Can Ngati Porou confirm where its mana whenua derives from?

Column by Jason Koia

I WOULD like to respond to the November 1, 2008 article "mana is reaffirmed", which covered the Ngati Porou signing in Wellington of the Crown's Ngati Porou Foreshore and Seabed Deed of Settlement.

Quite simply, if the mana whenua of Ngati Porou is reaffirmed, then perhaps Ngati Porou can confirm where their mana whenua derives from?

Why did Te Runanga O Ngati Porou engage with the Crown and initiate this deal before the Waitangi Tribunal heard East Coast claims against the Foreshore and Seabed Act 2004?, and why the need to block East Coast hapu claims against the FSA 2004 before any court or tribunal of New Zealand?

There is no evidence the Crown or Ngati Porou held mana whenua over the foreshore seabed from Potikirua to te Toka a Taiau before 1840 or at the time of the signing of East Coast Treaty of Waitangi.

The Ngati Porou Foreshore and Seabed Settlement offers nothing that other iwi can't obtain under current legislation. More importantly, the deed offers no compensation for the billions of dollars worth of resources being ceded to the Crown.

From the Crown's point of view this deal will cement the Crown's sovereignty over the foreshore and seabed, validate the FSA 2004 and appease the United Nations. Furthermore, there is no concrete evidence that the Crown will not exploit the resources for exclusive enrichment.

Then Deputy Prime Minister Dr Michael Cullen introduced the "Nga Rohe Moana o Nga Hapu o Ngati Porou Bill" (the Foreshore and Seabed Settlement Bill) into Parliament on September 29, 2008. In his capacity as the Attorney General, he failed his duty before the House to declare inconsistencies with the Ngati Porou Foreshore and Seabed Settlement Bill and the Bill of Rights Act 1990.

Clauses 108 and 109 of the bill prevents any person from challenging the validity of the deed before any court or tribunal of New Zealand. This is inconsistent with the Bill of Rights (rights to justice).

It is my opinion, this is a political scam by the government designed to eliminate the sovereign claims over the foreshore and seabed by the descendants of Ruawaipu, Uepohatu and Te Aitanga-A-Hauiti. However, the injustice will never go away.

In June 2003 the Court of Appeal found that on the acquisition of sovereignty, the Crown acquired only a "radical" title (or imperium) to the foreshore and seabed. That title was subject to the pre-existing property rights of Maori.

This is further complicated as the Crown assumes sovereignty under the English version of the Treaty of Waitangi, yet in fact the East Coast treaty did not cede sovereignty to the Crown.

Neither Ngati Porou nor the Crown can provide legitimate evidence of freehold title (under aboriginal title or common law). This is because such a title is held lawfully by the hereditary heirs of Ruawaipu, Uepohatu and Te Aitanga-A-Hauiti. The evidence is in the whakapapa to the very soil itself and the East Coast treaty.