

Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 registration guideline

LINZG 20766

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NOTE:

This Specific Guideline should be read in conjunction with the *Treaty Claims Settlement Acts general guideline – LINZG20701*

Revision History

Date	Version	Revision	Author	Description
25/05/17	2			

1 Background

1.1 Introduction

A Treaty Settlement is an agreement between the Crown and a Māori claimant group to settle that claimant group's historical claims against the Crown. The process of settling claims is led by the Office of Treaty Settlements (OTS), and results in an Act for each settlement.

Summary of this settlement can be found in the Deed of Settlement Summary
<https://www.govt.nz/treaty-settlement-documents/whanganui-iwi/>

Ruruku Whakatupua, the Whanganui River Deed of Settlement, provides for the full and final settlement of all historic Treaty of Waitangi claims of Whanganui Iwi in relation to the Whanganui River which arise from Crown acts or omissions before 21 September 1992.

The Deed of Settlement has two parts and comprises two documents:

- Ruruku Whakatupua – Te Mana o Te Awa Tupua
- Ruruku Whakatupua – Te Mana o Te Iwi o Whanganui

Ruruku Whakatupua – Te Mana o Te Awa Tupua is primarily directed towards the establishment of a new legal framework (Te Pā Auroa nā Te Awa Tupua) for the Whanganui River that is centered on the legal recognition of the Whanganui River from the mountains to the sea, incorporating its tributaries and all its physical and metaphysical elements, as an indivisible and living whole – Te Awa Tupua.

Ruruku Whakatupua – Te Mana o Te Iwi o Whanganui is primarily directed towards Whanganui Iwi and the recognition and further development of the relationship between Whanganui Iwi and the Whanganui River through both cultural and financial redress.

Further information can be found on the OTS website,
<https://www.govt.nz/organisations/office-of-treaty-settlements/> under the tab 'Find out about the Treaty Settlement Process'.

1.2 Purpose, scope and use

Treaty settlements have a range of common elements. A *Treaty Claims Settlement Acts General Guideline (General Guideline)* is available to ensure that applications received by Land Information New Zealand (LINZ) under the *Specific Acts* are dealt with correctly (see LINZG20701).

A *Specific Guideline* is developed for each *Specific Act*.

This *Guideline* covers the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (the Act). It contains detailed information about that settlement. A summary of the specific provisions that relate to the vesting of land are set in **Table 1**.

A glossary of terms used in this guideline is attached. When used, a glossary term appears in *italics*. In some cases, *Specific Guidelines* may also contain more detailed explanations in relation to the same terms (for example *Cultural Redress Properties*).

References to the Act are in **bold text**.

You will need to refer to the following resources:

- The Te Awa Tupua (Whanganui River Claims Settlement) Act 2017
<http://www.legislation.govt.nz/act/public/2017/0007/latest/DLM6830851.html?src=qs>
- the Deed (including Schedules) relating to the *Specific Act*
<https://www.govt.nz/treaty-settlement-documents/>
- *Treaty Claims Settlement Acts General Guideline LINZG20701*;
- Customer Services Technical Circular 2013.T06 – Registration of Treaty Claims Settlement Dealings

The *General Guideline* applies to a *Specific Act*, unless a *Specific Guideline* states otherwise.

The Registrar-General of Land (RGL) has issued this guideline for employees of LINZ with delegated authority to exercise registration functions under the Land Transfer Act 1952.

1.3 Map of area of interest



(Source: Whanganui Iwi: Deed of Settlement Summary (for further detail of the Whanganui Catchment area see SO 469123))

2 Landonline settings to prevent auto-registration

The *General Guideline* does not apply.

Although the Act prohibits alienation (s43(1)), it relates to Riverbed vested in Te Awa Tupua (under ss41(1), 53(3), or 55(3)(a)) for which there will be no CR. The RGL is not obliged to police this.

3 Removing resumptive memorials

The *General Guideline* does not apply.

There are no *Resumptive Memorials* affected by the Act.

4 Cultural Redress Properties

The *General Guideline* does not apply.

There are no *Cultural Redress Properties* vested by the Act.

See items 9-11 and Table 1 below regarding the vesting provisions in relation to the Whanganui River Iwi Trust and the Crown-owned parts of the Whanganui River.

5 Commercial Redress Properties

The *General Guideline* does not apply.

There are no *Cultural Redress Properties* vested by the Act.

See items 9-11 and Table 1 below regarding the vesting provisions in relation to the Whanganui River Iwi Trust and the Crown-owned parts of the Whanganui River.

Provisions Unique to this Act

6 Assets of Whanganui Iwi Trusts – Initial Vesting

See s92 for definition of Whanganui Iwi trusts.

Specific detail is set out in **Table 1**. Please note:

6.1 Vesting of assets/liabilities of Whanganui Iwi Trusts into trustees of Ngā Tāngata Tiaki o Whanganui on Settlement Date.

6.1.1 Background

The assets and liabilities of:

1. The Whanganui River Māori Trust Board.
2. The Trustees of Te Whiringa Muka Trust; and
3. The Pakaitore Trust;

vest in the trustees of Ngā Tāngata Tiaki o Whanganui and become assets and liabilities of the trustees. **ss94(1), 97(1), and 100(1)**

Status of existing instruments – reference to Whanganui Iwi Trust treated as if reference to trustees of Ngā Tāngata Tiaki o Whanganui

The trustees of Ngā Tāngata Tiaki o Whanganui are to be treated as if they were the Whanganui Iwi trust under any existing instrument – to which a Whanganui Iwi trust was a party; or that a Whanganui Iwi trust gave, received, or was to give or receive. **s106(1)**

An express or implied reference to a Whanganui Iwi trust in an existing instrument or in a register must be read as a reference to the trustees of Ngā Tāngata Tiaki o Whanganui unless the context otherwise requires. **s106(2)**

In this section existing instrument means any agreement, deed, undertaking, application, notice, instrument recording an interest in land, or other document in effect immediately before the commencement of this Act. **s106(3)**

6.1.2 Action: RGL Obligation

The RGL is not required to change the names of a Whanganui Iwi Trust in the register, solely because of this vesting provision. **s110(1)**

6.1.3 Trigger: lodging of instrument.

If the trustees of Ngā Tāngata Tiaki o Whanganui present an instrument to a registrar or other person, provided the instrument complies with s110(3), the presentation of that instrument is, in the absence of evidence to the contrary, sufficient proof that the property is vested in the trustees, as specified in the instrument. **s110(2)**

6.1.4 Fees

Standard Fees apply

7 Bed of Whanganui River – Initial Vesting

Specific detail is set out in [Table 1](#). Please note:

7.1 Initial vesting of Crown-owned parts of the bed of Whanganui River

7.1.1 Cancellation of status prior to vesting

On settlement date, any **Crown-owned part** of the Riverbed that is –

-
- a) A conservation area under the Conservation Act 1987 ceases to be a conservation area
 - b) Crown land under the Land Act 1948 ceases to be Crown land
 - c) A national park under the National Parks Act 1980 ceases to be a national park
 - d) A reserve under the Reserves Act 1977 has its reservation revoked **s40**

7.1.2 Vesting of Riverbed

On settlement date, the fee simple estate in the Crown-owned parts of the Riverbed vest in Te Awa Tupua, **s41(1)**. **We understand Te Awa Tupua will not apply, and the RGL will not issue, a CR for those parts of the Riverbed for which there was no CR at Settlement date.**

The Vesting does not include legal road, railway infrastructure, structures, or any part held under the Public Works Act, or land in the common marine and coastal area. **s41(2)**

Despite s11(1) Crown Minerals Act 1991, the vesting includes pakohe, gravel, sand, and shingle in or on the vested land, but only to the extent they are owned by the Crown. **s41(3)**

7.1.3 New status upon vesting

Upon the vesting of the fee simple estate in the Crown-owned parts of the Riverbed under section 41(1), any part that immediately before the vesting was—

- a) a conservation area is declared a conservation area under the Conservation Act 1987 and is subject to the same conservation purposes that applied before the vesting;
- b) a national park is declared to be a national park under the National Parks Act 1980;
- c) a reserve is declared to be a reserve under the Reserves Act 1977 and is subject to the same reserve classification that it had immediately before the vesting.

The functions, powers, and duties arising under an Act referred to above, continue to apply instead of the functions, powers, and duties that would otherwise have been exercised or performed by Te Pou Tupua under section 19(1)(d)(i) of the Act. **s42**

7.1.4 Trigger: Applications for CR

Where there is an existing CR or GN for land that was Crown-owned parts of the Riverbed on Settlement data, we may receive a request from the two Te Pou Tupua office holders (s19(1)(d)(ii) and s20) to vest the land in Te Awa Tupua under section 41(1). This land is either—

- A Conservation area under the Conservation Act 1987, or
- A National Park under the National Parks Act 1980, or
- A reserve under the Reserves Act 1977.

7.1.5 Action: Update the relevant CR or GN

Update the relevant CR or GN, recording Te Awa Tupua as registered proprietor.

For land which is—

- A conservation area under the Conservation Act 1987,

-
- ensure it remains subject to the same conservation purpose which applied before the vesting.
 - A National Park under the National Parks Act 1980,
 - ensure it remains a National Park under the National Parks Act 1980; and
 - A reserve under the Reserves Act 1977,
 - ensure it remains subject to the same reserve classification it had immediately before the vesting by section 41(1).

7.1.6 Fees

No fee

7.2 Status of existing interests for land vested under section 41(1)

Any existing interest relating to land vested in Te Awa Tupua under s41(1), if lawful and existing immediately prior to the vesting, continues to apply until—

- a) the land is no longer part of the Riverbed; or
- b) the interest expires or is terminated.

Unless section 42(2) applies, Te Pou Tupua is to be treated as the grantor of any existing interests; and a reference in a document to the enactment under which that interest was granted is to be read as a reference to this Act.

8 Bed of Whanganui River – Subsequent Transfers and Vestings

Specific detail is set out in [Table 1](#). Please note:

8.1 Vesting / transfer of bed of Whanganui River which is not Crown-owned, and not Maori Land s48(2)

8.1.1 Background

Any non Crown-owned land (except Maori land) on which, after *Settlement Date*, the Riverbed is located, may be transferred to, or vested in, Te Awa Tupua provided written agreement from Te Pou Tupua is first obtained. **s48**

8.1.2 Trigger

Receipt of a transfer or application to vest

8.1.3 Action

Provided it is accompanied by –

written agreement for the vesting from Te Pou Tupua and the owner of the land **s48(2)**; and

if the land is subject to a lease, licence, mortgage, or charge, the consent of the holder of the lease, licence, mortgage, or charge is required. **s48(3)**

As soon as reasonably practicable the RGL must:

-
1. Cancel the existing CR for both the balance land and the land that is transferred or vested; and
 2. Create 1 CR for the estate in the balance land in the name of the registered proprietor immediately prior to the transfer or vesting, as the case may be. **s50(1)**

The transfer or vesting of land is subject to the completion of any survey required to create a CR for the balance land. **s50(4)**

In relation to land transferred or vested under this section, the boundary between the transferred or vested land and any adjoining boundary becomes a water boundary. **s45(3)**

8.1.4 Fees

Standard registration fees apply

8.2 Vesting of bed of Whanganui River on MFL s49(1)

8.2.1 Background

If part of the Whanganui River is located on Māori Freehold Land (**MFL**) the Māori Land Court (**MLC**) may make a vesting order to vest the land in Te Awa Tupua.

1. In exercising its jurisdiction, the MLC may make other orders that it considers necessary to apportion or adjust, as between the land vested in Te Awa Tupua and the balance land, all rights obligations, or liabilities arising from any lease, license, mortgage, or charge to which the land is subject at the date of the vesting. **s49(6)**
2. Every order made under this section has effect according to its tenor in the same manner and in all respects as if the necessary transfers, releases, covenants, and other dispositions or agreements had been duly made by the appropriate persons, and may be registered under the LTA.
3. The vesting is subject to the completion of any survey required to create a computer register for any balance land. **s50(4)**

8.2.2 Trigger

Receipt of a vesting order from the MLC

8.2.3 Action

As soon as reasonably practicable, the RGL must process the dealing in accordance with the terms of the order and the above guidance

8.2.4 Fees

Standard registration fees apply

8.3 Later transfers or vestings (by MLC Vesting Orders) - Return of land transferred or vested under sections 48(2) or 49(1) [s51(a)(i)]

8.3.1 Background

Return by Transfer

This applies to any part of the Whanganui River that has been transferred to, or vested in, Te Awa Tupua under s48(2) but no longer forms part of the Riverbed because there has been a change in the course of the River arising from a natural event or process.

For the purpose of enabling Te Pou Tupua to amalgamate this land with adjoining land owned by others (appurtenant land), Te Pou Tupua may transfer it to the owner of the appurtenant land. **s51(2)(a)**

The parties need to be satisfied the change in the course of the River occurred from a natural event or process. **s51(1)(a)(ii)**

The land transferred becomes adjoining land to which section 45 applies. **s51(4)**

The transfer is subject to the completion of any survey required to create a CR for the land. **s51(6)**

Return by Vesting Order

The MLC may, on application by Te Pou Tupua, make a vesting order to vest the land in the owner of the appurtenant land. **s51(2)(b)**

In making the vesting order, the MLC may cancel the titles under which the vested land and the appurtenant land are held and make an amalgamation order substituting for those titles 1 title for the whole land. **s51(3)(c)**

The land vested becomes MFL upon registration of the vesting order. **s51(5)**

The vesting is subject to the completion of any survey required to create a CR for the land to be vested. **s51(6)**

The owner of the appurtenant land may apply to the RGL to issue 1 CR for the appurtenant land and the land vested under this section. **s51(7)**

8.3.2 Trigger

The owner of the appurtenant land may apply to the RGL to issue 1 CR for the appurtenant land and the land transferred under this section (**s51(7)**), by lodging either a transfer (**s51(2)(a)**) or a MLC VO (**s51(2)(b)**).

8.3.3 Action

The RGL must comply with an application received under s51(7).

8.3.4 Fees

Usual registration fees apply.

8.4 Vesting Crown-owned land held subject to specified Acts, which becomes part of the Riverbed through natural events or processes s53(3)

8.4.1 Background

If after the Settlement Date, any Crown-owned land is or, because there is a change in the course of the River arising from a natural event or process, becomes part of the **Crown-owned parts of the Riverbed**—

then on and from the date on which the land becomes Riverbed, the fee simple estate vests in Te Awa Tupua as if that land were vested by section 41(1). **s53(3)**

8.4.2 Status of existing interests for land vested under section 53(3)

Any existing interest, in relation to land vested under s53(3), if lawful immediately prior to vesting, continues to apply in accordance with its terms, with any modifications until—

- (a) the land is no longer part of the Riverbed; or
- (b) the interest expires or is terminated.

Unless section 42(2) applies, Te Pou Tupua is to be treated as the grantor of any existing interests; and a reference in a document to the enactment under which that interest was granted is to be read as a reference to this Act. **s47**

8.4.3 Trigger

A request to vest Crown-owned land in Te Awa Tupua pursuant to section 53(3).

8.4.4 Action

Record the vesting action on the relevant CR or GN.

Cancel or part-cancel the relevant CR or GN as to the land which has vested in Te Awa Tupua.

For land which is:

- A conservation area under the Conservation Act 1987,
 - ensure it remains subject to the same conservation purpose which applied before the vesting.
- A National Park under the National Parks Act 1980,
 - ensure it remains a National Park under the National Parks Act 1980; and
- A reserve under the Reserves Act 1977,
 - ensure it remains subject to the same reserve classification it had immediately before the vesting by section 41(1).

8.4.5 Fees

Usual registration fees apply

8.5 Re-vesting of land in the Crown upon ceasing to be Riverbed through natural events or processes, where title not determined by legislation or common law doctrines of accretion, erosion or avulsion [s54(2)]

8.5.1 Background

If Land previously vested in Te Awa Tupua under sections 53(3) or 41(1), which, after Settlement Date, ceases to be Riverbed:

1. because of a change in the course of the river from a natural event or process; and
2. where title is not determined by an enactment or by common law rules of accretion, erosion, or avulsion;

on and from the date it ceases to be Riverbed, it vests in the Crown; and

- resumes the status it had immediately before it was vested in Te Awa Tupua, in accordance with the Act under which the land was formerly held; and
- any existing interests that applied to that interest prior to the vesting in, or transfer of the land to Te Awa Tupua continue until the interest expires or is terminated, whichever is the sooner. **s54**

As the land now vesting in the Crown, previously vested in Te Awa Tupua under section 53(3) or 42(1) for which no title was issued, there is no registration action for the vesting.

However, as the land resumes the status it had immediately before being vested in Te Awa Tupua, there may be instances where a former title or registration needs to be restored to this status. There will also be instances where former existing interests must be restored to their prior status.

8.5.2 Trigger

1. A request to record the vesting in the Crown pursuant to s54(2). This request should also include evidence and direction to record any former status which must be resumed (see s54(2)(b) of the Act) or;
2. Lodgment of replacement registration for a former interest or record (e.g. certificate under section 116 Land Act 1948, Gazette Notice, Deed of Easement, or other interest) pursuant to s54(2).

(Due to the unconventional nature of section 54, any registration should be referred to the RGL in the first instance).

8.5.3 Action

Give effect to registration which must be resumed as per section 54(2)(b) of the Act; or register replacement registration giving effect to section 54(2)(b) (as applicable)

Ensure registration for existing interests is retained as these continue to apply.

8.5.4 Fees

No fee

8.6 Re-vesting Crown-owned Riverbed held under Public Works Act 1981 and no longer required for public work s55(3)

8.6.1 Background

If part of the Riverbed is no longer required for a public work, the CE of LINZ must comply with the requirements of sections 40 and 41 Public Works Act 1981.

If the land remains in Crown ownership after the requirements of sections 40 and 41 have been complied with, then that land vests in Te Awa Tupua.

The land vested must be described in the cadastre as part of the Riverbed.

The land vested—

- (i) does not include structures or any part of the Whanganui River located in the *Marine and Coastal Area*; but

-
- (ii) despite section 11(1) Crown Minerals Act 1991, does include pakohe, gravel, sand, and shingle in or on the land that is vested, but only to the extent they are owned by the Crown.

8.6.2 Status of existing interests for land vested under section 55(3)(a)

Any existing interest, in relation to land vested under this section, being a lawful interest in existence immediately prior to the date on which the land is vested, continues to apply in accordance with its terms, with any modifications until—

- (a) the land is no longer part of the Riverbed; or
- (b) the interest expires or is terminated.

Unless section 42(2) applies, Te Pou Tupua is to be treated as the grantor of any existing interests; and

A reference in a document to the enactment under which that interest was granted is to be read as a reference to this Act. **s47**

8.6.3 Trigger

Request to vest land in Te Awa Tupua pursuant to section 55(3)(a).

(Due to the unconventional nature of Section 55 any registration should be referred to the RGL in the first instance).

8.6.4 Action

Record the vesting action on the relevant CR or GN.

Cancel or part-cancel the relevant CR or GN as to the land which has vested in Te Awa Tupua.

Ensure registration for existing interests is retained as these continue to apply. **s54(3)**

8.6.5 Fees

No fee

8.7 Statutory action

8.7.1 Background

In situations where land has vested pursuant to section 41(1), 53(3), 54(2), or 55(3), but no registration under the LTA is taking place. A request from Crown Property should be submitted so the spatial database can be updated reflecting the statutory action that has taken place.

If registration is received for land vested pursuant to the Act. The PRA Titles should confirm the vesting action is recorded in the spatial database. If required, the PRA Titles should create a request for a Survey Technical Advisor to record the statutory action.

Land vested under ss48(2) or 49(1) must, for as long as Te Awa Tupua remains legal owner of the land, be described in the cadastre as part bed of the Whanganui River. **s50(3)**

8.7.2 Trigger

Request to record a statutory vesting in the spatial database.

8.7.3 Action

Survey Technical Advisor updates Spatial Database with statutory action.

8.7.4 Fees

No fee

8.8 Other property related matters

8.8.1 Application of certain rules to adjoining Land

If, and to the extent there are water boundaries between the Whanganui River and the adjoining lands, the common law rules of accretion, erosion, and avulsion apply. **s45(2)**

In relation to Riverbed transferred or vested under sections 48(2) or 49(1), the boundary between it and the adjoining land is a water boundary. **s45(3)**

8.8.2 Certain existing interests continue to apply

An **Existing Interest** continues to apply in accordance with its terms, with any necessary modifications, until the land is no longer part of the Riverbed; or the interest expires or is terminated, whichever is the sooner. **s47(2)**

Unless section 42(2) applies, on and from the date on which the land is vested, Te Pou Tupua is to be treated as grantor of any existing interests granted at any time before the vesting; and a reference in a document to the enactment under which the interest was granted is to be read as a reference to this Act. **s47(3)**

8.8.3 Rights of access

In exercising its jurisdiction, the MLC may make such orders that it considers necessary to provide reasonable access to any part of the balance land. **s49(6)**

Existing public use of, and access to and across the Whanganui River, is preserved and not affected by the vesting of the Crown-owned parts of the Whanganui River by s41(1) or under s53(3) or s55(3)(a). **s46(2)**

Glossary

Use of this Glossary – For terms that are not defined in the *General Guideline* or this guideline, refer to the *Specific Act*. Please note, the *Specific Act* may have several "interpretation" sections, these are referenced below.

Defined terms – terms used in this guideline which are explained in either this guideline and/or the *General Guideline*, are indicated by italics. They may repeat terms used in the glossary to the *General Guideline*, to provide a more detailed explanation.

Defined terms – in **Interpretation** sections 7 and 39

adjoining land means land that immediately before the settlement date had, or on or after the settlement date has, a water boundary with the Whanganui River, whether or not that land, on or after the settlement date, is physically adjacent to the bed of the River

appurtenant land – for the purposes of enabling Te Pou Tupua to amalgamate land that no longer forms part of the Whanganui River with adjoining land owned by others **s51(1)(b)**

balance land means the land that remains in the name of the transferor after the rest of the land is transferred to, or vested in, Te Awa Tupua.

bed – see under Whanganui River below

CE – Chief Executive

Crown land has the meaning given in section 2 of the Land Act 1948

Crown-owned parts of the Riverbed or **Crown-owned** means the parts of the bed of that were, immediately before the settlement date, owned by the Crown and held under—

- (a) the Conservation Act 1987; or
- (b) the Land Act 1948; or
- (c) the Reserves Act 1977; or
- (d) the National Parks Act 1980

Existing Interest – see s47

GN – Gazette Notice

LINZ – Land Information New Zealand

Māori freehold land or **MFL** has the meaning given in section 4 of Te Ture Whenua Maori Act 1993

Māori land has the meaning given in section 4 of Te Ture Whenua Maori Act 1993

Marine and Coastal Area – defined in s9 of the Marine and Coastal Area (Takutai Moana) Act 2011

MLC means MLC

Riverbed – see Whanganui River below

Settlement date means the date that is 30 working days after the date on which this Act comes into force

Specific Act – Te Awa Tupua (Whanganui River Claims Settlement) Act 2017

transfer land means land to which **section 48** applies

trustees and **trustees of Ngā Tāngata Tiaki o Whanganui** mean the trustees of Ngā Tāngata Tiaki o Whanganui, acting in their capacity as trustees

Te Awa Tupua means the legal person created by section 14

Te Pou Tupua – among other functions, Te Pou Tupua performs for and on behalf of Te Awa Tupua, landowner functions for:

- (i) the land vested in Te Awa Tupua by section 41(1) or under section 53(3), except to the extent section 42(2) is applicable; and
- (ii) any land transferred to, or vested in, Te Awa Tupua under section 48. **s19(1)(d)**

water boundary means a moveable natural boundary set at the landward margin of the bed of any river, stream, or lake

Whanganui Iwi Trusts means—

- (a) Whanganui River Maori Trust
- (b) Te Whiringa Muka Trust, including its trustees

(c) Pakaitore Trust, including its trustees

Whanganui River and the **River** mean—

(a) the body of water known as the Whanganui River that flows continuously or intermittently from its headwaters to the mouth of the Whanganui River on the Tasman Sea and is located within the Whanganui River catchment; and

(b) all tributaries, streams, and other natural watercourses that flow continuously or intermittently into the body of water defined in **paragraph (a)** and are located within the Whanganui River catchment; and

(c) all tributaries, streams, and other natural watercourses that flow continuously or intermittently into any lakes that are connected continuously or intermittently with the bodies of water defined in **paragraphs (a) and (b)**; and

(d) the beds of the body of water, tributaries, streams, and other natural water courses defined in **paragraphs (a) to (c)**.

(2) To avoid doubt, **Whanganui River** does not include any lake or lake bed.

Bed or Riverbed, in relation to the Whanganui River—

(a) means the space of land that the waters of the Whanganui River cover at its fullest flow without overtopping its banks; and

(b) includes the subsoil, the plants attached to the bed, the space occupied by the water, and the airspace above the water

Table 1: Summary of registration provisions

Trigger Dealing subsequent to initial vesting - application to vest or transfer Whanganui River Bed (non Crown-owned/ non Māori Land) s48(2)	Type of Property	Authorised Person:	Conditions	Additional Powers	Registration steps	Existing Interests	Application of other Statutory Provisions – Initial vesting
Receipt of Application to vest, or transfer of land to Te Awa Tupua.	Land which is not owned or otherwise held by the Crown under any enactment; and on which at any time after settlement date, any part of the Riverbed is located. s48(1)(a) Does not apply to Maori Land. s48(1)(b) NB: As per s45 of the Act, the title for the land subject to the transfer or vesting should not be subject to the common law rules of accretion, erosion, and avulsion with the Whanganui River.	Registered proprietor or Te Pou Tupua for transfer of land. Te Pou Tupua for an application to vest. s19(1)(d)(ii)	Preconditions: If not met, registration prohibited: Before the land is transferred or vested, written agreement is required from Te Pou Tupua and the owner of the land s48(2) If any land transferred to, or vested in Te Awa Tupua is subject to a lease, licence, mortgage, or charge, the consent of the holder of the lease, licence, mortgage or charge is required. s48(3) Subject to completion of any survey required to create a CR for any balance land. s50(4) NB: The boundary between the transferred or vested land and any adjoining land becomes a water boundary. s45(3) The land transferred or vested must be described in the cadastre as part of the Riverbed. s50(3)	N/A	Upon registration of the transfer or vesting of the land: Cancel the existing CR for both the balance land and the land that is transferred or vested (there will be no CR for the vested or transferred land). s50(1)(a) Create one CR for the estate in the balance land in the name of the registered proprietors immediately prior to the transfer or vesting. s50(1)(b)	Those registered or noted on the title of the balance land. (NB: no title will issue for the Riverbed).	Section 11 and Part 10 of the RMA 1991 do not apply to the transfer or vesting, or any matter incidental to, or required for the purpose of that transfer or vesting. s52(1) Permission of Council under s348 LGA 1974 is not required for a Right of Way required for a transfer or vesting. s52(4)

Trigger MLC Order, vesting land in Te Awa Tupua. s49(1)	Type of Property	Authorised Person:	Conditions	Additional Powers	Registration steps	Existing Interests	Application of other Statutory Provisions – Initial vesting
Receipt of MLC Order vesting land in Te Awa Tupua. s49(1)	MFL over which the Riverbed is now located. s49(1) NB: As per s45 of the Act. The title for the land subject to the transfer or vesting should not be subject to the common law rules of accretion, erosion, and avulsion with the Whanganui River.	MLC	<p>Other conditions If not met, registration prohibited</p> <p>The MLC must not make a vesting order in respect of MFL set apart as a Maori Reservation under Part 17 of Te Ture Whenua Maori Act (TTWMA) 1993 (or any prior enactment to the same effect) unless—</p> <ul style="list-style-type: none"> (i) the reservation of the land is first cancelled under s338 of that Act; or (ii) the land vested in Te Awa Tupua is first excluded from the reservation under that section. s49(4) <p>Land vested ceases to be MFL upon registration of the vesting order. s50(2)</p> <p>Subject to completion of any survey required to create a computer register for any balance land. s50(4)</p> <p>NB: The boundary between the transferred or vested land and any adjoining land is a water boundary. s45(3)</p> <p>Land subject to a lease, licence, mortgage, or charge may be vested but only with the consent of the holder of that interest. s49(5)</p>	<p>The MLC may make other orders it considers necessary; s49(6)</p> <ul style="list-style-type: none"> • to provide for reasonable access to any part of the balance land. • to apportion or adjust, as between land vested in Te Awa Tupua and the balance land, all rights, obligations, or liabilities arising from any lease, licence, mortgage, or charge to which the land is subject at the date of the vesting. <p>Such orders have effect according their tenor in the same manner and in all respects as if the necessary transfers, releases, covenants, and other dispositions or agreements have been duly made by the appropriate persons. s49(8)(a)</p> <p>These orders may be registered under the LTA. s49(8)(b)</p>	<p>Upon registration of the vesting order:</p> <p>Memorialise that the land vested ceases to be MFL.</p> <p>Cancel the existing CR for both the balance land and the land that is vested (there will be no CR for the vested land). s50(1)(a)</p> <p>Create 1 CR for the estate in the balance land in the name of the registered proprietors immediately prior to the vesting. s50(1)(b)</p>	<p>Those registered or noted on the title of the balance land.</p> <p>(NB: no title will issue for the land which the Whanganui River is over).</p>	<p>Section 11 and Part 10 of the RMA 1991 do not apply to the transfer, or any matter incidental to, or required for, the purpose of the transfer s52(1)</p> <p>Section 123 TTWMA 1993 applies to any order made while Te Awa Tupua is the legal owner of the land to which the order applies; and as if the orders were orders to which Part 5 of TTWMA 1993 applies. s52(3)</p> <p>Permission of Council under s348 LGA 1974 is not required for a Right of Way required for the vesting. s52(4)</p>

Trigger Application to transfer land from Te Awa Tupua to an adjoining land owner s51(2)(a)	Type of Property	Authorised Person:	Conditions	Additional Powers	Registration steps	Existing Interests	Application of other Statutory Provisions – Initial vesting
Transfer of land from Te Awa Tupua to an adjoining land owner pursuant to s51(2)(a)	Land which was formerly transferred to Te Tupua as part of the Whanganui River bed under s48(2) , but no longer forms part of the Whanganui River due to a change in course from a natural event or process. s51(2)(a)	Te Pou Tupua s19(1)(d)(ii)	<p>Other conditions If not met, registration prohibited</p> <p>The land must have been part of the Riverbed that was previously transferred to, or vested in, Te Awa Tupua under s48(2) but, no longer forms part of the Riverbed because there has been a change in course of the River arising from a natural event or process. s51(1)(a)</p> <p>[The process that caused the change should be evident from the survey report and findings. The onus is on the parties involved to be satisfied of the cause of the change and that section 51(1) is applicable].</p> <p>Subject to the completion of any survey required to create a CR of the land to be transferred or vested. s51(6)</p> <p>The land transferred becomes adjoining land to which s45 applies. s51(4)</p>	N/A	<p>[Given the uniqueness of this provision it may be appropriate to first discuss with a Solicitor Operations or RGL representative].</p> <p>Te Pou Tupua may transfer the land to the owner of appurtenant Land s51(2)(a)</p> <p>NB: There will be no title for the land to be transferred. While the adjoining land in question will have an existing water boundary, the land should be transferred by Te Pou Tupua (representative of Te Awa Tupua).</p> <p>The owner of the appurtenant land may apply to the RGL to issue 1 CR for the appurtenant land and the land transferred. And the RGL must comply with this request ss51(7) & (8)</p> <p>NB: The purpose is to enable Te Pou Tupua to amalgamate land that no longer forms part of the Riverbed with adjoining land owned by others. s51(1)(b)</p>	Those registered or noted on the title of the adjoining land.	<p>Section 11 and Part 10 of the RMA 1991 do not apply to the transfer, or any matter incidental to, or required for, the purpose of the transfer s52(1)</p> <p>Permission of Council under s348 LGA 1974 is not required for a Right of Way required for a transfer. s52(4)</p>

Trigger Court Order vesting land in owner of appurtenant land s51(2)(b)	Type of Property	Authorised Person:	Conditions	Additional Powers	Registration steps	Existing Interests	Application of other Statutory Provisions – Initial vesting
Court Order vesting Te Awa Tupua land in owner of appurtenant land pursuant to s51(2)(b)	<p>Land which was formerly Maori Land vested in Te Awa Tupua as part of the Whanganui River bed under s49(1), but no longer forms part of the Whanganui River due to a change in course from a natural event or process. s51(1)</p> <p>NB: There will be no title for the land to be transferred. While the adjoining land in question will have an existing water boundary, the land should be transferred by Te Pou Tupua (representative of Te Awa Tupua).</p> <p>The owner of the appurtenant land may apply to the RGL to issue 1 CR for the appurtenant land and the land transferred. And the RGL must comply with this request ss51(7) & (8)</p> <p>NB: The purpose is to enable Te Pou Tupua to amalgamate land that no longer forms part of the Riverbed with adjoining land owned by others. s51(1)(b)</p>	MLC representative.	<p>Other conditions <i>Pre-conditions to a MLC order LINZ does not monitor except:</i></p> <ul style="list-style-type: none"> - The land must have been part of the Riverbed that was previously MFL vested in Te Awa Tupua under s49(1) <u>but</u>, - No longer forms part of the Riverbed because there has been a change in course of the River arising from a natural event or process. s51(1)(a) - [The process that caused the change should be evident from the survey report and findings. The onus is on the parties involved to be satisfied of the cause of the change, and that section 51(1) is applicable]. <p>Subject to the completion of any survey required to create a CR of the land to be vested. s51(6)</p> <p>The land transferred becomes adjoining land to which s45 applies (certain rules RE: water boundaries and common law rules of accretion, erosion or avulsion). s51(4)</p>	The MLC may cancel the titles under which the vested and appurtenant land are held and make an amalgamation order substituting for those titles, one title for the whole of the land. s51(3)(c)	<p>[Given the uniqueness of this provision it may be appropriate to first discuss with a Solicitor Operations or RGL representative].</p> <p>If the vesting order is accompanied by an amalgamation order, issue a single CR for the whole of the land (as per the amalgamation order).</p> <p>The vested land becomes MFL upon registration of the vesting order. s51(5)</p>	Those registered or noted on the title of the adjoining land.	<p>Section 11 and Part 10 of the RMA 1991 do not apply to the vesting. s52(1)</p> <p>Section 123 TTWMA 1993 applies to any order made while Te Awa Tupua is the legal owner of the land to which the order applies; and as if the orders were orders to which Part 5 of TTWMA 1993 applies. s52(3)</p> <p>Permission of Council under s348 LGA 1974 is not required for a Right of Way required for the vesting. s52(4)</p>

Trigger Request to vest land in Te Awa Tupua. s53(3)	Type of Property	Authorised Person:	Conditions	Additional Powers	Registration steps	Existing Interests	Application of other Statutory Provisions – Initial vesting
Request to vest land in Te Awa Tupua. A subsequent vesting of land that becomes Riverbed, through natural events s53(3)	Any part of land owned by the Crown under any of the following Acts: The Conservation Act 1987 The Land Act 1948 The National Parks Act 1980 The Reserves Act 1977 S53(2)	Te Pou Tupua s19(1)(d)(i)	The land is, or because there is a change in the course of the River arising from a natural event or process, becomes part of the Riverbed. A relevant survey will be required if part of a fee simple title or CIR is to vest.	N/A	Upon registration of the Application: Cancel the existing CR for both the balance land and the land that is vested (It is unlikely that there will be a CR register for the vested land). Create a CR for the estate in the balance land (If all of the land in the title is to vest then no title will issue for the balance land). <u>Land held in a GN</u> Record the Vesting action on the CIR. Part Cancel the CIR for the Gazette Notice (If a CIR exists).	Those registered or noted on the title of the adjoining land. (NB: no title will issue for the land which the Whanganui River is over).	

Trigger Lodging of instrument to vest property in trustees. s110(2)	Type of Property	Authorised Person:	Conditions	Additional Powers	Registration steps	Existing Interests	Application of other Statutory Provisions – Initial vesting
Receipt of an instrument vesting property in trustees. s110(2)	Vesting of property owned by the Whanganui River Maori Trust Board, Te Whiringa Muka Trust, or Pakaitore Trust into the trustees of Ngā Tāngata Tiaki o Whanganui ss94(1), 97(1), 100(1)	Trustees of Ngā Tāngata Tiaki o Whanganui s106	<p>The instrument need not be an instrument of transfer, but must; s110(3)</p> <ul style="list-style-type: none"> • Be executed or purport to be executed by the trustees of Ngā Tāngata Tiaki o Whanganui; and • Relate to assets or liabilities owned, controlled or held, wholly or in part, by a Whanganui Iwi Trust immediately before the commencement of this Act; and • Be accompanied by a certificate given by the trustees of Ngā Tāngata o Whanganui or their solicitor stating that the property was vested in the trustees by or under this Act. 	N/A	<p>The RGL is not required to change the name of a Whanganui Iwi trust to the names of the trustees of Ngā Tāngata Tiaki o Whanganui solely because of the provisions of Part 5 of the Act. s110(1)</p> <p>If the trustees of Ngā Tāngata Tiaki o Whanganui present an instrument to a registrar or other person, the presentation of that instrument is, in the absence of evidence to the contrary, sufficient proof that the property is vested in the trustees, as specified in the instrument. s110(2)</p> <p>Record the vesting in the names of the trustees of Ngā Tāngata Tiaki o Whanganui</p> <p>On vesting, the assets and liabilities become freed of any charitable trusts subject to which they were owned or held by the Whanganui River Maori Trust Board, Te Whiringa Muka Trust, or Pakaitore Trust ss94(2)(a), 97(2)(a), 100(2)(a)</p>	Those registered or noted on the title.	N/A

Trigger Initial vesting of Riverbed where existing CR or GN s41(1)	Type of Property	Authorised Person:	Conditions	Additional Powers	Registration steps	Existing Interests	Application of other Statutory Provisions – Initial vesting
Request to vest s41(1)	Crown-owned parts of the Riverbed with CR or GN that is either: - a conservation area, or - a national park, or - reserve	The two Te Pou Tupua office holders s19(1)(d)(ii) and s20	N/A	N/A	Update the relevant CR or GN recording Te Awa Tupua as registered proprietor	Act silent – likely those noted on CR or GN. Check application and refer to Operations Solicitors of RGL team if unclear	N/A