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Recording Memorials on the Register Standard 2018

This Standard is made under section 236 of the Land Transfer Act 2017 by the Registrar-General of Land

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Schedule 1
Tables of Memorials

Recording Memorials on the Register Standard 2018

1 Title

This is the Recording Memorials on the Register Standard 2018.

2 Commencement

This Standard comes into force on 12 November 2018.

3 Purpose

To ensure that LINZ Staff registering or noting instruments in accordance with section 22 of the Act, under delegated authority from the RGL, enter information in a manner that:

- (a) ensures instruments are completely and accurately noted or registered and maintained in the Register;
- (b) accurately carries forward or omits noted or registered instruments to new records of title;
- (c) is in correct priority order in accordance with sections 35 and 36 of the Act; and
- (d) is clear, unambiguous and easy to interpret.

4 Interpretation

In this Standard, the definitions in the Act and Regulations apply, and unless the context otherwise requires,—

Act means Land Transfer Act 2017

Composite Record of Title means a Record of Title described in section 12(3) of the Act

Instrument means a document in paper or electronic form, and includes a caveat document

Electronic instrument means an instrument in electronic form

LINZ means Land Information New Zealand

LINZ staff means employees of the Chief Executive of LINZ with appropriate delegation from the RGL

Lodged means—

- (a) in relation to paper instruments the process set out in sections 34 - 39 of the Act, and

- (b) in relation to electronic instruments submitting a document or information for registration from an electronic workspace facility in accordance with section 32 of the Act

memorial means information recorded in the Register of any registered or noted instrument of the type referred to in sections 11(1)(f) or 11(2) of the Act, which must, under subsection 12(2) of the Act, form part of any Record of Title that comprises the land to which it relates

Register means the register of land subject to the Act that is kept by the Registrar General of Land

Regulations means Land Transfer Regulations 2018

RGL means Registrar-General of Land

Recording Instruments on Records of Title

Contents of Memorials

5 Obligation - Recording Instruments (electronic and paper)

To ensure compliance with the recording requirements in section 11 and subsection 12(2) of the Act, LINZ staff must record the matters set out in subsections 12(2)(f) and (g) of the Act in each memorial.

6 Noting the date and time

- (1) Subject to clause 10, the Registrar must include the information in subsection 12(2)(g) of the Act in every memorial.
- (2) For the purposes of subsection 12(2)(g)(iii) of the Act, the date and time of registration or notation is the date and time an instrument is lodged which is:
 - (a) when it is submitted for registration from an electronic workspace facility, if it is an electronic instrument; or
 - (b) determined in accordance with sections 34, 35 and 36 of the Act, if it is a paper instrument.
- (3) If an instrument has been lodged but cannot be registered or noted until after an event has occurred (for example an advertising period), the date and time it was lodged and the date and time it was registered or noted must both be recorded in the memorial.

7 Instrument containing information about more than one matter

When an instrument contains information about more than one matter affecting an estate or interest, each matter must be entered as a separate memorial.

8 Instrument created under a statute other than the Land Transfer Act 2017

When an instrument is created under the authority of an enactment other than the Act, the memorial for the instrument must record the statutory authority.

9 Memorials affecting part of the land described in a Record of Title

When an instrument affects part of the land in a Record of Title, the memorial must describe the part affected and

- (a) if that part affected is defined on a deposited plan or on a LINZ record, the memorial must make reference to the deposited plan or LINZ record; and
- (b) if the instrument affects a composite Record of Title, the memorial must describe which estate, as described in subsection 12(1) of the Act, is affected.

10 Stops or restrictions on registration

Any memorial which operates as a stop or restriction on registration must:

- (a) be entered in a style that it will clearly stand out against other information in a Record of Title in which it is comprised; and
- (b) be set up in the system so it operates to prevent registration unless the stop or restriction is complied with or removed.

Exceptions

11 Exceptions to content of memorials

A memorial relating to—

- (a) a restriction arising from a statute (rather than a restriction arising from an instrument), need not include the date and time it was lodged, registered or noted nor the person taking the benefit under the statute;
- (b) an easement or land covenant (other than one that is in gross), need not include the name of the person receiving the benefit of the easement or covenant;
- (c) a leasehold estate for which a Record of Title has been created, need not include the name of the lessee in the memorial of that lease on the Record of Title for the fee simple estate.

Bringing forward memorials on new Records of Title

12 Bringing forward memorials

In order to comply with the requirements of what a Record of Title must comprise in subsections 12(2)(g) and 12(2)(i) of the Act, any memorial affecting the land must be brought forward, including any restrictions arising from any statute.

13 Order of bringing forward memorials on a new Record of Title

Memorials must be carried forward in priority order in accordance with sections 35 and 36 of the Act.

14 Date and time not shown for each memorial

When the date and time are not shown and there are several memorials to be carried forward on a new Record of Title, they must be noted in the following order —

- (a) restrictions and reservations arising from a statutory authority, then
- (b) building line restrictions, then

- (c) fencing and land covenants, then
- (d) appurtenant easements, then
- (e) servient easements, then
- (f) any other memorials.

15 Memorials which must be carried forward or omitted

- (1) Parts 1-3 of Schedule 1 must be used when making a decision whether to carry forward a memorial to a new Record of Title.
- (2) When a memorial is not listed in the tables and there is doubt as to its status, it must be carried forward to the new title.
- (3) When carrying forward a memorial it must be recorded in the words that appear on the Record of Title from which the new Record of Title derives, except for necessary updates to survey and Record of Title references (for example, to describe existing easements on a new plan supporting the new Record of Title).

Example of necessary update to Survey and Record of Title References

Need to update the Plan and Record of Title references in an easement memorial where a new Record of Title is being issued with a new description on a new Deposited Plan.

Example of necessary update to mortgage memorial

Need to update mortgage memorial if a transfer of it was recorded on the Record of Title from which the new Record of title derives:

Memorials:

"mortgage 12345 to ABC"

"transfer of mortgage 12345 to XYZ"

New memorial bringing forward mortgage:

"mortgage 12345 to (now) XYZ"

Retaining memorials that are no longer current

16 Where to retain memorials that are no longer current

In order to comply with the RGL's obligation in section 20 of the Act to retain information that is no longer current, details of interests that expire or are discharged or revoked or otherwise come to an end may be omitted from the current view of the Record of Title but must be retained in the register as an historic view.

Schedule 1 Tables of Memorials

Part 1 Memorials which must be carried forward

Act	Section or part	Memorial
Coal Mines Act 1925	S 168A	Statutory mining restrictions
Coal Mines Act 1979	Ss 5 & 261	Statutory mining restrictions
Coal Mines Amendment Act 1950	S 8	Statutory mining restrictions
Conservation Act 1987	Part IVA	Notation indicating the possible reservation of a marginal strip
Counties Act 1956	S 402C(4)	Notations relating to subdivisions
Counties Amendment Act 1961	Ss 36(4), 37(1)(a), 37(1)(c)	Notations relating to subdivisions
Crown Minerals Act 1991	Ss 11 & 86	Reservation of minerals Example of a general reservation: “Saving and excepting all minerals within the meaning of the Land Act 1924 on or under the land and reserving always to Her Majesty the Queen and all persons lawfully entitled to work the said minerals a right of ingress egress and regress over the said land” Example of a specific reservation: “If the above-mentioned land shall at any time be found to contain coal, the owner thereof for the time being shall pay to his Majesty the King or his successors, in respect of all coal raised or gotten out of the said land, a royalty of sixpence for every full ton of twenty hundredweight so raised or gotten. If the above-mentioned land shall at any time be found to contain gold or silver such land shall be subject in all respects to the provisions of the Mining Act 1908, but the value of the gold or silver shall not be taken into account in ascertaining or allowing compensation to the owner for the time being of the same.”
Land Act 1908	S 190	Memorials and notations
Land Act 1924	Ss 206, 230, 280, 315	Statutory mining restrictions; memorials and notations
Land Act 1948	S 59	Statutory mining restrictions; memorials and notations
Land Act Amendment Act 1887	S 17	Statutory mining restrictions; memorials and notations
Land Laws Amendment Act 1913	S 29	Statutory mining restrictions; memorials and notations
Land Laws Amendment Act 1926	S 15(2)	Statutory mining restrictions
Local Government Act 1974	Ss 308(4), 309(1)(a) & (c)	Notations relating to subdivisions
Mining Act 1971	S 8	Statutory mining restrictions
Municipal Corporations Act	Ss 188,	Notations relating to subdivisions

1954	351D(3),(4) and (5), 351E(1)(a) and (c), 351(E)(a), 387B(4)	
Resource Management Act 1991	Ss 241, 242, 243(a) & (c)	Notations relating to subdivisions
Public Works Act 1928	Ss 125, 128	Notations relating to subdivisions
Reserves and Domains Act 1953	-	Notations indicating reserve status
Reserves Act 1977	-	Notations indicating reserve status
State-Owned Enterprises Act 1986	S 27B	Restrictions

Part 2

Memorials which must be omitted from current view

Act	Section or part	Memorial
Crown Grants Act 1908	Ss 36 & 36A	Statutory authority to make reservation of road; Statutory authority to make reservation of railway
Discharged Soldiers Settlement Act 1915	S 11	Restrictions
Finance Act 1950	S 25	Memorials and notations
Housing Act 1919		Restrictions
Land Act 1877	S 160	Memorials and notations
Land Act 1908	Ss 13, 16, 17, Part XIII	Memorials and notations
Land Act 1924	S 13, 14, 16, 17, 385, 386, Part XIII,	Memorials and notations, restrictions relating to subdivisions
Land for Settlements Act 1925	Ss 50, 85	Memorials and notations
Land for Settlements Act 1948	S 82(10)	Memorials and notations
Land Laws Amendment Act 1907	S 4, Part IV	Memorials and notations
Land Laws Amendment Act 1912	S 60	Memorials and notations
Land Laws Amendment Act 1915	S 14	Memorials and notations
Land Laws Amendment Act 1944	Ss 16(6), 29	Memorials and notations
Land Settlement Finance Act 1909	S 25	Memorials and notations
Land Settlement Finance Amendment Act 1910	S 8	Memorials and notations
Land Settlement Finance Amendment Act 1913	S 8	Memorials and notations
Land Subdivision in Counties Act 1946	S 22	Restrictions relating to subdivisions
Land Transfer Act 1952	S 18	Statutory authority to make reservation record in warrants
Maori Housing Amendment Act 1938	S 12	Reservations and restrictions affecting Maori Land
Maori Land Act 1931	-	Reservations and restrictions affecting

		Maori Land
Maori Land Amendment Act 1913	Ss 74, 75, 76	Reservations and restrictions affecting Maori Land
Maori Land Amendment Act 1931	S 248	Reservations and restrictions affecting Maori Land
Maori Land Amendment Act 1936	S 24, Part I	Reservations and restrictions affecting Maori Land
Native Land Act 1909	Part XVI	Reservations and restrictions affecting Maori Land
Native Land Amendment Act 1913	S 92	Reservations and restrictions affecting Maori Land
Native Land Amendment Act and Native Land Claims Adjustment Act 1927	S 18	Reservations and restrictions affecting Maori Land
Native Land Settlement Act 1907	Part II	Reservations and restrictions affecting Maori Land
State Advances Corporation Act 1936	S 22	Restrictions
Workers Dwelling Act 1910	-	Restrictions

Part 3

Memorials which must be omitted from current view - no legislation reference

The words "The within land is Maori reserve administered by the Maori trustee."
The words "The above land is inalienable by sale or lease..."
The words "Minimum frontage 40 feet"
Any transfer memorial which is not: the last recorded transfer memorial, or a transfer showing current registered proprietorship, or a transfer granting a current easement, or a transfer granting a land covenant, or a transfer of any current interest.
A transfer which is: a transfer and merger of a lease, or a transfer and merger of an easement, or a transfer in exercise of power of sale, or a transfer and surrender of easement.
A lease which has expired.
A fencing covenant which is over 12 years old.
A limitation as to title which is over 12 years old.
Any notice of marriage when the name of the registered proprietor is not the current registered proprietor.
Any change of name when the name of the registered proprietor is not the current registered proprietor.
Any correction of name when the name of the registered proprietor is not the current registered proprietor.
Any transmission when the name of the registered proprietor is not the current registered proprietor.
Any memorandum of priority when only one encumbrance mentioned in the memorial is current.
A variation of mortgage or lease if the instrument itself has been cancelled, discharged or has expired.

Made at Wellington on 8 October 2018.

Robbie Muir
Registrar-General of Land

Explanatory note

This note is not part of the legislation, but is intended to indicate its general effect.

The Recording Memorials on the Register Standard 2018 does not add costs to transactions under the Act. The Standard ensures persons with delegated authority from the RGL correctly enter Record of Title information as required by the Act. This activity has "de minimis" business impacts and avoids potentially significant impacts of inaccurate or omitted information on a Record of Title.