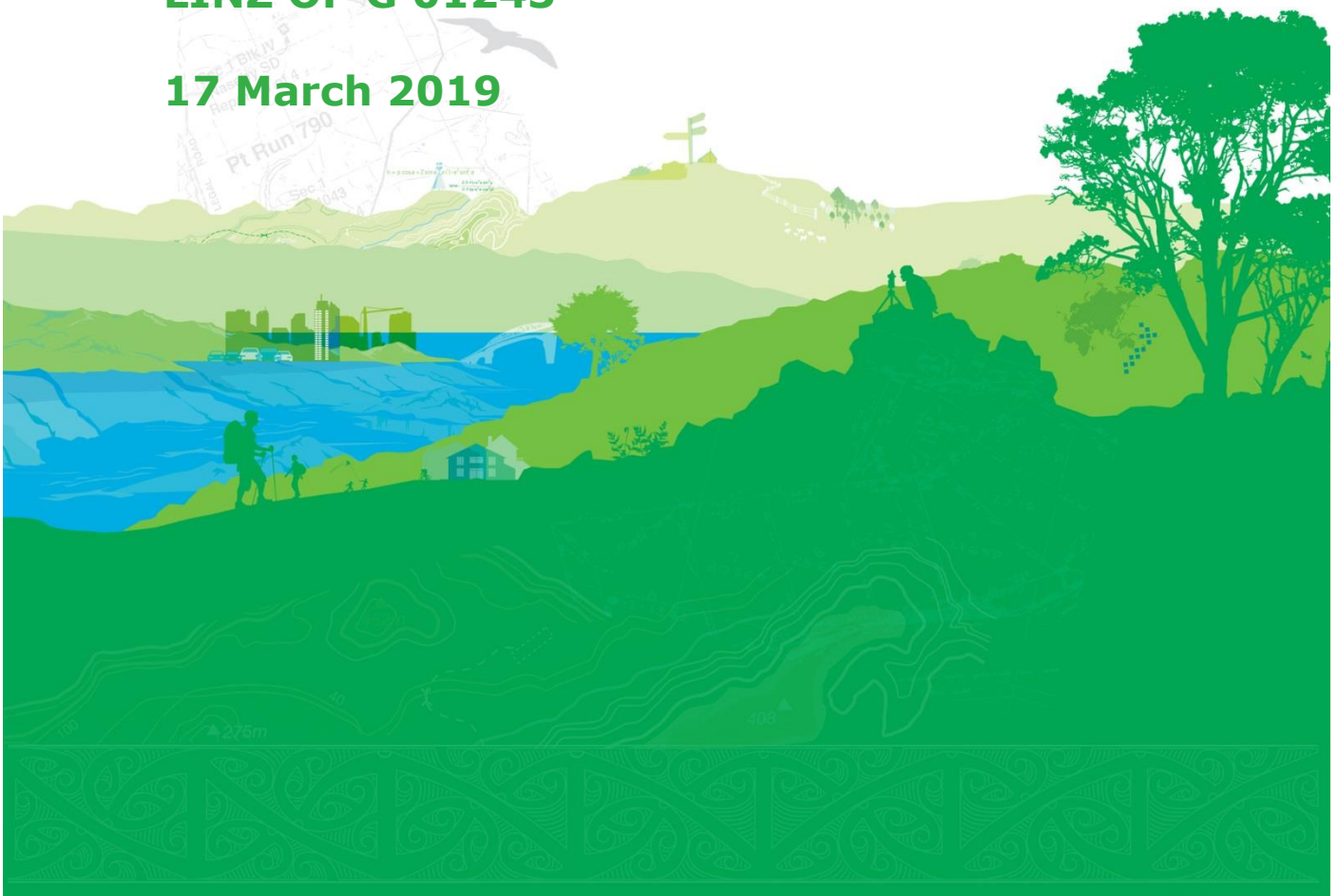


New Plymouth District Council (Waitara Lands) Act 2018 registration guideline

LINZ OP G 01243

17 March 2019



Contents

Revision History	4
1 Background	5
1.1 Introduction	5
1.2 Purpose, scope and use	5
1.3 Map of Land Affected by the Act	6
2 Landonline settings to prevent auto-registration.....	7
3 Vested Land - Initial Vesting	7
3.1 Background.....	7
3.2 Trigger	8
3.3 Action	8
3.4 Fees.....	8
3.5 Application of Enactments.....	9
4 Land adjacent to West Beach may be vested	9
4.1 Background.....	9
4.2 Trigger	9
4.3 Action	10
4.4 Fees.....	10
4.5 Application of Enactments.....	10
5 Vested Land - Ongoing restrictions.....	10
6 Vested Land - Subsequent dealings	11
6.1 Trigger - Revocation of Reserve Status.....	11
6.2 Action	11
6.3 Fees.....	11
7 Council Transfer Properties (being “Council Purchase Property” and “Council Option Property”	11
7.1 Background.....	11
7.2 Trigger	12
7.3 Action	12
7.4 Fees.....	12
8 Council Transfer Properties – Subsequent dealings	12
8.1 Trigger – Revocation of reserve status	12
8.2 Action	12
8.3 Fees.....	13
8.4 Application of Enactments.....	13
9 Crown Transfer Properties (previously Crown Purchase Properties)	13

9.1	Background.....	13
9.2	Trigger	13
9.3	Action	13
9.4	Fees.....	14
10	Crown Purchase Properties – Subsequent dealings	14
10.1	Trigger – Revocation of reserve status	14
10.2	Action	14
10.3	Fees.....	14
10.4	Application of Enactments.....	14
11	Lessees’ rights to purchase freehold of Waitara Endowment Land – Initial Noting	15
11.1	Background.....	15
11.2	Trigger	15
11.3	Action	15
11.5	Fees.....	15
12	Removal of s22 Memorial.....	15
12.1	Trigger	15
12.2	Action	15
12.3	Fees.....	15
13	Amendment to Part 1 Schedule 3.....	16
13.1	Trigger	16
13.2	Action	16
13.3	Fees.....	16
14	Removal of Notation from Certain Records of Title	16
14.1	Background.....	16
14.2	Trigger	16
14.3	Action	16
14.4	Fees.....	16
Glossary		17
Table 1: Summary of registration provisions – Vested Land.....		19
Table 2: Summary of Registration provisions – Council Transfer Properties.....		21
Table 3: Summary of registration provisions – Crown Purchase Properties.....		22
Table 4: Summary of registration provisions – Lessees’ rights to purchase freehold of Waitara Endowment Land.....		22

Revision History

Date	Version	Revision	Author	Description

1 Background

1.1 Introduction

The Act is not a treaty settlement, but some of the mechanisms are similar.

It deals with land in Waitara owned by the New Plymouth District Council (**Council**). Existing legislation imposes restrictions on the Council's ability to deal with the land. The land was originally confiscated by the Crown from various Te Atiawa hapū in 1865. Further background is set out in the preamble to the Act.

Most of the Waitara Endowment Land is leased on perpetually renewable ground leases, of which there are approximately 770. The Act changes the existing position by vesting certain land in Te Kōwhatu Tū Moana (**TKTM**), the governance entity representing the Waitara hapū, creating rights for TKTM to purchase or receive a transfer of certain land, providing lessees of endowment land with the right to purchase the fee simple estate in the land that is subject to the lease at market value, and setting out a process for dealing with income from the endowment land owned by the Council.

Further information can be found on the New Plymouth District Council website, <http://www.newplymouthnz.com/Council/Tangata-Whenua/Waitara-Lands-Bill-2018>

1.2 Purpose, scope and use

This Guideline covers the New Plymouth District Council (Waitara Lands) Act 2018 (**the Act**). It contains detailed information about the land registration implications of the Act.

A summary of the provisions that relate to the initial vesting of land in TKTM and the rights to purchase or receive a transfer are set out in **Tables 1, 2 and 3**.

A summary of the provisions that relate to lessees' rights to purchase the fee simple in **Waitara Endowment Land** is set out in **Table 4**.

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

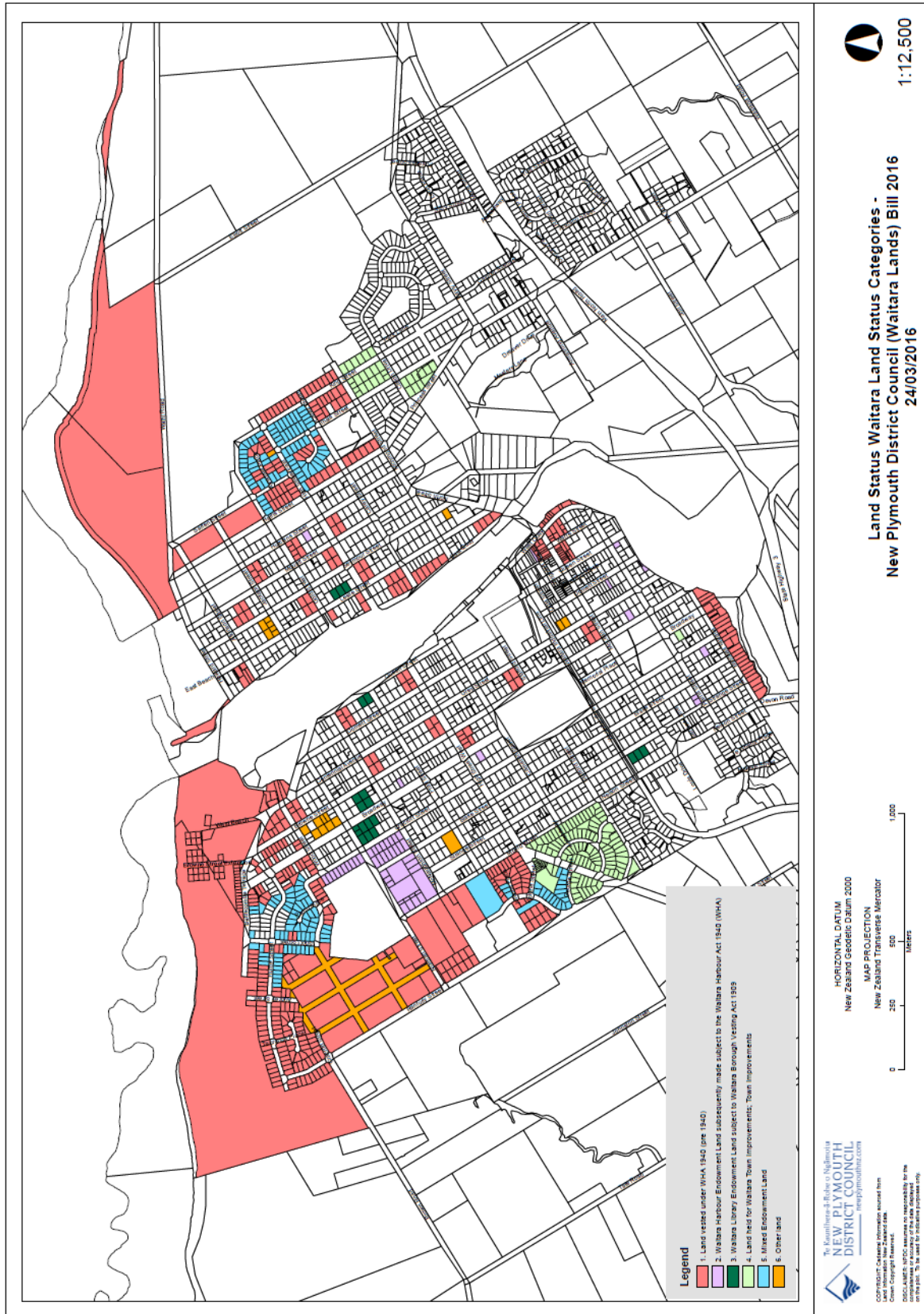
You will need to refer to the following resources:

- New Plymouth District Council (Waitara Lands) Act 2018
<http://www.legislation.govt.nz/act/local/2018/0002/63.0/DLM6961713.html>

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 2017.

1.3 Map of Land Affected by the Act

Sourced from the New Plymouth District Council website



2 Landonline settings to prevent auto-registration

Where the Act prohibits certain transactions with land, memorials of the prohibitions will be put on the record of title (**RT**) for the land as outlined in this guideline.

It is important to ensure the Landonline setting that prohibits registration is set against those memorials. This mitigates the risk of auto-registration of the prohibited transaction.

At the end of processing any application relating to the Act, you must check whether it requires a memorial of one the following restrictions:

Sections 18 (reserve treated as if vested in council unless otherwise provided, restriction on exchange) **& 19** (Prohibitions on mortgages or charges of Reserve Land, and restrictions on subsequent transfers of Reserve Land)(**see section 55**)

Section 22 (Waitara Endowment Land right of purchase by lessee) **s59**

If one of these memorials apply (see Table 1, 2 and 3), make sure the Landonline setting prohibiting registration is set.

3 Vested Land - Initial Vesting

3.1 Background

Clifton Park, East Beach River Mouth and West Beach vest in TKTM pursuant to **s8(2)**. Specific detail is set out in Table 1. The Land included in each description is listed in **Schedule 3** of the Act. Please note:

East Beach River Mouth: This land is held in one title. The RGL must, in accordance with a written application by an Authorised Person (see 3.2 below), register TKTM as the registered owner of the fee simple (**s55(2) and Schedule 3 Part 2**).

West Beach and Clifton Park: These areas are each held in several RTs. The RGL must create a RT for each of these Vested Land properties in the name of TKTM in accordance with a written application by an Authorised Person (see 3.2 below) (**s55(3) and (4) and Schedule 3 Part 2**).

Clifton Park: the reservation of any part of Clifton Park as recreation reserve is revoked at the time of initial vesting. (**s8(1)**)

Clifton Park, East Beach River Mouth and West Beach:

- at vesting will be declared recreation reserves subject to s17 of the Reserves Act 1977; and
- are to be treated for all purposes (unless specified in the Act) as if they were vested in the Council; and
- any interest must be dealt with as if the Council were the registered owner of the land, and the Council is the administering body under the Reserves Act 1977 (**s8(5) and s18**); and

-
- Must not be transferred or mortgaged **(s19) ('Prevents Registration' flag must be set against the memorial)**.

Time Limit: A RT must be created under s55 as soon as is reasonably practicable, but not later than 17 March 2020 **(s55(9))**.

Land adjacent to West Beach may also be vested (s9): see 4 below for more detail.

3.2 Trigger

Receipt of a written application from an Authorised Person **(s55(2), (3) and (4))**

Note: Section 55(10) defines Authorised Person for the purposes of s55 as:

- For Clifton Park, a person authorised by the chief executive of the Council and a person authorised by the Director-General; and
- For East Beach River Mouth and West Beach, a person authorised by the chief executive of the Council.

3.3 Action

Following receipt of a written application by an Authorised Person, the RGL must **(s55)**:

- (i) for East Beach River Mouth:
 - a. Register TKTM as the owner of the fee simple estate in the land; and
 - b. Record on the RT "*Subject to sections 18 and 19 of the New Plymouth District Council (Waitara Lands) Act 2018* **(Set the 'Prevents Registration' flag against the memorial)**; and
 - c. Record any other entry on the RT and do anything else necessary to give effect to the Act **(s55(2))**
- (ii) for Clifton Park and West Beach:
 - a. Create a RT for the fee simple (subject to completion of any necessary survey), in the name of TKTM; and
 - b. Record on the RT any interests that are registered, noted, or to be noted and that are described in the application; and
 - c. Record on the RT that the land is "*Subject to sections 18 and 19 of the New Plymouth District Council (Waitara Lands) Act 2018* **(Set the 'Prevents Registration' flag against the memorial)**; and
 - d. For Clifton Park only, record on the RT that Section 2 SO Plan 495472 (see Part 2 of Schedule 3, Vested Land – Clifton Park) is subject to Part 4A of the Conversation Act 1987 **(s55(3),(4) and (5))**.

3.4 Fees

Normal registration fees apply.

3.5 Application of Enactments

Reserves Act 1977: Sections 24 and 25 Reserves Act 1977 do not apply to the revocation of the reserve status of part of Clifton Park under s8(1) **(s8(7))**.

If the reserve status of any **Reserve Land** is revoked by the Minister of Conservation under s24 of the Reserves Act 1977, section 25(2) of the Reserves Act 1977 applies to the revocation, but not the rest of section 25 of that Act; and the land remains owned by TKTM **(s18(4))**.

No part of the **Reserve Land** may be exchanged for other land under section 15 of the Reserves Act 1977 **(s18(6))**.

Resource Management Act 1991: Section 11 and Part 10 of the Resource Management Act 1991 do not apply to:

- (a) the vesting of the Vested Land in TKTM under s8; or
- (b) the transfer of a Council transfer property under s12; or
- (c) the transfer of a Crown transfer property under s16; or
- (d) any transfer of Waitara Endowment Land to a lessee under Part 3; or
- (e) any matter incidental to, or required to give effect to, any vesting or transfer contemplated by any of paragraphs (a) to (d) above **(s53)**.

4 Land adjacent to West Beach may be vested

4.1 Background

Section 9 provides that where the Council is the owner of the fee simple estate in two allotments specified in s9(1) and there is no leasehold estate in that land then the fee simple estate in the land vests in the registered owner of West Beach subject to, or with the benefit of, all interests and any applicable resource consents that exist at the time of vesting **(s9(2))**.

At vesting, the land will be declared a reserve under the Reserves Act 1977 with the same classification as for the reserve over West Beach and forms part of the existing reserve **(s9(3) and ss18-20)**.

4.2 Trigger

Receipt of a written application by a person authorised by the chief executive of the Council in relation to:

- (a) Section 10 SO 496323: and
- (b) Section 11 SO 496323.

There are two preconditions to the vesting **(s9(1))**:

- (a) the Council is the registered owner of the fee simple estate in the land; and
- (b) there is no leasehold estate in that land.

Although there is no obligation on the RGL to monitor this, if these preconditions are not met, refer the issue to the Principal Solicitor in the Property Rights team.

4.3 Action

Following receipt of a written application by a person authorised by the chief executive of the **Council**, the RGL must **(s9(6))**:

- (a) register the person named in the application as the owner of the fee simple estate in the land **(s9(6)(a))**; and
- (b) record on the RT that the land is "*Subject to sections 18 and 19 of the New Plymouth District Council (Waitara Lands) Act 2018 (Set the 'Prevents Registration' flag against the memorial (s9(5) and ss18-20). (s9(6)(b))*); and
- (c) record any other entry on the RT and do anything else necessary to give effect to the Act **(s9(6)(c))**.

4.4 Fees

Normal registration fees apply.

4.5 Application of Enactments

Sections 18, 19, 20, 53 and 55(7) apply to the land as if the land were Vested Land vested under s8(2) and declared a reserve under section 8(5) **(s9(5))**.

This means that the Reserves Act 1977 and the Resource Management Act 1991 have the same application as if the land were Vested Land **(s9(5))** – see 3.5 above.

5 Vested Land - Ongoing restrictions

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

Section 18(1): While any Reserve Land or other reserve property remains a reserve subject to the Reserves Act 1977, the Reserve Land must be treated for all purposes (unless otherwise provided in the Act) as if it were vested in the Council under the Reserves Act 1977, and had not vested in, or transferred to, TKTM **(s18(1))**.

Section 18(6): no part of the Reserve Land may be exchanged for other land under section 15 of the Reserves Act 1977.

Section 19(1)(a): TKTM must not transfer the fee simple estate in any Reserve Land to any person (except in accordance with s19(2)).

Section 19(1)(b): TKTM must not mortgage or give a security interest in the Reserve Land.

Section 19(2): Despite subsection 19(1)(a), TKTM may transfer the fee simple estate in Reserve Land to the successor to TKTM if the instrument of transfer is accompanied by a certificate by the transferor or the transferor's solicitor verifying that the transferee is the successor to TKTM.

6 Vested Land - Subsequent dealings

6.1 Trigger - Revocation of Reserve Status

If the reservation of Clifton Park, East Beach River Mouth or West Beach under s8(5) or the land adjacent to West Beach under s9(3) is revoked, receipt of a written application by:

- (i) for Clifton Park, a person authorised by the chief executive of the Council and a person authorised by the Director-General of Conservation (**s55(7), s55(10)**);
- (ii) for East Beach River Mouth, West Beach and the land adjacent to West Beach a person authorised by the chief executive of the Council (**s55(7), s9(5)**).

6.2 Action

Following receipt of a written application by an Authorised Person, the RGL must (**s55(7), s9(5)**):

- (a) Where the reserve status is revoked for all of the land, remove from the RT the notations that the land is subject to **sections 18 and 19 (s55(7)(a))**;
- (b) Where the reserve status is revoked for part of the land, ensure that the notations remain only on the RT for the part of the land that remains a reserve. (**s55(7)(b)**).

6.3 Fees

Normal registration fees apply.

7 Council Transfer Properties (being “Council Purchase Property” and “Council Option Property”)

7.1 Background

Sections 10 – 14 provide for the future transfer of properties owned by the Council. There are two types of Council transfer properties:

- Council purchase properties (listed in Part 3 of Schedule 3)
- Council option properties (listed in Part 4 of Schedule 3)

See also definition in s4 of – “Agreed Council Option Property”

Section 10 provides that TKTM may at any time notify the Council of its intention to purchase a Council Purchase Property and the price will be based on a fair market value (except in the case of the Brown Road land, for which the transfer value is \$1, as set out in s14(1)).

Section 11 provides that TKTM may at any time notify the Council of its intention to accept a transfer of a Council Option Property at no cost.

7.2 Trigger

Lodgement of a transfer executed by the chief executive of the Council (acting for and on behalf of the Council) to transfer the fee simple estate in a Council Transfer Property to TKTM **(s12(2))**.

The transfer instrument must include a statement that any RT for the property must be noted in accordance with **s58**. A Departmental Dealing should be created against the title to enable any transfer to be checked for the s58 statement (and prevent auto-registration of a non-compliant transfer).

Where a Council Transfer Property is not all of the land contained in a RT for a fee simple estate, receipt of a written application by a person authorised by the chief executive of the Council **(s56(3))**

7.3 Action

Where a Council Transfer Property is not all of the land contained in a RT for a fee simple estate, the RGL must (subject to completion of any necessary survey):

- (a) Create a RT for the fee simple estate in the property in the name of the Council; and
- (b) Record on the RT any interests that are registered, noted, or to be noted and that are described in the application, but
- (c) Omit any statement of purpose from the RT **(s56(3))**.

For an Agreed Council Option Property, the RGL must, on registering the transfer, record on the RT that the land is "*Subject to sections 18 and 19 of the New Plymouth District Council (Waitara Lands) Act 2018* **(Set the 'Prevents Registration' flag against the memorial** (s9(5) and **ss18-20**). **(s58(3)(a))**.

7.4 Fees

Normal registration fees apply.

8 Council Transfer Properties – Subsequent dealings

8.1 Trigger – Revocation of reserve status

Receipt of a written application by the Council advising that the reservation of a Agreed Council Option property is revoked **(s58(5))**.

8.2 Action

Following receipt of a written application by the Council, the RGL must **(s58(5))**:

- Where the reserve status is revoked for all of the property, remove from the RT the notations that the land is subject to sections 18 and 19.
- Where the reserve status is revoked for part of the property, the RGL must ensure that the notations that the land is subject to sections 18 and 19 remain on the RT only for the part of the property that remains a reserve.

8.3 Fees

Normal registration fees apply.

8.4 Application of Enactments

Local Government Act 1974: The permission of the Council under s348 of the Local Government Act 1974 is not required for the laying out, forming, granting or reserving a private road, private way, or right of way in relation to the Brown Road Land while that land is owned by TKTM (**s14(4)**).

Reserves Act 1977: If the reserve status of any Reserve Land is revoked, section 25(2) of the Reserves Act 1977 applies to the revocation, but not the rest of section 25 of that Act; and the land remains owned by TKTM (**s18(4)**).

No part of the Reserve Land may be exchanged for other land under section 15 of the Reserves Act 1977 (**s18(6)**).

9 Crown Transfer Properties (previously Crown Purchase Properties)

9.1 Background

A “Crown Transfer Property” is a Crown Purchase property for which the transfer requirements under a Crown agreement have been met (s4). Registration provisions in the Act relate to Crown Transfer Properties (eg ss56-58).

Sections 15 - 17 provide for the future transfer of properties owned by the Crown.

Section 15 provides that TKTM may at any time notify the Director-General of Conservation of its interest in purchasing a Crown purchase property for a fair market valuation.

9.2 Trigger

Lodgement of a transfer executed by the Director-General of Conservation (acting for and on behalf of the Crown) to transfer the fee simple estate in a Crown transfer property to TKTM (**s16(2)**).

The transfer instrument must include a statement that any RT for the property must be noted in accordance with **s58**. A Departmental Dealing should be created against the title to enable any transfer to be checked for the s58 statement (and prevent auto-registration of a non-compliant transfer).

Where a Crown transfer property is not all of the land contained in a RT for a fee simple estate, receipt of a written application by a person authorised by the Director-General (**s57(3)**).

9.3 Action

Where a Crown transfer property is not all of the land contained in a RT for a fee simple estate, the RGL must (subject to completion of any necessary survey):

- (a) Create a RT for the fee simple estate in the property in the name of the Crown; and

-
- (b) Record on the RT any interests that are registered, noted, or to be noted and that are described in the application, but
 - (c) Omit any statement of purpose from the RT **(s57(3))**.

For a Crown transfer property, the RGL must, on registering the transfer, record on the RT:

- that the land is *Subject to sections 18, 19 and 54(5) of the New Plymouth District Council (Waitara Lands) Act 2018 (Set the 'Prevents Registration' flag against the memorial (s9(5) and ss18-20)*.
- that the land is *subject to Part 4A of the Conservation Act 1987, but that section 24 of that Act does not apply (s58(3)(b))*.

9.4 Fees

Normal registration fees apply.

10 Crown Purchase Properties – Subsequent dealings

10.1 Trigger – Revocation of reserve status

Receipt of a written application by the Council advising that the reservation of a Crown purchase property is revoked **(s58(6))**.

10.2 Action

Following receipt of a written application by the Director-General of Conservation, the RGL must **(s58(6))**:

Where the reserve status is revoked for all of the property, remove from the RT the notations that:

- the land is subject to sections 18, 19 and 54(5).
- Section 24 of the Conservation Act 1987 does not apply to the land.

Where the reserve status is revoked for part of the property, the RGL must ensure that the notations that the land is subject to sections 18, 19 and 54(5) remain in the RT only for the part of the property that remains a reserve.

10.3 Fees

Normal registration fees apply.

10.4 Application of Enactments

Reserves Act 1977: If the reserve status of any reserve land is revoked, section 25(2) of the Reserves Act 1977 applies to the revocation, but not the rest of section 25 of that Act; and the land remains owned by TKTM **(s18(4))**.

No part of the reserve land may be exchanged for other land under section 15 of the Reserves Act 1977 **(s 18(6))**.

11 Lessees' rights to purchase freehold of Waitara Endowment Land – Initial Noting

11.1 Background

Section 22(2): provides that a lessee of any **Waitara Endowment Land** (defined in s4) has the right to purchase the fee simple estate in the land that is subject to the lease.

11.2 Trigger

Receipt of a notice from the chief executive of the Council of the land that is subject to a right to purchase by the lessee under s22 (**s59(1)**).

11.3 Action

As soon as reasonably practicable after receiving a s59 notice, the RGL must record the following memorial on each RT referred to in the s59 notice:

"[notice identifier] Notice under section 59 of the New Plymouth District Council (Waitara Lands) Act 2018 that the within land is subject to section 22 of the Act (which provides that a lessee of any Waitara Endowment Land has the right to purchase the fee simple estate in the land that is subject to the lease.)" **Set the 'Prevents Registration' flag against the memorial (s59(3))**

11.5 Fees

Normal registration fees apply.

12 Removal of s22 Memorial

12.1 Trigger

Lodgement of a transfer to a lessee of the fee simple estate in land that is subject to s22, which must include a statement that the fee simple estate in the land is no longer subject to **s22 (59(5))**.

12.2 Action

Upon registration of a transfer to a lessee of the fee simple estate in land subject to s22, the RGL must remove from any RT for the land the notation that the land is subject to **s22 (s59(6))**.

12.3 Fees

Normal registration fees apply.

13 Amendment to Part 1 Schedule 3

13.1 Trigger

Receipt of a notice from the chief executive of the Council that an amendment to Part 1 of Schedule 3 has been made under s63(2) that results in land becoming, or ceasing to be, subject to s22. The notice must:

- include the matters referred to in s59(2)(a) and (b)
- specify whether the land is, or ceases to be, subject to section 22, as the case requires, and
- include a statement that the notice is issued under s59(7).

13.2 Action

The RGL must, as the case requires, either record on each RT referred to in the notice that the land is subject to s22, or remove from each RT referred to in the notice the notation that the land is subject to s22 (**s59(9)**).

13.3 Fees

Normal registration fees apply.

14 Removal of Notation from Certain Records of Title

14.1 Background

Waitara Borough Reserves Vesting Act 1909 and Waitara Harbour Act 1940: the Waitara Endowment Land is free of any trusts or restrictions imposed by these Acts. See below for related registration actions (**s7(1)**).

14.2 Trigger

Receipt of an application under s60 from the chief executive of the Council to remove from the RT for any land described in Schedule 3 or any land subsequently included in Part 1 of Schedule 3 by an amendment under s63(2):

- any notation that the land is subject to the Waitara Harbour Act 1940 or the Waitara Borough Reserves Vesting Act 1909 or any particular section of either of those Acts (**s60(1)(a)**); and
- any statement of purpose relating to an endowment to which section 7 applies (the land described in subparts 1 to 4 of Part 1 of Schedule 3 of the Act) (**s60(1)(b)**).

14.3 Action

The RGL must comply with an application received under s60(1) (**s60(3)**).

14.4 Fees

Normal registration fees apply.

Glossary

Use of this Glossary – For terms that are not defined in this guideline, refer to the Act. The Act's "interpretation" section is referenced below.

Defined terms – in interpretation section 4.

Brown Road Land means the land described by that name in Part 3 of Schedule 3

Clifton Park means that part of the Vested Land described by that name in Part 2 of Schedule 3

Council means the New Plymouth District Council

Council option property means a Council-owned property, described in Part 4 of Schedule 3, in relation to which Te Kōwhatu Tū Moana has a future option under section 11 to accept transfer

Council purchase property means a Council-owned property, described in Part 3 of Schedule 3, that Te Kōwhatu Tū Moana has a right to purchase under section 10

Council transfer property means—

(a) an agreed Council purchase property; or

(b) an agreed Council option property

Crown purchase property means a property described in Part 5 of Schedule 3

Crown transfer property means a Crown purchase property for which the transfer requirements under a Crown agreement have been met

Director-General has the same meaning as in section 2(1) of the Conservation Act 1987

East Beach River Mouth means that part of the Vested Land described by that name in Part 2 of Schedule 3

Portfolio Land means the land described in subpart 5 of Part 1 of Schedule 3

Reserve Land means any Vested Land or any other reserve property (a Council Option Property that is transferred under s12 or a Crown Transfer Property that is transferred under s16)

Te Kōwhatu Tū Moana (TKTM) means the incorporated charitable trust board of that name created by trust deed on 10 December 2018 by the Manukorihi Hapū Charitable Trust and incorporated under the Charitable Trusts Act 1957, number 2723472; and includes an incorporated trust or other incorporated body that is the successor to Te Kōwhatu Tū Moana

Vested Land means the land described in Part 2 of Schedule 3 and comprises **Clifton Park, East Beach River Mouth, West Beach**

Waitara Endowment Land means:

- (a) subject to paragraph (b), the land described in subparts 1 to 4 of Part 1 of Schedule 3:
- (b) in Part 3, subpart 2 of Part 4 and section 53, the land described in paragraph (a) and the Portfolio Land.

West Beach means that part of the Vested Land described by this name in Part 2 of Schedule 3.

Table 1: Summary of registration provisions – Vested Land

Trigger: an application to vest 55(2) if existing RT, or 55(4) if no existing RT	Type of Property:	Authorised Person:	Conditions	Existing Interests	Status changes, Estate that vests, owner, and statutory restrictions	Application of other Statutory Provisions - initial vesting
<p>Clifton Park s8 (and see Schedule 3 Part 2 for legal description)</p>	<p>Vested Land - Reserve Property</p>	<p>A person authorised by the chief executive of the Council and a person authorised by the Director-General of Conservation s55(10)</p>	<p>Any improvements in or on the Vested Land do not vest in TKTM s8(6) A RT must be created under s55 as soon as is reasonably practicable, but not later than 17 March 2020. (s55(9))</p>	<p>Fee simple vests subject to or with the benefit of all existing interests and any applicable resource consents. s8(3)</p>	<p>Chief Executive of Council must apply to the RGL to remove reference to the Waitara Harbour Act 1940 and the Waitara Borough Reserves Vesting Act 1909 from affected RTs. s60(1)(a)¹ Reservation of any part of Clifton Park as a recreation reserve subject to the Reserves Act 1977 is revoked. s8(1) Fee Simple vests in TKTM. s8(2) Declared reserve, classified recreation reserve subject to section 17 of the Reserves Act 1977. s8(5) Memorial: Subject to s18 and s19 of the New Plymouth District Council (Waitara Lands) Act 2018. s55(5)(a) Ensure the “prevents registration” flag is set against this memorial Memorial: Section 2 SO Plan 495472 is subject to Part 4A of the Conservation Act 1987. s55(5)(a) Ensure the “prevents registration” flag is set against this memorial</p>	<p>Sections 24 and 25 of the Reserves Act 1977 do not apply to the revocation of reserve status of part of the Clifton Park Vested Land s8(7) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to the vesting of the Vested Land in TKTM under section 8. s53 For the vesting of the fee simple estate in Section 2 SO Plan 495472 only: <u>Conservation Act 1987</u> Subject to Part 4A of the Conservation Act 1987 but section 24 of that Act does not apply s54(3) & (4) If the reservation under this Act is revoked for all or part prior to vesting, the vesting is no longer exempt from s24 (except subsection (2A)). Suitable memorial: Subject to Part 4A of the Conservation Act 1987. <u>Crown Minerals Act 1991</u> Subject to section 11 of the Crown Minerals Act 1991. s54(2)</p>

¹ Note that s60(1)(b), which provides for removal of any statement of purpose relating to an endowment to which s7 applies, only affects the Waitara Endowment Land as defined in s4.

Trigger: an application to vest 55(2) if existing RT, or 55(4) if no existing RT	Type of Property:	Authorised Person:	Conditions	Existing Interests	Status changes, Estate that vests, owner, and statutory restrictions	Application of other Statutory Provisions - initial vesting
East Beach River Mouth s8 (and see Schedule 3 Part 2 for legal description)	Vested Land - Reserve Property	A person authorised by the chief executive of the Council. s55(10)	Any improvements in or on the Vested Land do not vest in TKTM. s8(6)	Fee simple vests subject to or with the benefit of all existing interests and any applicable resource consents. s8(3)	Chief Executive of Council must apply to the RGL to remove reference to the Waitara Harbour Act 1940 and the Waitara Borough Reserves Vesting Act 1909 from affected RTs s60(1)(a) ² Fee Simple vests in TKTM. s8(2) Declared reserve, classified recreation reserve subject to section 17 of the Reserves Act 1977. s8(5) Memorial: Subject to s18 and s19 of the New Plymouth District Council (Waitara Lands) Act 2018. s55(2)(b) Ensure the “prevents registration” flag is set against this memorial	Section 11 and Part 10 of the Resource Management Act 1991 do not apply to the vesting of the Vested Land in TKTM under section 8. s53
West Beach s8 (and see Schedule 3 Part 2 for legal description) & Land adjacent to West Beach defined in s9(1) (if included either at initial vesting or subsequently). s9	Vested Land - Reserve Property Land which may become Vested Land.	A person authorised by the chief executive of the Council s55(10) A person authorised by the chief executive of the Council. s9(6)	Any improvements in or on the Vested Land do not vest in TKTM s8(6) A RT must be created under s55 as soon as is reasonably practicable, but not later than 17 March 2020. (s55(9)) Applies to the Land if at any time the Council is the registered owner of the fee simple estate and there is no leasehold estate. s9(1)	Fee simple vests subject to or with the benefit of all existing interests and any applicable resource consents. s8(3); 9(2)	Chief Executive of Council must apply to the RGL to remove reference to the Waitara Harbour Act 1940 and the Waitara Borough Reserves Vesting Act 1909 from affected RTs. s60 Fee Simple vests in TKTM. s8(2); s9(2) Declared reserve, classified recreation reserve subject to section 17 of the Reserves Act 1977. s8(5); s9(3) Memorial: Subject to s18 and s19 of the New Plymouth District Council (Waitara Lands) Act 2018. s55(5)(b); s9(6) Ensure the “prevents registration” flag is set against this memorial	Section 11 and Part 10 of the Resource Management Act 1991 do not apply to the vesting of the Vested Land in TKTM under s8 or s9. s53; s9(5)

² Note that s60(1)(b), which provides for removal of any statement of purpose relating to an endowment to which s7 applies, only affects the Waitara Endowment Land as defined in s4.

Table 2: Summary of Registration provisions – Council Transfer Properties

<p>Council Transfer Properties (see Schedule 3 parts 3 and 4)</p> <p>(see below for Brown Road Land)</p>	<p>Council Transfer Property</p>	<p>Where a property is not all of the land contained in a RT for a fee simple estate, a person authorised by the chief executive of the Council s56(3)</p>	<p>The transfer instrument must include a statement that any RT for the property must be noted in accordance with s58. A Departmental Dealing should be created against the title to enable any transfer to be checked for the s58 statement (and prevent auto-registration of a non-compliant transfer).</p>	<p>A transfer of a Crown Transfer Property is subject to all interests (registered and unregistered) in the property that exist at the time of the transfer. s12(3)</p>	<p>Chief Executive of Council must apply to the RGL to remove reference to the Waitara Harbour Act 1940 and the Waitara Borough Reserves Vesting Act 1909 from affected RTs. s60(1)(a)³</p> <p>For Manukorihi Park, Manukorihi Reserve, Ranfurly Park Property A and Tangaroa Reserve, reservation of a reserve subject to the Reserves Act 1977 is revoked immediately before the transfer takes effect. s13(2)</p> <p>Immediately after the transfer takes effect, the property is declared a reserve and classified as follows:</p> <ul style="list-style-type: none"> • Memorial Park: as a local purpose (community buildings and uses) reserve under s23 of the Reserves Act 1977 • Tangaroa Reserve: as a local purpose (esplanade) reserve under s23 • Other properties: as a recreation reserve under s17 Reserves Act 1977. <p>s13(3)</p> <p>Memorial (for an agreed Council option property): Subject to s18 and s19 of the New Plymouth District Council (Waitara Lands) Act 2018. s58(3)(a)</p> <p>Ensure the “prevents registration” flag is set against this memorial</p>	<p>Section 11 and Part 10 of the Resource Management Act 1991 do not apply to the transfer of a Council Transfer Property. s53</p>
--	----------------------------------	---	--	--	--	---

³ Note that s60(1)(b), which provides for removal of any statement of purpose relating to an endowment to which s7 applies, only affects the Waitara Endowment Land as defined in s4.

<p>Brown Road s14 (and see Schedule 3 Part 3 for legal description)</p>	<p>Council Transfer Property</p>		<p>The Council may within 12 months of transfer request that the registered owner of the Brown Road Land grant: (a) a registrable easement in gross for a right to drain water shown as CE and CF on SO Plan 496323; (b) a registrable right of way easement in gross shown as CG on SO Plan 496323. s14(2)</p> <p>The registered owner must grant an easement referred to in s14(2). s14(3)</p> <p>The transfer instrument must include a statement that any RT for the property must be noted in accordance with s58. A Departmental Dealing should be created against the title to enable any transfer to be checked for the s58 statement (and prevent auto-registration of a non-compliant transfer).</p>	<p>A transfer of a Crown Transfer Property is subject to all interests (registered and unregistered) in the property that exist at the time of the transfer. s12(3)</p>	<p>Chief Executive of Council must apply to the RGL to remove reference to the Waitara Harbour Act 1940 and the Waitara Borough Reserves Vesting Act 1909 from affected RTs. s60(1)(a)⁴</p> <p>Reservation as a reserve subject to the Reserves Act 1977 is revoked immediately before the transfer of the land takes effect. s17(1)</p> <p>Immediately after transfer takes effect the property is declared a reserve and classified as a recreation reserve under s17 of the Reserves Act 1977. s17(2)</p>	<p>The permission of the Council under section 348 of the Local Government Act 1974 is not required for laying out, forming, granting, or reserving a private road, private way, or right of way in relation to the Brown Road Land while that land is owned by TKTM. s14(4)</p> <p>Section 11 and Part 10 of the Resource Management Act 1991 do not apply to the transfer of a Council Transfer Property. s53</p>
--	----------------------------------	--	---	--	--	---

Table 3: Summary of registration provisions – Crown Purchase Properties

Trigger:	Type of Property	Authorised Person	Conditions	Existing Interests	Status changes, Estate that vests, owner, and statutory restrictions	Application of other Statutory Provisions – initial vesting
<p>Crown Purchase Properties (see Schedule 3 part 5)</p>	<p>Crown Purchase Property</p>	<p>Where a property is not all of the land contained in a RT for a fee simple estate, a person authorised by the Director-General of Conservation s57(3)</p>	<p>A transfer of a Crown Purchase Property does not include any improvements that exist on the land at the time of transfer and any such improvements remain the property of their respective owner. s16(4)</p> <p>The transfer instrument must include a statement that any RT for the property must be noted in accordance with s58. A Departmental Dealing should be created against the title to enable any transfer to be checked for the s58 statement (and prevent auto-registration of a non-compliant transfer).</p>	<p>A transfer of a Crown Purchase Property is subject to all interests (registered and unregistered) in the property that exist at the time of transfer. s16(3)</p>	<p>Chief Executive of Council must apply to the RGL to remove reference to the Waitara Harbour Board Vesting Act 1940 and the Waitara Borough Reserves Vesting Act 1909 from affected RTs. s60(1)(a)⁵</p> <p>Memorials: Subject to s18, s19 and s54(5) of the New Plymouth District Council (Waitara Lands) Act 2018.</p> <p>Subject to Part 4A of the Conservation Act 1987, but section 24 of that Act does not apply s58(3)(b)</p> <p>Ensure the “prevents registration” flag is set against these memorials</p>	<p>Section 11 and Part 10 of the Resource Management Act 1991 do not apply to the transfer of a Crown Transfer Property s53</p> <p><u>Conservation Act 1987</u></p> <p>Subject to Part 4A of the Conservation Act 1987 but section 24 of that Act does not apply. s54(3) & (4)</p> <p>If the reservation under this Act is revoked for all or part prior to vesting, the vesting is no longer exempt from s24 (except subsection (2A)). Suitable memorial: Subject to Part 4A of the Conservation Act 1987.</p> <p><u>Crown Minerals Act 1991</u></p> <p>Subject to section 11 of the Crown Minerals Act 1991 s54(2)</p>

⁴ Note that s60(1)(b), which provides for removal of any statement of purpose relating to an endowment to which s7 applies, only affects the Waitara Endowment Land as defined in s4.

Table 4: Summary of registration provisions – Lessees’ rights to purchase freehold of Waitara Endowment Land

Trigger for noting right to purchase:	Property	Status changes, Estate that vests, owner, and statutory restrictions	Memorial for noting right to purchase
<p>Chief Executive of Council gives notice of any land that is subject to a right to purchase by a lessee under s22 s59(1)</p> <p>RGL must, as soon as reasonably practicable after receiving notice, record on each RT that the land is subject to s22. s59(3)</p> <p>OR</p> <p>Chief Executive of Council gives notice that land has become subject to s22 by addition to Part 1 of Schedule 3. s59(7)</p> <p>RGL must record on each RT that the land is subject to s22. s59(9)(a)</p>	<p>Any Waitara Endowment Land subject to a lease</p>	<p>Sections 140 and 141 of the Local Government Act 2002 do not apply to the Waitara Endowment Land. s7(4)</p> <p>Sections 40 to 42 of the Public Works Act 1981 do not apply in relation to the vesting or transfer of any Waitara Endowment Land under section 8, 9 or 12 or Part 3 of the Act. s7(5)</p> <p>Chief Executive of Council must apply to the RGL to remove:</p> <ul style="list-style-type: none"> reference to the Waitara Harbour Act 1940 and the Waitara Borough Reserves Vesting Act 1909 from affected RTs any statement of purpose relating to an endowment to which s7 applies. <p>s60</p> <p>Section 11 and Part 10 of the Resource Management Act 1991 do not apply to: any transfer of Waitara Endowment Land to a lessee under Part 3. s53</p>	<p><i>"[Notice identifier] Notice under section 59 of the New Plymouth District Council (Waitara Lands) Act 2018 that the within land is subject to section 22 of the Act (which provides that a lessee of any Waitara Endowment Land has the right to purchase the fee simple estate in the land that is subject to the lease.)"</i></p> <p>Ensure the “prevents registration” flag is set against these memorials</p> <p>Note: s26(9) provides that the right to purchase under s22 continues to apply to the land and survives any sale of the fee simple interest by the Council or any other person to any person other than the lessee of that land, so the memorial must remain on the title following any transfer to another person.</p>
<p>Trigger for removal of right to purchase memorial:</p> <p>The transfer instrument for a transfer of the fee simple to a lessee must include a statement that the fee simple estate is no longer subject to s22. s59(5)</p> <p>RGL must, upon registration of the transfer, remove from the RT the notation that the land is subject to s22. s59(6)</p> <p>OR</p> <p>Chief Executive of Council gives notice that land has ceased to be subject to s22 by removal from Part 1 of Schedule 3. s59(7)</p> <p>RGL must remove from the RT the notation that the land is subject to s22. s59(9)(b)</p>			

⁵ Note that s60(1)(b), which provides for removal of any statement of purpose relating to an endowment to which s7 applies, only affects the Waitara Endowment Land as defined in s4.