

POUAKANI CLAIMS TRUST NO. 2 UPDATE OF THE WAIKATO RIVERBED CLAIM

JULY 2022

MAORI LAND COURT HEARING UPDATE



Pouakani Trust are pleased to provide this update on the Strike out hearing held at Rotorua Maori Land Court on 14-15 December 2021. After much anticipation the reserved decision was released on 1 July 2022.

Pouakani Trusts legal counsels worked incredibly hard in the lead up and during the hearing, and they were **"successful in arguing that the Pouakani Trust claim should not be struck out"**.

Please see the following page for a summary of the decision. Discussions are currently occurring between Pouakani Trust and Legal Counsel as to the next steps to be taken. Further updates will follow in due course.

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SUMMARISED DECISION AT PARA 105-107 OF THE JUDGMENT;

[105] The Pouakani application clearly raises difficult questions of law. That is not surprising given the history of litigation concerning the lands in this area, which demonstrates that this is not a straightforward situation. While difficult questions of law that might require extensive argument are no barrier to a strike out claim, the causes of action in the substantive application must be so clearly untenable that they cannot possibly succeed. I do not consider that is the situation in the present case.

[106] Although there are LTA titles in relation to the hydro dams, the situation is not simple and clear. The finding that the Crown assumption of ownership based on the Coal Mines Act was wrong has, in my view, made matters more complex and raises questions as to the Crown's original title and the effect on the status of the land as Māori customary land. There is also the fact that no titles exist for the land under the hydro lakes. Those matters need to be considered fully. Any findings in relation to those issues will naturally have implications for the remaining issues concerning the fiduciary duty and water claims of Pouakani, such that they also need to be considered in full.

[107] The jurisdiction to strike out an application must be exercised sparingly and particular care is required in areas where the law is developing. I am not satisfied that a strike out should be granted in this case. The application of Pouakani is not clearly untenable and the claims involve matters of tikanga and water ownership that are developing areas of law.