAI – TAMAITI*

#### *Purposes of statutory acknowledgment*

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

- (a) to require that consent authorities forward summaries of resource consent applications to the Pouakani governance entity as required by regulations made under section 37 of the Pouakani Claims Settlement Act 2000 (clause 3.2.2 of the deed of settlement); and
- (b) to require that consent authorities, the Heritage New Zealand Pouhere Taonga, and the Environment Court have regard to this statutory acknowledgement in relation to the Crown-owned area of Titiraupenga, as provided in sections 38 to 40 of the Pouakani Claims Settlement Act 2000 (clause 3.2.3 of the deed of settlement); and
- (c) to enable the Pouakani governance entity and any member of the Pouakani people to cite this statutory acknowledgement as evidence of the association of the Pouakani people to the Crown-owned area of Titiraupenga, as provided in section 41 of the Pouakani Claims Settlement Act 2000 (clause 3.2.4 of the deed of settlement).

#### *Limitations on effect of statutory acknowledgement*

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

- (a) this statutory acknowledgement does not affect, and is not to be taken into account in, the exercise of a power, duty, or function by a person or entity under a statute, regulation, or bylaw; and

- (b) without limiting paragraph (a), no person or entity, in considering a matter or making a decision or recommendation under a statute, regulation, or bylaw, may give greater or lesser weight to the Pouakani people's association with the Crown-owned area of Titiraupenga (as described in this statutory acknowledgement) than that person or entity would give under the relevant statute, regulation, or bylaw if no statutory acknowledgement existed in respect of the Crown-owned area of Titiraupenga.

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

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

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

Schedule 3: amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

## Notes

### **1** *General*

This is a consolidation of the Pouakani Claims Settlement Act 2000 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### **2** *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### **3** *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### **4** *Amendments incorporated in this consolidation*

Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14): wehenga 7/section 7

Secondary Legislation Act 2021 (2021 No 7): section 3

Education and Training Act 2020 (2020 No 38): section 668

Trusts Act 2019 (2019 No 38): section 161

Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26): section 107

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Treaty of Waitangi Amendment Act 2008 (2008 No 34): section 7

Resource Management Amendment Act 2003 (2003 No 23): section 106

Pouakani Claims Settlement Act Commencement Order 2001 (SR 2001/19)