



# Deed of Settlement

Between the Crown  
and the Pouakani People

## General Background

The Pouakani People are a community with Ngati Tuwharetoa, Ngati Maniapoto, Ngati Raukawa and Te Arawa affiliations. Their claims centre on the 49,514 hectare Pouakani block situated between Lake Taupo and Mangakino.

The historical claims of the Pouakani People relate to the operation and impact of the Native Land Court and the Native land laws in the 19th century. In addition, there are boundary claims relating to a dispute over the location of the western boundary of the Pouakani Block. The claims were pursued in the High Court and the Maori Land Court throughout the 20th century and hearings by the Waitangi Tribunal began in 1989. The Tribunal published its Pouakani Report in 1993.

Negotiations on a settlement package between the Crown and the Pouakani People began in 1994. A Deed of Settlement, the formal Crown offer to settle the claims of the Pouakani People, was initialled by the Pouakani negotiators on 27 September 1999 and, after ratification by the Pouakani People, was signed in November of that year. Legislation to implement the settlement was passed by Parliament in September 2000 and came into force in March 2001.

The Pouakani People were represented in negotiations by the Chief Negotiator John Hanita Paki, chairman of the Pouakani Claims Trust, supported by kaumatua of the affiliated marae as well as farm adviser Kevin Were and surveyor Max Harris.

The Office of Treaty Settlements, headed by Ross Philipson, with the support of the Treasury and the Department of Conservation, represented the Crown in day to day negotiations.

The Pouakani settlement progressed under two Ministers in Charge of Treaty of Waitangi Negotiations. Rt Hon Sir Douglas Graham signed the Deed of Settlement on behalf of the Crown and Hon Margaret Wilson oversaw the passage of the enabling legislation through Parliament.

## Historical Background

The settlement relates to two matters.

### 1. Pouakani Historical Claims

These concern the operation and impact of the Native Land Court and the Native land laws in the 19th century. Although the Pouakani People wanted to continue administering their own lands and opposed the application of the Native land laws and the jurisdiction of the Native Land Court in their rohe, their wishes went unheeded by the colonial governments.

Within 25 years of the Pouakani lands becoming subject to these laws and the jurisdiction of the Court in the mid 1880s, 95% of the Pouakani land (that is, over 40,469 hectares) had been alienated, much of it to pay for unwanted surveys of their land. Today, only 2387 hectares of land is still in Pouakani ownership.

### 2. Pouakani Boundary Claims

Following a recommendation by a Royal Commission, a boundary line between Pouakani land and a neighbouring Maori land block was established in law by the Native Land Acts Amendment Act of 1889. But the Native Land Court declared in 1891 that the boundary was to the east of that established by the Act. As a result, the Pouakani People lost almost 1700 hectares, and this land was subsequently alienated to the Crown by the new owners. In 1996 the Māori Land Court overturned the 1891 Native Land Court decision by which Pouakani lost almost 1700 hectares that was rightfully theirs. The settlement of the boundary claims settles the rights that the Pouakani People may have had to bring an action based on the loss of this lost land.

## Deed of Settlement

The Deed of Settlement agreed between the Crown and the Pouakani People – provides for the following redress:

### 1. For the Historical Claims

- A Crown Apology that expresses the profound regret of the Crown and apologises unreservedly to the Pouakani People for failing to protect their interests in the lands they wished to retain;
- A Statement of Joint Aspirations between the Crown and the Pouakani People relating to the management of Titirapunga Mountain. Half of the mountain is owned by Trusts affiliated with the Pouakani People and the other half is owned by the Crown;
- A Statutory Acknowledgment relating to the Crown-owned half of Titirapunga;
- A Memorandum of Understanding outlining how the Department of Conservation and the Pouakani People will interact on specified matters.;
- Financial redress of \$2.65 million;
- The Right to Purchase an area of up to 1679 hectares of Pureora Central Forest, a Crown-owned exotic pine forest; and

### 2. For the boundary claims

- Transfer of Tahae Farm, a former Landcorp property of approximately 1922 hectares;
- Stewardship land – the transfer of approximately 100 hectares of land of low conservation value that is currently farmed by Pouakani under an informal agreement with the Department of Conservation;
- Confirmation in legislation of the western boundary of the Pouakani Block and regularising the boundary of the Pouakani B9B Block.

# Questions and Answers

## 1. What is the total cost to the Crown of settlement redress?

\$2.65 million for the settlement of historical claims, plus the cost of Tahae Farm and the stewardship land. In addition, the Pouakani People received interest on the redress from the date of the signing of the Deed of Settlement until the settlement date.

## 2. Is there any private land involved?

No.

## 3. Are public rights affected?

No.

## 4. What is a Statutory Acknowledgement?

A Statutory Acknowledgement indicates an area or site on Crown-owned land with which Māori communities have a special cultural, spiritual, historic or traditional association. It places notification requirements on local bodies when considering resource consent applications. This instrument aims to avoid past problems with land development for roading and other purposes when areas of significance to iwi or hapu, such as burial grounds, were simply cleared or excavated without either permission or consultation. It does not give a Māori community any specific property rights.

## 5. What is a Statement of Joint Aspirations?

The Statement of Joint Aspirations is a new Treaty settlement instrument designed to recognise in legislation the aspirations of both the Pouakani People and the Crown to:

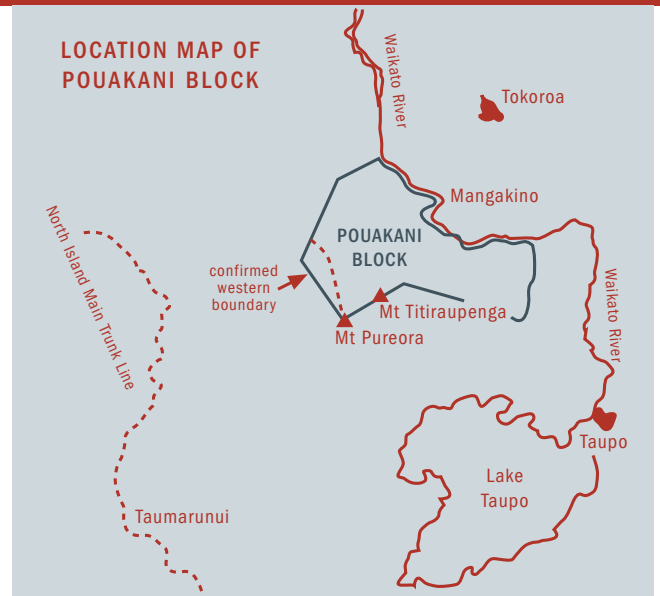
- preserve Titirapunga Mountain in its natural state;
- preserve native plants and animals;
- exterminate as far as possible introduced plants and animals; and
- preserve waahi tapu areas and the sites and objects having archaeological, historical, spiritual or cultural significance.

## 6. What happens to resumptive memorials on certificates of title?

The settlement removes the statutory restrictions (memorials under s27 of the State-owned Enterprises Act 1986) placed on the title of State Owned Enterprise properties when they transferred from the Crown and such memorialised-properties that are now in private ownership.

## 7. Does the Settlement create any special rights for the Pouakani People?

No new rights are being created. Provisions in relation to conservation, such as Statutory Acknowledgments, give practical effect to existing provisions of Section 6 of the Resource Management Act and Section 4 of the Conservation Act that provide for Māori participation in conservation and environmental planning matters.



## 8. Do the Pouakani People have the right to come back and make further claims about the Crown's dealings with them in the 19th and 20th Centuries?

8.1 Both parties have agreed that the settlement is a final settlement of:

- the historical claims (pre 21 September 1992) of the Pouakani People
- the Pouakani Block boundary claims; and

The settlement legislation prevents the Pouakani People from re-litigating these claims before the Waitangi Tribunal or the Courts.

8.2 Both parties have agreed that any Pouakani claims to the Waikato River have not been settled and will be dealt with separately along with the claims of other groups to the Waikato River.

8.3 The Pouakani People retain the right to bring claims against the Crown for acts or omissions after 21 September 1992 (except in relation to the Boundary claims which are settled).

## 9. Are the Pouakani People's existing aboriginal title or customary rights affected by this settlement?

No. Any existing rights that the Pouakani People may have to aboriginal title or under customary law are not affected in any way. However, the settlement legislation extinguishes any claims of the Pouakani People based on such rights relating to acts or omissions of the Crown prior to 1992 (except any claims to the Waikato River).

## 10. Who benefits from the settlement?

All members of the Pouakani People, wherever they may now live. The settlement will be managed by a new body set up by the Pouakani people, Te Putahitanga o Nga Ara Trust.

## 11. Does the settlement affect the Native Forest Restoration Trust's proposal to restore a large tract of the Pureora Forest to native totara forest?

No final decision on whether the restoration proposal should proceed has been made. If the Pouakani People purchase the forest, this will not preclude the restoration project going ahead at some later time, but the rights of the Pouakani People as a private owner would have to be taken into consideration.