

# The Pouakani Report 1993

## Appendices

### 2.1 The Claims of 27 March 1987

THE CLAIMANT on behalf of himself and on behalf of the beneficial owners of the Titirapunga Trusts claims that he is prejudicially affected by the following acts, policies and omissions of the Crown:

#### A. Western Boundary Pouakani Tihoi [sic = Maraeroa]

1. By which the disputed boundary between the Tuwharetoa and Maniapoto tribes, described and surveyed through Trig Pureora to Taparoroa [sic] and confirmed by Royal Commission report and legislative enactment was surveyed to an alternative Taparoroa as described by Te Paehu [sic] (ex Maniapoto) to the disadvantage of the Pouakani owners, the ancestors of the Claimants.

#### B. Southern Boundary Pouakani Tihoi

2. By which the Pouakani owners were deprived of land on the establishment of the southern boundary of the Pouakani/Tihoi Block, the current boundary never having been formally established by Maori Land Court Order and no boundary description being made.

#### C Pouakani C1, Kaiwha Block

3. By which the descendants of the Claimants were awarded by Order of the Maori Land Court on the 4th of August 1891 7,200 acres at Kaiwha and 13,000 acres beside it adjoining the Government Block on the west towards Whatipo, the land known as C3 and comprising 12,000 acres apparently in the same position being awarded on the 11th of August 1891 to one owner contrary to previous awards. The land known as C3 subsequently being taken by the Crown.

4. By which the surveyed area following a Maori Land Court Partition Order of August 1891 shows large discrepancies in shape and area not corresponding to the Partition Order.

#### D. Pouakani B9

5. By which the starting point of the Block described by Maori Land Court Order no longer corresponds to the current point.

6. By which all boundaries are affected by the uncertainty over the southern boundary Pouakani/Tihoi, having been described and measured from that boundary.

7. By which the Block known as B9A was acquired by the Crown with no known Proclamation and from minors without any known authority.

#### E. Pouakani C1A/C1B

8. By which C1A Block was acquired by the Crown without the authority of all the

beneficial owners and despite the requirement that all beneficial owners agree to any sale, the taking subsequently being confirmed by Proclamation.

9. By the partition of C1A/C1B being dependent upon the correct boundaries for Block B9B which are not in accordance with Maori Land Court descriptions.

F. Crown Management of C1B Block

10. By which timber was taken from C1B2 (vicinity Kopaki) while under Crown management without proper accounting to the beneficial owners.

G. Reservation

11. This claim is made with express reservation in respect of further and additional elements, particulars of which will be supplied.

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*Waitangi Tribunal, Department of Justice, Wellington.*

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### 2.2 Relief Sought By the Claimant

1. Confirmation of the western boundary Pouakani/Tihoi as that shown on Plan ML6036 as confirmed by Royal Commission.
2. That the lands owned by the Crown within the boundaries of the established Pouakani Block and the boundary established by Royal Commission report to be returned to the descendants of the Pouakani beneficial owners and that reparation be made for any lands within those boundaries held otherwise than by the Crown.
3. That the southern boundary Pouakani/Tihoi be established in terms of the original partition of Pouakani and Tihoi.
4. That the award of the Block known as Pouakani C3 in favour of Karawhira Kapu contrary to previous Court Orders be revoked and that land subsequently taken by the Crown be returned to the descendants of the Kaiwha owners in terms of the Court Order of 4 August 1891.
5. That the C1 and B9 Blocks be re-adjusted to their original shapes as described in the Partition Orders of August 1891 establishing the Blocks.
6. That Pouakani B9 be declared to start at Trig Pureora.
7. That on establishing the southern boundary Pouakani/Tihoi the partition of B9 Block be redefined in terms of the Court Order.
8. That the partition of C1 Block be redefined in terms of the partition of B9 Block.
9. That C1A Block be returned to the descendants of the Kaiwha owners.
10. That B9A Block be returned to the descendants of the original owners.
11. That the Crown account to and compensate the beneficial owners of the C1B2 for all timber taken from the Block while under Crown management.
12. That compensation for the wrongful withholding of those lands be made by the Crown to the descendants of the original owners.
13. In so far as exclusive rights have been interfered with and cannot be restored sufficient compensation in conformity with Maori custom and tradition.
14. Compensation in respect of the disruption to and in particular the social dislocation which has occurred as a consequence of the acts, omission and policies of the Crown set out above.
15. Compensation for the cost of preparing and submitting the present claims.

DATED at Hamilton this 27 day of March 1987.

[signed] J H Paki

THIS STATEMENT OF CLAIM is filed by PATRICK WILLIAM FRANK WILSON whose address for service is at the offices of Messrs Stace Hammond Grace & Partners, Solicitors, Cecil House, Garden Place, (PO Box 101), Hamilton.

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*Waitangi Tribunal, Department of Justice, Wellington.*

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### 2.3 Amended Statement of Claim [of 23 October 1987]

THE CLAIMANT on behalf of himself and on behalf of the beneficial owners of the Tititapuenga Trusts and the Pouakani B9B Trust claims that he is prejudicially affected by the following acts, policies and omissions of the Crown:

#### A. Western Boundary-Pouakani/Tihoi [sic = Maraeroa]

1. By which the disputed boundary between the the Tuwharetoa and Maniapoto Tribes, described and surveyed through trig Pureora to Taparora [sic = Taporarora] and confirmed by Royal Commission Report and legislative enactment was surveyed to an alternative [Taporarora] as described by Te Paehu [sic] (ex-Maniapoto) to the disadvantage of the Pouakani owners, the ancestors of the claimant.

The whole of the western boundary Pouakani/Tihoi requires to be resurveyed to ascertain the true lines and areas to which the claimant and the Pouakani owners as ancestors of the claimant are entitled. The Tribunal is asked to inquire into the western boundary from [Taporarora] to Tahorakarewarewa to Werarora and thence to the Pungapunga Stream including the lands investigated by the Royal Commission of 1889.

#### B. Southern Boundary-Pouakani/Tihoi

2. By which the Pouakani owners were deprived of land on the establishment of the southern boundary of the Pouakani Block where it meets the northern boundary of the Tihoi Block, the current boundary never having been formally established by Maori Land Court order and no boundary description having been made by the Court.

The boundary line was surveyed by W. Cussen Esq. in 1886. The survey was interrupted by hostile owners numbering some 200 as given by evidence by Mr Cussen in evidence to the Court in 1891. The Tribunal is asked to inquire into the proper boundary of the Pouakani/Tihoi Blocks as between Pureora and Kopaki and thence east to Te Tarata.

#### C. Pouakani C1-Kaiwha Block

3. By which the ancestors of the claimant were awarded by order of the Maori Land Court on 4 August 1891 7,200 acres at Kaiwha and 13,000 acres beside it adjoining the Government Block on the west towards Whatipo. The land known as C3 and comprising 12,000 acres apparently in the same position being awarded on 11 August 1891 to one owner contrary to previous awards.

The land known as C3 was subsequently acquired by the Crown. The Tribunal is asked to inquire into the circumstances surrounding the acquisition and into the consideration (if any) which passed as between the Crown and the owners of the

Blocks. The Tribunal is also asked to inquire into the numbers of persons who were entitled to the Blocks at various times.

4. By which the surveyed area following a Maori Land Court partition order of August 1891 shows discrepancies in shape and area which do not correspond with the original partition order. The Tribunal is asked to inquire into the reasons for such discrepancies.

#### D. Pouakani B9B

5. By which the starting point of the Block (i.e. Pureora Trig Station) as described by the Maori Land Court order no longer corresponds to the current point at which the boundary commences (which is four chain north of the trig station).

6. By which all boundaries are affected by the uncertainty over the southern boundary of the Pouakani Block with the boundaries of Pouakani B9B having been described and measured from that boundary.

7. By which the Block known as B9A was acquired by the Crown with no known proclamation. Further, there is no evidence to establish that consideration passed from the Crown for the said land. Further, the acquisition of the said land by the Crown was in part from minors without any known authority having been obtained.

#### E. Pouakani C1A/C1B

8. By which C1A Block was acquired by the Crown without the authority of all of the beneficial owners thereof despite the requirement that all beneficial owners agree to any sale. In addition, there is a difference in the translation in the minutes of the Court as between the English text and the Maori text. The English text refers to "inalienable except by lease for 21 years" whereas the Maori text when translated means "not to sell or mortgage the abovesaid land." The Tribunal is also asked to inquire into the question as to whether any consideration passed between the Crown and the beneficial owners with regard to the acquisition of C1A by the Crown.

9. By the partition order with regard to C1A/C1B being dependant upon the correct northwest boundary as between B9A and B9B which are presently not in accordance with Maori Land Court descriptions.

#### F. Crown Management of C1B Block

10. By which timber was taken from C1B2 (in the vicinity of Kopaki) while under Crown management without proper accounting to the beneficial owners. It is alleged that the timber was wrongfully taken in the 1950's and 1960's.

#### G. Whole Section Pouakani 1

11. In September [1887] the Maori land Court described Pouakani 1 as 20,000 acres which was to be awarded to the Crown for survey and other costs. Pouakani 1 is accurately surveyed. Although there is an accurate survey of the periphery of the total Pouakani Block its veracity cannot be confirmed because there are no Maori Land Court orders describing the boundaries. There are no accurate surveys undertaken by the Crown as at September 1887 in respect of the other Blocks which were created by orders made in September 1887. Nor have subsequent partitions relating to purported purchases by the Crown been properly surveyed.

#### H. Pouakani C2 Block

12. C2 is a square block half-bush half-open land consisting of 250 acres. It is an historic urupa.

#### I. Pouakani B7 B8 & B11 Blocks

13. The boundaries of these Blocks as at the present time do not accord with the orders and minutes of the Maori Land Court which created them. The Tribunal is also asked to inquire into the consideration (if any) which passed as between the Crown and the owners of the Pouakani B7, B8 and B11 Blocks with regard to their purported acquisition by the Crown.

14. With regard to the B7 Block the Tribunal is asked to inquire into the circumstances in which Makereti Hinewai (who was the wife of the then Government purchasing agent and licenced interpreter, Mr W.H. Grace) came to own one half share of the B7 Block; i.e. 5,000 acres.

15. The Tribunal is asked to inquire into the circumstances in the which Manawa Hinewai (the brother-in-law of W.H. Grace) came to own the remaining 5,000 acres of the B7 Block.

#### J. Pouakani A1, A2 & A3 Blocks

16. The Pouakani A1, A2 & A3 Blocks are not presently surveyed in accordance with the orders and minutes of the Maori Land Court which created them. The Tribunal is asked to inquire into the correct boundaries of the land and as to the consideration (if any) which passed as between the Crown and the then owners in respect of the acquisition of those Blocks by the Crown.

#### K. Tauponuiatia West Block

17. If the Tribunal finds that there is merit in the allegations made by the claimant as to the impropriety of W.H. Grace acting both as land purchase agent on behalf of the Crown and as a licenced interpreter relative to the acquisition of certain lands within the Pouakani Block as alleged herein due to impropriety on his part as specified in the report of the Royal Commission of 1889 then the Tribunal is asked to inquire into the wider issue as to the appropriate boundaries and ownership of lands to be attributed to the Tauponuiatia West Block which was the predecessor of the Pouakani Block.

#### L. Reservation

18. This claim is made with express reservation in respect of further and additional claims particulars of which may be supplied at a later date. Evidence in support of the claim will be produced by affidavit or by report as the Tribunal may require.

#### RELIEF SOUGHT BY CLAIMANT

1. The Tribunal recommend to the Crown as to what the correct boundaries of the various Blocks to which reference have been made herein ought to be.

2. That the Tribunal recommend to the Crown that land which has been wrongfully acquired by the Crown be returned to the Defendants [sic, descendants?] of the owners of the appropriate Blocks through the creation of a new Trust or Trusts to be set up under Section 438 of the Maori Affairs Act 1953 for such purpose.

3. That the Tribunal makes such further or other recommendations as it may consider appropriate to deal with such injustices which have been shown to exist as are specified in this amended statement of claim.

4. That the Tribunal recommend that compensation be paid for the cost of preparing and submitting the present claims.

DATED at Hamilton this 23rd day of October 1987.

[signed] J.H. Paki

This Amended Statement of Claim is filed by Paul Robert Heath whose address for service is at the offices of Messrs Stace Hammond Grace & Partners, Solicitors, Cecil House, Garden Place, (PO Box 101), Hamilton.

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*Waitangi Tribunal, Department of Justice, Wellington.*

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### 2.4 Addendum to Amended Statement of Claim [27 april 1989]

THE Claimants repeat all paragraphs of the Amended Statement of Claim and say further:

1. THE act of Crown in taking lands for survey costs was a breach of the principles of the Treaty and is prejudicial to the Claimants.
2. THE Pouakani Block as originally decreed contained land adjacent to the Waikato River. This land was taken by Proclamation by the Crown pursuant to the Public Works Act 1928. Tribal lands of the Claimant have been flooded by the Crown as a consequence of the Waipapa, Maraetai and Whakamaru hydroelectric power projects. The loss of this land is prejudicial to the Claimants in that their valued taonga, the riverbank lands, has been taken and destroyed, and has further caused the Claimants to lose possible rights to the bed of the river as riparian landowners.
3. THE Waikato River is itself a valued taonga of the Claimants, and this taonga has been adversely modified by actions of the Crown in flooding the river and causing severe environmental effects to the prejudice of the Claimants.
4. SECTION 261 of the Coal Mines Act 1979 vests the bed of any navigable river in the Crown. This section and its antecedents are a breach of the principles of the Treaty of Waitangi, and, to the extent that it deprives the Claimants of their rightful interests in the bed of the Waikato River, is prejudicial to the Claimants.
5. THE Water and Soil Conservation Act 1967 fails to take due account of Maori spiritual interests and is therefore a breach of the principles of the Treaty. Electricorp will be required to obtain water rights from the Waikato Catchment Board for its power stations, and in such a situation the present Claimants will be prejudiced in asserting their concerns and objections.

THE CLAIMANTS SEEK:

- (a) Compensation for damage to their ancestral lands alongside the river and to the river itself.
- (b) Recognition of the Claimants' interests in ownership and management of the river.
- (c) Compensation for the Crowns' acquisition of the bed of the river.
- (d) Repeal of Section 261 of the Coal Mines Act 1979.
- (e) Amendments to the Water and Soil Conservation Act 1967.
- (f) Recognition of the mana of the Claimants over the Waikato River and their flooded riverine lands.

DATED at Hamilton this 27th day of April 1989.

[signed] J.H. Paki

THIS ADDENDUM TO THE AMENDED STATEMENT OF CLAIM is filed by  
PAUL ROBERT HEATH whose address for services is at the offices of Messrs Stace  
Hammond Grace & Partners, Barristers & Solicitors, Cecil House, Garden Place, (PO  
Box 101), Hamilton.

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*Waitangi Tribunal, Department of Justice, Wellington.*