

Whakatōhea Claims Settlement Act 2024

Registration Guideline 2024

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Introduction

This is a guideline for effecting registration under the Whakatōhea Claims Settlement Act 2024 (the Act) which came into force on 5 June 2024.

Purpose, scope and use

The Registrar-General of Land has issued this guideline to ensure that applications received by Toitū Te Whenua Land Information New Zealand under the Act are dealt with correctly.

This guideline is for our people of Toitū Te Whenua with delegated authority to exercise registration functions under the Land Transfer Act 2017.

The Treaty Claims Settlement Acts General Guideline 2018 sets out further information applicable to all Treaty settlements.

[Treaty Claims Settlement Acts General Guideline 2018 - LINZG 20786](#)

References

The following documents are relevant to this guideline:

- [Whakatōhea Claims Settlement Act 2024](#)
- [Whakatōhea Deed of Settlement Documents](#)
- Customer Services Technical Circular 2013.T06 – Registration of Treaty Claims Settlement Dealings

Terms and definitions

Terms used in this guideline that are defined in the Whakatōhea Claims Settlement Act 2024 have the meaning given to them in that Act unless otherwise stated. See the interpretation sections set out in ss12, 47, 118, 127, 128 and 179.

Terms	Definitions
Act	Whakatōhea Claims Settlement Act 2024
RT	Record of Title
Settlement date	The settlement date as defined in s12, being 1 August 2024.
Trustees	Means the trustees of Te Tāwharau o Te Whakatōhea

1 Removing resumptive memorials

Upon receipt of a certificate issued in accordance with s18(1):

- register the certificate against each RT identified, and
- cancel the resumptive memorial recorded under an enactment listed in s17(2) but only in respect of each allotment described in the certificate – s18(4).

A suitable memorial to record the certificate is:

"[certificate identifier] Certificate under section 18 of the Whakatōhea Claims Settlement Act 2024 cancelling [resumptive memorial identifier] – date and time"

2 Cultural redress properties

Cultural redress properties are listed in Subpart 4 of Part 2 and Schedule 2 of the Act.

- s47 – Interpretation relating to cultural redress properties.
- ss 48 - 57 – Properties vested in fee simple.
- ss 58 – 85 - Properties vested in fee simple to be administered as reserves.

2.1 Initial vesting

The following provisions of the Act apply:

- s90 describes the requirements for registration of ownership
- s91 provides for the application of Part 4A of the Conservation Act 1987
- s92 sets out the matters to be recorded on the RTs, and
- s93 provides for the application of other enactments.

2.1.1 Recording changes in reserve status

In addition to the matters referred to in paras 2.1.2. and 2.1.3, upon receipt of an application under s90:

- record on the RT for the properties listed in ss 48 – 85 the revocation of an existing reserve status, or that the land has ceased to be a conservation area under the Conservation Act 1987, as appropriate, and
- record the new reserve classification in the 'Purpose' field of the RT for each of the properties listed in ss 58 - 85.

2.1.2 Properties that are all the land in a RT

Upon receipt of an application under s90(3):

- record the relevant change in reserve status as set out in para 2.1.1
- register the trustees as the owner of the fee simple estate, and
- record the memorials set out in Appendix A.

Note: s90(3) does not apply to Tāwai, the Kōtare property, or Matekerepu.

2.1.3 Properties that are not all of the land in a RT

Upon receipt of an application under s90(5) to vest property that is not all the land in a RT:

- create a RT for the fee simple estate in the name of the trustees
- record the relevant change in reserve status as set out in para 2.1.1, and
- record on the RT:
 - any existing interests to be brought forward
 - the memorials set out in Appendix A, and
 - any registrable interests that are set out in the application and Schedule 2.

For Tirohanga Dunes site 1 and site 2, the Act provides for alternative vestings, with alternative descriptions in Parts 1 and 2 of Schedule 2, depending on whether the Crown has an unconditional agreement for sale and purchase with another owner for parts of their respective properties. The s90 application and other documentation, if any, will reflect the applicable vesting for each site. For the avoidance of doubt, the registration and memorial requirements will be the same for either alternative.

The Waioweka property includes road stopped by s81(3) of the Act and excludes land which will be acquired for road separately. For the avoidance of doubt, the s90 application will not depend on whether or not the road acquisition has been gazetted or registered. The creation of the RT may be subject to survey and must be created no later than 24 months after the settlement date unless a later date is agreed (s90(6) and (7)).

Note: a single RT must be created for Matekerepu despite that property being located in 2 land registration districts.

2.2 Ongoing restrictions

As provided in s96, the following restrictions apply to dealings with cultural redress reserve properties:

- The fee simple estate in the reserve land in the Oroī property may be transferred only in accordance with s98 or s100.
- The fee simple estate in the reserve land in the Te Ngaio property and the Tirohanga Dunes site 2 property may be transferred only in accordance with s100.
- The fee simple estate in the reserve land in any other property may be transferred only in accordance with s97 or s100.

Reserve land may not be mortgaged or made subject to a security interest – s101.

A suitable memorial for s96 is:

“Subject to section 96 of the Whakatōhea Claims Settlement Act 2024 (which allows reserve land to be transferred only in accordance with section(s) [97/98/100 as applicable])”

A suitable memorial for s101 is:

“Subject to section 101 of the Whakatōhea Claims Settlement Act 2024 (which prohibits reserve land from being mortgaged or charged for security)”

To ensure subsequent dealings comply with the above restrictions, set the Landonline “prevents registration” flag against the relevant memorials, as specified in Appendix A.

2.3 Subsequent dealings

2.3.1 Revoking the reserve status of a reserve property – s92

Upon receipt of an application under s92(3):

- remove or alter the notations as set out in s92(3) of the Act, and
- remove or amend any other notations that relate to the reserve status (including the memorials relating to the reserve land not being transferred or mortgaged).

2.3.2 Transfer of reserve land to new administering body – s97

Upon receipt of:

- a transfer instrument that includes a notification that the new owners are to hold the reserve land for the same reserve purposes as those for which it was held by the administering body immediately before the transfer
- the written consent of the Minister of Conservation to transfer the land
- the written consent of the administering body of the reserve land (if the trustees are transferring the reserve land but are not the administering body), and
- any other documents required for the registration of the transfer instrument,

the transferees must be recorded as the owners of the fee simple estate in the reserve land.

Note: s97 does not apply to:

- the Oroī property, which the trustees may only transfer a ½ share of under s98 (see 2.3.3 below) and then if trustees change under s100, and

- the Te Ngaio property and Tirohanga Dunes site 2, which the trustees may only transfer if trustees change under s100.

2.3.3 Transfer of ½ share in Oroī property – s98

Upon receipt of:

- a transfer instrument of an undivided half share to the governance entity for Ngāi Tai Iwi (as defined in s98(7)) which includes:
 - a notification that the share is to be held for the same reserve purposes, and
 - the statement “The reserve land is subject to section 87 of the Whakatōhea Claims Settlement Act 2024”
 - written consent of the Minister of Conservation to the transfer, and
 - any other document required to register the transfer instrument,
- a half share RT must be created each for the trustees and the governance entity for Ngāi Tai Iwi respectively.

2.3.4 Transfer of reserve land if trustees change – s100

Upon receipt of a transfer instrument together with a certificate by the transferees or the transferees’ lawyer verifying the matters set out in s100, the transferees must be recorded as the owners of the fee simple estate in the reserve land.

3 Commercial redress

3.1 Crown transfer of properties

Upon receipt of a transfer instrument affecting a property that is all of the land in a RT, the transfer instrument must be recorded against the RT.

3.1.1 Records of title for commercial redress and deferred selection properties – s120

If the property is not all the land contained in a RT for a fee simple estate, or there is no RT for the fee simple estate in all or part of the property, any necessary survey must have been completed and the transfer instrument must be accompanied by an application to create a new RT.

Upon receipt of the application a RT must be created for the fee simple estate in the property in the name of "His Majesty the King" without a statement of purpose, and the following matters recorded on the RT:

- the memorials set out in Appendix B
- any registrable interests that are described in the application, and
- the transfer instrument.

3.1.2 Grant of covenant for the later creation of RT

Upon receipt of a request under s121, a RT must be created in the name of the trustees for the covenant interest.

3.1.3 Status of certain deferred selection properties – s124

If a RT for either the Ōpōtiki School property or the Woodlands School property record any part of the property is a reserve subject to the Reserves Act 1977 when a transfer instrument is received for registration, the reference to the Reserves Act 1977 must be removed. (Neither property is currently described as a reserve in a RT.)

Section 124 provides when these become a deferred selection property the reservation as a reserve is revoked immediately before the property is transferred to the trustees.

A suitable memorial is:

"The reservation as a reserve is revoked under section 124(2) of the Whakatōhea Claims Settlement Act 2024"

3.1.4 Transfer of properties subject to lease – s125 and s126

Where transferred properties are to be subject to a lease back to the Crown as provided in s125, the transfer instrument must include a statement that the land is to become subject to s126 upon registration. In such cases record on the RT for the property the memorials set out in Appendix B.

Upon receipt of an application under s126(3), when the lease has terminated or expired:

- remove the notations from the RT, or
- amend the notations on the RT to show that they apply to the leased part only.

3.2 Right of first refusal over RFR land

3.2.1 Recording a right of first refusal on RT for RFR land

Upon receipt of a certificate under s150, record on the RT that the land is RFR land and is subject to Subpart 2 of Part 3.

A suitable memorial to record the certificate is:

"[certificate identifier] Certificate under section 150 of the Whakatōhea Claims Settlement Act 2024 that the within land is RFR land as defined in section 128 and is subject to Subpart 2 of Part 3 of the Act (which restricts disposal, including leasing, of the land) - [date and time]"

To ensure subsequent dealings comply with the restrictions on disposal, set the Landonline "prevents registration" flag against the memorial.

3.2.2 Removal of right of first refusal notation

Upon receipt of a certificate under s151 to remove an RFR notation (together with an instrument to transfer or vest the land):

- record the certificate on the RT for the land, and
- remove the notation from the current view of the RT.

A suitable memorial to record the certificate is:

"[certificate identifier] Certificate under section 151 of the Whakatōhea Claims Settlement Act 2024 for removal of RFR notation - [date and time]"

Upon receipt of a certificate under s152 to remove a notation after the RFR period ends:

- record the certificate on the RT for the land, and
- remove the notation from the current view of the RT.

A suitable memorial to record the certificate is:

"[certificate identifier] Certificate under section 152 of the Whakatōhea Claims Settlement Act 2024 for removal of RFR notation after the RFR period ends - [date and time]"

4 Whakatōhea Māori Trust Board

On the commencement of the Act the Whakatōhea Māori Trust Board (“Board”) was dissolved (s180) and its assets, including land, vested in the trustees (s182).

An instrument presented by the trustees which relates to land in the name of the Board will be accepted (s194) if it is:

- executed by the trustees or certified by a practitioner for the trustees, and
- evidenced by a certificate given by the trustees or their solicitor stating that the land was vested in the trustees by or under the Act.

Appendix A: Cultural redress properties

The following memorials are triggered by the lodgement of an application by the authorised person under s90 of the Act.

Each cultural redress property vests subject to or together with the interests listed in Column 3 of Schedule 2 to the Act.

Properties vested in fee simple

Property	Authorised person	Memorials to be recorded on the RT
See the properties listed in ss 48-57 (for the full legal description see Schedule 2 of the Act)	Chief executive of LINZ, for the Te Papa property Director-General of Conservation, for all other properties.	Memorials to be added: <ul style="list-style-type: none">• Subject to Part 4A of the Conservation Act 1987• Subject to sections 10 and 11 of the Crown Minerals Act 1991

Properties vested in fee simple to be administered as reserves

Property	Authorised person	Memorials to be recorded on the RT
See the properties listed in ss 58-85 (for the full legal description see Schedule 2 of the Act) (except the properties listed below)	Director-General of Conservation	Memorials to be added: <ul style="list-style-type: none">• Subject to Part 4A of the Conservation Act 1987, but section 24 of that Act does not apply• Subject to sections 10 and 11 of the Crown Minerals Act 1991• Subject to the Reserves Act 1977• Subject to sections 91(3) and 96 of the Whakatōhea Claims Settlement Act 2024 <p>(continued below)</p>

Property	Authorised person	Memorials to be recorded on the RT
		<p>Memorials to be added, that require the <u>Landonline 'prevents registration' flag to be set against the memorial:</u></p> <ul style="list-style-type: none"> • Subject to section 96(4) of the Whakatōhea Claims Settlement Act 2024 (which allows reserve land to be transferred only in accordance with sections 97 or 100) • Subject to section 101 of the Whakatōhea Claims Settlement Act 2024 (which prohibits reserve land from being mortgaged or charged for security)
Oroi property (s66)	Director-General of Conservation	<p>Memorials to be added:</p> <ul style="list-style-type: none"> • Subject to Part 4A of the Conservation Act 1987, but section 24 of that Act does not apply • Subject to sections 10 and 11 of the Crown Minerals Act 1991 • Subject to the Reserves Act 1977 • Subject to sections 91(3) and 96 of the Whakatōhea Claims Settlement Act 2024 <p>Memorials to be added, that require the <u>Landonline 'prevents registration' flag to be set against the memorial:</u></p> <ul style="list-style-type: none"> • Subject to section 96(2) of the Whakatōhea Claims Settlement Act 2024 (which allows reserve land to be transferred only in accordance with sections 98 or 100) • Subject to section 101 of the Whakatōhea Claims Settlement Act 2024 (which prohibits reserve land from being mortgaged or charged for security) <p>Memorial to be added when ½ share is transferred to Ngāi Tai Iwi:</p> <ul style="list-style-type: none"> • Subject to section 87 of the Whakatōhea Claims Settlement Act 2024

Property	Authorised person	Memorials to be recorded on the RT
<ul style="list-style-type: none"> Te Ngaio property (s70) Tirohanga Dunes site 2 (ss74 or 75) <p>s88(2) of the Act</p>	<p>Director-General of Conservation</p>	<p>Memorials to be added:</p> <ul style="list-style-type: none"> Subject to Part 4A of the Conservation Act 1987, but section 24 of that Act does not apply Subject to sections 10 and 11 of the Crown Minerals Act 1991 Subject to the Reserves Act 1977 Subject to sections 88(4), 91(3) and 96 of the Whakatōhea Claims Settlement Act 2024 <p>Memorials to be added, that require the <u>Landonline 'prevents registration' flag to be set against the memorial:</u></p> <ul style="list-style-type: none"> Subject to section 96(3) of the Whakatōhea Claims Settlement Act 2024 (which allows reserve land to be transferred only in accordance with section 100) Subject to section 101 of the Whakatōhea Claims Settlement Act 2024 (which prohibits reserve land from being mortgaged or charged for security)
<ul style="list-style-type: none"> Te Papa Tākaro o Ōhūi property Te Papa Tākaro o Whītikau property <p>s88(2) of the Act</p>	<p>Director-General of Conservation</p>	<p>Memorials to be added:</p> <ul style="list-style-type: none"> Subject to Part 4A of the Conservation Act 1987, but section 24 of that Act does not apply Subject to sections 10 and 11 of the Crown Minerals Act 1991 Subject to the Reserves Act 1977 Subject to sections 88(4), 91(3) and 96 of the Whakatōhea Claims Settlement Act 2024

Property	Authorised person	Memorials to be recorded on the RT
		<p>Memorials to be added, that require the <u>Landonline 'prevents registration' flag to be set against the memorial:</u></p> <ul style="list-style-type: none">• Subject to section 96(4) of the Whakatōhea Claims Settlement Act 2024 (which allows reserve land to be transferred only in accordance with sections 97 or 100)• Subject to section 101 of the Whakatōhea Claims Settlement Act 2024 (which prohibits reserve land from being mortgaged or charged for security)

Appendix B: Commercial redress

Transfer of commercial redress properties and deferred selection properties

Trigger	Memorials to be recorded on the RT
Transfer to the trustees under ss 119, 120 and 122 of the Act	Memorials to be added: <ul style="list-style-type: none">• Subject to Part 4A of the Conservation Act 1987• Subject to sections 10 and 11 of the Crown Minerals Act 1991
Transfer of properties subject to lease under s125 of the Act	Memorials to be added: <ul style="list-style-type: none">• Subject to Part 4A of the Conservation Act 1987, but section 24 of the Act does not apply• Subject to sections 10 and 11 of the Crown Minerals Act 1991• Subject to section 126 of the Whakatōhea Claims Settlement Act 2024