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Whakarewarewa and Roto-a-Tamaheke Vesting Act 2009

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Commencement	see section 2

Contents

		Page
	Preamble	
1	Title	4
2	Commencement	4
	Part 1 **Preliminary provisions**	
3	Interpretation	5
4	Act binds the Crown	6
	Part 2 **Vesting and related matters**	
	Southern Arikikapakapa Reserve	
5	Arikikapakapa Reserve	6
6	Vesting of Southern Arikikapakapa Reserve	7
7	Reservation of Southern Arikikapakapa Reserve	7
8	Application of Part 4A of Conservation Act 1987	7
9	Application of other enactments	7
10	Modified application of Reserves Act 1977	8

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by Te Puni Kōkiri.

Other Reserves

11 Vesting of Whakarewarewa Thermal Springs Reserve 8
12 Vesting of Roto-a-Tamaheke Reserve 9

Leases, etc

13 Documents to be entered into 9
14 Minister's power to execute on behalf of MACI 10
15 Enforceability of leases 10
16 Receipt and use of annual rent 10

Registration

17 Registration: Southern Arikikapakapa Reserve 10
18 Registration: other Reserves 11

Administering body

19 Change of administering body 12

Subsequent transfer of Reserves

20 Restrictions on transfer 12
21 Corresponding provisions cease to apply 13

Miscellaneous

22 Limit on duration of trusts does not apply to joint trust 13
23 Election of joint trustees to become Māori authority 14
24 Application of intra-Crown payments 14

Part 3
Subdivisions

Power to subdivide

25 Need for Ministerial consent 14
26 Resulting parcels of land to be treated as separate reserves 15
27 Continuing application of Part 4A of Conservation Act 1987 16
28 Modified application of Reserves Act 1977 to resulting reserves 16

Registration

29 Registration of subdivision and transfer 16
30 Other registration requirements cease to apply 17
31 Subsequent revocation 17

Subsequent transfer of parcels of land

32 Restrictions on transfer of parcels of land 18

Miscellaneous

33 Limit on duration of trusts does not apply to first transferees 19
34 Election of first transferees to become Māori authorities 20

Schedule 1 21
Descriptions of land

Schedule 2 22
Encumbrances and other matters

Preamble

(1) The Whakarewarewa Valley Land and the Roto-a-Tamaheke Reserve are of significant cultural, traditional, historical, and spiritual importance to Ngāti Whakaue and Tūhourangi Ngāti Wahiao:

(2) The Whakarewarewa Valley Land comprises the Whakarewarewa Thermal Springs Reserve and the Southern Arikikapakapa Reserve:

(3) The fee simple estate in the Whakarewarewa Valley Land and the Roto-a-Tamaheke Reserve is vested as follows:

(a) the fee simple estate in the Southern Arikikapakapa Reserve is vested in the Crown:

(b) the fee simple estate in the Whakarewarewa Thermal Springs Reserve was vested in the Crown but, under the Affiliate Te Arawa Act, is being vested in the Te Pūmautanga trustees:

(c) the fee simple estate in the Roto-a-Tamaheke Reserve was vested in the Crown but, under the Affiliate Te Arawa Act, is being vested in the Te Pūmautanga trustees:

(4) The Whakarewarewa Valley Land is subject to certain leases that are being granted to MACI in connection with the vesting of the fee simple estate in the Whakarewarewa Thermal Springs Reserve under the Affiliate Te Arawa Act:

(5) The Whakarewarewa Thermal Springs Reserve and the Roto-a-Tamaheke Reserve are recreation reserves under the Reserves Act 1977, administered under the Tourist and Health Resorts Control Act 1908. Under the Affiliate Te Arawa Act, the Te Pūmautanga trustees will become the administering body of those Reserves, and the Reserves will be renamed the Whakarewarewa Thermal Springs Recreation Reserve and the Roto-a-Tamaheke Recreation Reserve respectively:

(6) Some of the land included in the Southern Arikikapakapa Reserve forms part of a recreation reserve under the Reserves Act 1977 known as the Arikikapakapa Reserve. The Arikikapakapa Reserve is administered under the Tourist and Health Resorts Control Act 1908. The Arikikapakapa section 8 land is also a recreation reserve under the Reserves Act 1977 administered under the Tourist and Health Resorts Control Act 1908:

(7) On 8 April 2008, in order to assist its objective of building healthy relationships with Ngāti Whakaue and Tūhourangi Ngāti Wahiao, the Crown agreed (in principle) to transfer the fee simple estate in the Southern Arikikapakapa Reserve to Ngāti Whakaue and Tūhourangi Ngāti Wahiao, subject to certain conditions. The transfer was not to be consideration or redress of any nature for the settlement of any claim against the Crown that was, or was founded on, a

right arising from the Treaty of Waitangi, the principles of the Treaty, or otherwise:

(8) The Te Pūmautanga trustees agreed to transfer the fee simple estate in the Whakarewarewa Thermal Springs Reserve and the Roto-a-Tamaheke Reserve to Ngāti Whakaue and Tūhourangi Ngāti Wahiao:

(9) Ngāti Whakaue and Tūhourangi Ngāti Wahiao agreed to establish a joint trust to hold the fee simple estate in the Whakarewarewa Valley Land and the Roto-a-Tamaheke Reserve:

(10) The deed establishing the joint trust includes a procedure for determining the beneficial entitlement to the fee simple estate in the Whakarewarewa Valley Land and the Roto-a-Tamaheke Reserve and for the possible transfer of some or all of those lands following the determination. Under the vesting deed dated 5 August 2008 (*see* recital (12)), the Crown acknowledged that Tūhourangi, Ngāti Wahiao (including Ngāti Tukiterangi, Ngāti Huarere and Ngāti Hinganoa) and Ngāti Hurungaterangi, Ngāti Taeotu me Ngāti Te Kahu o Ngāti Whakaue and the Koromatua hapū of Ngāti Whakaue, including the collective of the beneficial owners of Pukeroa Oruawhata block, all have the right to have their claims to the beneficial ownership of the Whakarewarewa Valley Land and the Roto-a-Tamaheke Reserve independently determined through that procedure:

(11) Legislation is required to enable the Whakarewarewa Valley Land and the Roto-a-Tamaheke Reserve to be vested in the trustees of the joint trust and the Crown's conditions in relation to the vesting to be met:

(12) A deed to introduce the vesting legislation, dated 5 August 2008, was signed by the Minister in Charge of Treaty of Waitangi Negotiations, the Minister of Māori Affairs, the Minister of Tourism, representatives of Ngāti Whakaue and Tūhourangi Ngāti Wahiao, and the Te Pūmautanga trustees (on behalf of the Affiliate Te Arawa Iwi/Hapū):

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Whakarewarewa and Roto-a-Tamaheke Vesting Act 2009.

2 Commencement

(1) This Act comes into force on a date to be appointed by the Governor-General by Order in Council.

(2) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)

Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 2(1): Whakarewarewa and Roto-a-Tamaheke Vesting Act 2009 brought into force, on 19 November 2010, by clause 2 of the Whakarewarewa and Roto-a-Tamaheke Vesting Act Commencement Order 2010 (SR 2010/372).

Section 2(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 1
Preliminary provisions

3 Interpretation

In this Act, unless the context otherwise requires,—

Affiliate Te Arawa Act means the Affiliate Te Arawa Iwi and Hapu Claims Settlement Act 2008

Arikikapakapa section 8 land means the land described by that name in Schedule 1

Arikikapakapa section 101 land means the land described by that name in Schedule 1

chief executive means the chief executive of Te Puni Kōkiri

closed roads means the land described by that name in Schedule 1

existing Arikikapakapa lease means the lease held in computer interest register SA2021/47, as varied by the registrable variation of lease mentioned in section 108(9)(b) of the Affiliate Te Arawa Act and entered into between the Crown and MACI in accordance with that Act

existing Arikikapakapa section 101 lease means the registrable lease of the Arikikapakapa section 101 land granted by the Crown to MACI in accordance with the Affiliate Te Arawa Act

existing Whakarewarewa Thermal Springs lease means the registrable lease of the Whakarewarewa Thermal Springs Reserve granted by the Te Pūmautanga trustees to MACI in accordance with the Affiliate Te Arawa Act

joint trust means the trust established by Ngāti Whakaue and Tūhourangi Ngāti Wahiao in accordance with the vesting deed

joint trustees means the trustees for the time being of the joint trust

MACI means the New Zealand Māori Arts and Crafts Institute

Roto-a-Tamaheke Reserve means the land described by that name in Schedule 1

Southern Arikikapakapa Reserve means the land described by that name in Schedule 1

Te Pūmautanga trustees means the trustees for the time being of the Te Pūmautanga o Te Arawa Trust (being the trust established by deed of trust dated 1 December 2006)

trust deed means the deed of trust establishing the joint trust, as amended from time to time in accordance with its terms

vesting deed means the deed dated 5 August 2008 to introduce vesting legislation in relation to the Whakarewarewa Valley Land and the Roto-a-Tamaheke Reserve and signed by the Minister in Charge of Treaty of Waitangi Negotiations, the Minister of Māori Affairs, the Minister of Tourism, representatives of Ngāti Whakaue and Tūhourangi Ngāti Wahiao, and the Te Pūmautanga trustees (on behalf of the Affiliate Te Arawa Iwi/Hapū)

Whakarewarewa Thermal Springs Reserve means the land described by that name in Schedule 1.

4 Act binds the Crown

This Act binds the Crown.

Part 2
Vesting and related matters

Southern Arikikapakapa Reserve

5 Arikikapakapa Reserve

(1) The closed roads are declared a reserve and classified as a recreation reserve subject to section 17 of the Reserves Act 1977.

(2) The following lands are included as part of the recreation reserve known as the Arikikapakapa Reserve in Schedule 2 of the Tourist and Health Resorts Control Act 1908:

- (a) the closed roads:
- (b) the Arikikapakapa section 8 land:
- (c) the Arikikapakapa section 101 land.

(3) Subsection (2) has effect despite anything in the Reserves Act 1977 or the Tourist and Health Resorts Control Act 1908.

(4) Immediately after the inclusion of those lands in the Arikikapakapa Reserve,—

- (a) the reservation of the Southern Arikikapakapa Reserve as land comprised in a recreation reserve subject to section 17 of the Reserves Act 1977 is revoked; and
- (b) accordingly,—
  - (i) the Southern Arikikapakapa Reserve ceases to be part of the Arikikapakapa Reserve; and

(ii) the Tourist and Health Resorts Control Act 1908 ceases to apply to the Southern Arikikapakapa Reserve.

(5) Sections 24 and 25 of the Reserves Act 1977 (which relate to the revocation of reserves) do not apply to the revocation under subsection (4)(a).

(6) The reference in Schedule 2 of the Tourist and Health Resorts Control Act 1908 to the Arikikapakapa Reserve is to be read subject to the provisions of this section.

6 Vesting of Southern Arikikapakapa Reserve

(1) The fee simple estate in the Southern Arikikapakapa Reserve vests in the joint trustees subject to—

(a) the provisions of this Act; and

(b) the encumbrances and other matters listed in respect of the Southern Arikikapakapa Reserve in Schedule 2.

(2) The vesting is subject to the joint trustees doing the things required by section 13.

7 Reservation of Southern Arikikapakapa Reserve

(1) The Southern Arikikapakapa Reserve is declared a reserve and classified as a recreation reserve subject to section 17 of the Reserves Act 1977.

(2) The reserve created by subsection (1) is named the Southern Arikikapakapa Reserve, and section 16(10) of the Reserves Act 1977 has effect as if that name had been specified in a notice under that section.

8 Application of Part 4A of Conservation Act 1987

(1) The vesting of the Southern Arikikapakapa Reserve under this Part is a disposition of land by the Crown for the purposes of Part 4A of the Conservation Act 1987 (which relates to marginal strips).

(2) However, sections 24, 24A, and 24AA of that Act do not apply to the vesting, except as provided in subsection (3).

(3) If the reservation of the Southern Arikikapakapa Reserve under section 7(1) is subsequently revoked in relation to all or a part of the land comprised in the Reserve,—

(a) section 24 of the Conservation Act 1987 is to be treated, with effect from the date of revocation, as having applied to the vesting to the extent of the land in relation to which the reservation is revoked; and

(b) the requirement in subsection (2A) of that section is to be treated as having been complied with in respect of that land.

9 Application of other enactments

(1) Section 11 and Part 10 of the Resource Management Act 1991 (which relate to subdivisions and reclamations) do not apply to—

(a) the vesting of the fee simple estate in the Southern Arikikapakapa Reserve under this Part; or

(b) any matter incidental to, or required for the purpose of, that vesting.

(1) *[Repealed]*

(2) The vesting of the fee simple estate in the Southern Arikikapakapa Reserve under this Part does not—

(a) limit section 10 or 11 of the Crown Minerals Act 1991; or

(b) affect other rights to subsurface minerals; or

(c) limit the rights and obligations of the Crown or of a local authority in respect of geothermal energy (as defined by section 2(1) of the Resource Management Act 1991) under any enactment or rule of law.

Section 9(1): inserted, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1): repealed, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

Section 9(2)(c): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

10 Modified application of Reserves Act 1977

(1) Sections 48A, 114, and 115 of the Reserves Act 1977 apply to the Southern Arikikapakapa Reserve, despite sections 48A(6), 114(5), and 115(6) of that Act.

(2) Sections 78(1)(a), 79 to 81, and 88 of the Reserves Act 1977 do not apply to the Southern Arikikapakapa Reserve.

(3) If the reservation of the Southern Arikikapakapa Reserve under section 7(1) is revoked under section 24 of the Reserves Act 1977 in relation to all or a part of the land comprised in the Reserve, section 25 of that Act, except subsection (2), does not apply to the revocation.

Other Reserves

11 Vesting of Whakarewarewa Thermal Springs Reserve

(1) The fee simple estate in the Whakarewarewa Thermal Springs Reserve vests in the joint trustees subject to—

(a) the provisions of this Act; and

(b) the encumbrances and other matters listed in respect of the Whakarewarewa Thermal Springs Reserve in Schedule 2.

(2) The vesting is subject to the joint trustees doing the things required by section 13.

(3) The vesting has effect despite anything in the Affiliate Te Arawa Act that regulates the transfer of land comprised in the Whakarewarewa Thermal Springs Reserve.

(4) The vesting does not affect—

(a) the status of the Whakarewarewa Thermal Springs Reserve as a recreation reserve by virtue of the Affiliate Te Arawa Act; or

(b) the application of the Reserves Act 1977 or the Conservation Act 1987 to the Whakarewarewa Thermal Springs Reserve as provided in the Affiliate Te Arawa Act.

12 Vesting of Roto-a-Tamaheke Reserve

(1) The fee simple estate in the Roto-a-Tamaheke Reserve vests in the joint trustees subject to—

(a) the provisions of this Act; and

(b) the encumbrances and other matters listed in respect of the Roto-a-Tamaheke Reserve in Schedule 2.

(2) The vesting is subject to the joint trustees doing the things required by section 13.

(3) The vesting has effect despite anything in the Affiliate Te Arawa Act that regulates the transfer of land comprised in the Roto-a-Tamaheke Reserve.

(4) The vesting does not affect—

(a) the status of the Roto-a-Tamaheke Reserve as a recreation reserve by virtue of the Affiliate Te Arawa Act; or

(b) the application of the Reserves Act 1977 or the Conservation Act 1987 to the Roto-a-Tamaheke Reserve as provided in the Affiliate Te Arawa Act.

Leases, etc

13 Documents to be entered into

The joint trustees must—

(a) enter into registrable deeds of surrender in respect of the existing Whakarewarewa Thermal Springs lease, the existing Arikikapakapa lease, and the existing Arikikapakapa section 101 lease; and

(b) grant a registrable lease to MACI in respect of the Whakarewarewa Thermal Springs Reserve substantially in the form set out in Schedule 5 of the vesting deed; and

(c) grant a registrable lease to MACI in respect of the Southern Arikikapakapa Reserve substantially in the form set out in Schedule 6 of the vesting deed; and

(d) grant to the Rotorua District Council a registrable easement, substantially in the form set out in Schedule 9 of the vesting deed, for the right to convey water over the area (comprising the route of the pipeline and the existing pump sheds and associated facilities) indicated on the diagram in Schedule 10 of that deed (the final easement being subject to survey) in order to formalise the use right existing at the date of the vesting deed.

14 Minister's power to execute on behalf of MACI

(1) The Minister of Tourism may execute any of the following documents on behalf of MACI as lessee:

(a) a deed of surrender referred to in section 13(a):

(b) a lease referred to in section 13(b) or (c).

(2) If the Minister does so, the document has effect as if it were properly executed by MACI as lessee in accordance with the New Zealand Maori Arts and Crafts Institute Act 1963 and any rules made under that Act.

15 Enforceability of leases

The leases referred to in section 13(b) and (c)—

(a) are enforceable in accordance with their terms despite the provisions of the Reserves Act 1977 and the Tourist and Health Resorts Control Act 1908; and

(b) are to be treated as having been granted in accordance with those Acts.

16 Receipt and use of annual rent

The lessor of the leases referred to in section 13(b) and (c) is entitled to receive and use the annual rent payable under the leases for any purpose, despite the provisions of the Reserves Act 1977.

Registration

17 Registration: Southern Arikikapakapa Reserve

(1) The Registrar-General of Land must, on written application by the chief executive,—

(a) create a computer freehold register and register the joint trustees as the proprietors of the fee simple estate in the Southern Arikikapakapa Reserve; and

(b) enter on the register any encumbrances or other matters that are registered, notified, or notifiable in respect of the Southern Arikikapakapa Reserve and that are described in the application.

(2) Subsection (1) is subject to the completion of any survey necessary to create the computer freehold register.

(3) The computer freehold register must be created as soon as is reasonably practicable, but no later than—

(a) 24 months after the fee simple estate in the Southern Arikikapakapa Reserve vests in the joint trustees; or

(b) any later date that may be agreed in writing by the joint trustees and the Crown.

(4) The Registrar-General of Land must make the following notifications on the computer freehold register:

(a) that the land is subject to Part 4A of the Conservation Act 1987:

(b) that section 24 of that Act does not apply to the land:

(c) that the land is subject to section 8(3) of this Act:

(d) that the land is subject to section 20 of this Act.

(5) A notification made under subsection (4)(a) is to be treated as having been made in compliance with section 24D(1) of the Conservation Act 1987.

(6) If the reservation of the Southern Arikikapakapa Reserve under this Part is revoked in relation to the whole of the land comprised in the Reserve,—

(a) the Director-General of Conservation must apply in writing to the Registrar-General of Land to remove the notifications made under subsection (4)(b), (c), and (d) from the computer freehold register for the Southern Arikikapakapa Reserve; and

(b) the Registrar-General must comply with any such application.

(7) If the reservation of the Southern Arikikapakapa Reserve under this Part is revoked in relation to a part of the land comprised in the Reserve, the Registrar-General of Land must ensure that the notifications made under subsection (4)(b), (c), and (d) remain only on the computer freehold register for the part of the land that remains a reserve.

18 Registration: other Reserves

(1) The Registrar-General of Land must, on written application by the chief executive,—

(a) register the joint trustees as the proprietors of the fee simple estate in—

(i) the Whakarewarewa Thermal Springs Reserve; and

(ii) the Roto-a-Tamaheke Reserve; and

(b) enter on the register any encumbrances or other matters that are registered, notified, or notifiable in respect of those Reserves and that are described in the applications.

(2) The Registrar-General of Land must—

(a) remove the notifications recording that those Reserves are subject to section 117 of the Affiliate Te Arawa Act; and

(b) make a notification recording that they are subject to section 20 of this Act.

(3) If the reservation under the Affiliate Te Arawa Act of either of those Reserves is revoked in relation to the whole of the land comprised in the Reserve,—

(a) the Director-General of Conservation must apply in writing to the Registrar-General of Land to remove the notification made under subsection (2)(b) from the computer freehold register for that Reserve; and

(b) the Registrar-General must comply with any such application.

(4) If the reservation under the Affiliate Te Arawa Act of either of those Reserves is revoked in relation to a part of the land comprised in the Reserve, the Registrar-General of Land must ensure that the notification made under subsection (2)(b) remains only on the computer freehold register for the part of the land comprised in that Reserve that remains a reserve.

Administering body

19 Change of administering body

The joint trustees are the administering body of the Southern Arikikapakapa Reserve, the Whakarewarewa Thermal Springs Reserve, and the Roto-a-Tamaheke Reserve for the purposes of the Reserves Act 1977.

Subsequent transfer of Reserves

20 Restrictions on transfer

(1) This section applies to the Southern Arikikapakapa Reserve, the Whakarewarewa Thermal Springs Reserve, or the Roto-a-Tamaheke Reserve so long as the land, or any part of the land, comprised in the Reserve remains a reserve under the Reserves Act 1977 after vesting under this Act.

(2) In relation to such a Reserve, the land (or, as the case may be, the part of the land) that remains a reserve is referred to in this section as the **reserve land**.

(3) The fee simple estate in the reserve land may be transferred to any other person only in accordance with this section, despite any other enactment or rule of law.

(4) The Minister of Conservation must give written consent to the transfer of the fee simple estate in the reserve land to another person or persons (the **new owners**) if, upon written application, the registered proprietors of the reserve land satisfy the Minister of Conservation that the new owners meet the relevant conditions.

(5) The **relevant conditions** are—

(a) that the new owners are able to comply with the requirements of the Reserves Act 1977; and

(b) that the new owners are able to perform the duties of an administering body under that Act.

(6) The Registrar-General of Land must, upon receiving the documents specified in subsection (7), register the new owners as the proprietors of the fee simple estate in the reserve land.

(7) The documents are—

(a) a transfer instrument to transfer the fee simple estate in the reserve land to the new owners, including a notification that the new owners are to hold the reserve land for the same reserve purposes as it was held by the administering body immediately before the transfer; and

(b) the written consent of the Minister of Conservation to the transfer of the reserve land; and

(c) any other document required for registration of the transfer instrument.

(8) The new owners, from the time of registration under subsection (6),—

(a) are the administering body of the reserve land for the purposes of the Reserves Act 1977; and

(b) hold the reserve land for the same reserve purposes as it was held by the administering body immediately before the transfer.

(9) This section does not apply to a transfer of the fee simple estate in the reserve land if—

(a) the transferors of the reserve land are or were the trustees of a trust; and

(b) the transferees are the trustees of the same trust, after any new trustee has been appointed to the trust or any transferor has ceased to be a trustee of the trust; and

(c) the instrument to transfer the reserve land is accompanied by a certificate, given by the transferees or the transferees' solicitor, verifying that the conditions in paragraphs (a) and (b) are met.

21 Corresponding provisions cease to apply

(1) On the coming into force of section 20, any provisions of the Affiliate Te Arawa Act that correspond to that section, as it applies to the Whakarewarewa Thermal Springs Reserve and the Roto-a-Tamaheke Reserve, are to cease to have effect in relation to those Reserves.

(2) The Affiliate Te Arawa Act must be read in accordance with this section.

Miscellaneous

22 Limit on duration of trusts does not apply to joint trust

(1) No rule of law or provisions of an Act, including section 16 of the Trusts Act 2019, prescribes or restricts the period during which—

(a) the joint trust may exist in law; or

(b) the joint trustees may hold or deal with property (including income derived from the property).

(2) However, if the joint trust becomes a charitable trust,—

(a) subsection (1) ceases to apply; and

(b) the trust may continue indefinitely under section 16(6)(a) of the Trusts Act 2019.

(3) No rule of law or provisions of an Act, including section 16 of the Trusts Act 2019, apply to a document entered into to give effect to the vesting deed if and to the extent that the application of that provision would make the document invalid or ineffective or a right conferred by the document invalid or ineffective.

Section 22 heading: replaced, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 22(1): amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 22(2)(b): replaced, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 22(3): replaced, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

23 Election of joint trustees to become Māori authority

For the purposes of the Income Tax Act 2007,—

(a) the joint trustees are deemed to be trustees of a trust falling within section HF 2(3) of that Act; and

(b) accordingly, the joint trustees are deemed to be eligible under that section to make an election under section HF 11 of that Act to become a Māori authority.

24 Application of intra-Crown payments

The Minister of Conservation may direct that any intra-Crown payment for the Southern Arikikapakapa Reserve be paid and applied in the manner specified in section 82(1)(a) of the Reserves Act 1977.

Part 3
Subdivisions

Power to subdivide

25 Need for Ministerial consent

(1) This section applies if—

(a) the beneficial interest in the Reserves vested in the joint trustees under Part 2 is determined in accordance with the beneficial entitlement determination procedure referred to in the vesting deed; and

(b) following that determination, the joint trustees apply in writing to the Minister of Māori Affairs to subdivide and transfer 1 or more of those Reserves; and

(c) the Minister of Māori Affairs certifies in writing that the subdivision and transfer complies with the conditions set out in the vesting deed; and

(d) the Reserve or Reserves in question (**relevant Reserves**) remain reserves under the Reserves Act 1977 at the time of the subdivision and transfer.

(2) The Minister of Māori Affairs must give the certificate required by subsection (1)(c) if he or she is satisfied that the subdivision and transfer complies with the conditions set out in the vesting deed, but no more than 1 certificate may be given for the purposes of this section.

(3) If this section applies, section 11 and Part 10 of the Resource Management Act 1991 do not apply to the subdivision and transfer or to any matter incidental to or required for the purpose of it.

(4) However, the subdivision and transfer may not take place unless the Minister of Conservation consents in writing to the transfer.

(5) The Minister of Conservation must give that consent if, upon written application, the joint trustees satisfy the Minister of Conservation that the first transferee of each resulting parcel of land—

(a) is able to comply with the requirements of the Reserves Act 1977; and

(b) is able to perform the duties of an administering body under that Act.

(6) In this Part,—

first transferee, in relation to a resulting parcel of land,—

(a) means the person or persons to whom the fee simple estate in that parcel of land is, or is to be, transferred in accordance with this section; and

(b) if those persons are trustees of a trust, includes (where applicable) the trustees for the time being of that trust

resulting parcel of land means a parcel of land resulting from the subdivision of a relevant Reserve in accordance with this section.

(7) The permission of a 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 that may be required for the purposes of the subdivision and transfer.

(8) Nothing in this section affects or limits the application of any enactment or rule of law to a subdivision of a relevant Reserve if this section does not apply.

Section 25(3): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

26 Resulting parcels of land to be treated as separate reserves

(1) If a relevant Reserve is subdivided and transferred in accordance with section 25, each resulting parcel of land is to be treated, with effect from the transfer date, as a separate recreation reserve subject (in each case) to section 17 of the Reserves Act 1977.

(2) With effect from the transfer date, the first transferee of a resulting parcel of land—

(a) is the administering body of the reserve comprising that parcel of land for the purposes of the Reserves Act 1977; and

(b) holds that parcel of land for the same reserve purposes as it was held by the administering body immediately before the transfer.

(3) **Transfer date** means the date of registration for all of the resulting parcels of land in accordance with section 29.

27 Continuing application of Part 4A of Conservation Act 1987

(1) If the Southern Arikikapakapa Reserve is subdivided and transferred in accordance with section 25,—

(a) section 8(3) must be applied separately to each parcel of land resulting from the subdivision of that Reserve; and

(b) accordingly, the reference there to the Southern Arikikapakapa Reserve must be read as a reference to a parcel of land resulting from that subdivision.

(2) If the Whakarewarewa Thermal Springs Reserve or the Roto-a-Tamaheke Reserve is subdivided and transferred in accordance with section 25,—

(a) section 112(4) of the Affiliate Te Arawa Act (as it applies to that Reserve) must be applied separately to each parcel of land resulting from the subdivision of that Reserve; and

(b) accordingly, the reference there to a reserve site (as it applies to that Reserve) must be read as a reference to a parcel of land resulting from that subdivision.

28 Modified application of Reserves Act 1977 to resulting reserves

(1) Sections 48A, 114, and 115 of the Reserves Act 1977 apply to each reserve comprising a resulting parcel of land, despite sections 48A(6), 114(5), and 115(6) of that Act.

(2) Sections 78(1)(a), 79 to 81, and 88 of the Reserves Act 1977 do not apply to any such reserve.

(3) If the reservation of a resulting parcel of land is revoked under section 24 of the Reserves Act 1977 in relation to all or a part of the land comprised in the reserve, section 25 of that Act, except subsection (2), does not apply to the revocation.

Registration

29 Registration of subdivision and transfer

(1) For each resulting parcel of land, the Registrar-General of Land must, upon receiving the documents specified in subsection (2),—

(a) create a computer freehold register and register the first transferee as the proprietor of the fee simple estate in the parcel of land; and

(b) make the appropriate entries on the register.

(2) The documents are—

(a) a transfer instrument to transfer the fee simple estate in the parcel of land to the first transferee, including a notification that the first transferee is to hold the parcel of land for the same reserve purposes as it was held by the administering body immediately before the transfer; and

(b) the written consent of the Minister of Conservation to the transfer of the parcel of land; and

(c) any other document required for registration of the transfer instrument.

(3) Subsection (1) is subject to the completion of any survey necessary to create the computer freehold register for the resulting parcel of land.

(4) Without prejudice to the generality of subsection (1)(b), the Registrar-General must, for each resulting parcel of land,—

(a) amend the notification recording that the land is subject to the relevant suspension provision, so that it has effect subject to section 27 of this Act; and

(b) remove the notification recording that the parcel of land is subject to section 20 of this Act; and

(c) make a notification recording that the parcel of land is subject to section 32 of this Act.

(5) The **relevant suspension provision** is,—

(a) in the case of the Southern Arikikapakapa Reserve, section 8(3) of this Act:

(b) in the case of the Whakarewarewa Thermal Springs Reserve or the Roto-a-Tamaheke Reserve, section 112(4) of the Affiliate Te Arawa Act.

30 Other registration requirements cease to apply

(1) If the Southern Arikikapakpapa Reserve is subdivided and transferred in accordance with section 25, section 17(6) and (7) cease to apply.

(2) If the Whakarewarewa Thermal Springs Reserve or the Roto-a-Tamaheke Reserve is subdivided and transferred in accordance with section 25, section 113(3) of the Affiliate Te Arawa Act and section 18(3) and (4) of this Act cease to apply with respect to that Reserve.

31 Subsequent revocation

(1) If the reservation of a resulting parcel of land is revoked in relation to the whole of the land comprised in the parcel of land,—

(a) the Director-General of Conservation must apply in writing to the Registrar-General of Land to remove the relevant notifications from the computer freehold register for the parcel of land; and

(b) the Registrar-General must comply with any such application.

(2) If the reservation of a resulting parcel of land is revoked in relation to a part of the land comprised in the parcel of land, the Registrar-General of Land must ensure that the relevant notifications remain only on the computer freehold register for the part of the land that remains a reserve.

(3) The **relevant notifications** are the notifications recording—

(a) that section 24 of the Conservation Act 1987 does not apply to the land:

(b) that the land is subject to the relevant suspension provision and to section 27 of this Act:

(c) that the land is subject to section 32 of this Act.

(4) The **relevant suspension provision** has the meaning given by section 29(5).

Subsequent transfer of parcels of land

32 Restrictions on transfer of parcels of land

(1) This section applies to a resulting parcel of land so long as the land, or any part of the land, comprised in the parcel of land remains a reserve under the Reserves Act 1977 after the subdivision and transfer of a relevant Reserve in accordance with section 25.

(2) The land (or, as the case may be, the part of the land) that remains a reserve is referred to in this section as the **reserve land**.

(3) The fee simple estate in the reserve land may be transferred to any other person only in accordance with this section, despite any other enactment or rule of law.

(4) The Minister of Conservation must give written consent to the transfer of the fee simple estate in the reserve land to another person or persons (the **new owners**) if, upon written application, the registered proprietors of the reserve land satisfy the Minister of Conservation that the new owners meet the relevant conditions.

(5) The **relevant conditions** are—

(a) that the new owners are able to comply with the requirements of the Reserves Act 1977; and

(b) that the new owners are able to perform the duties of an administering body under that Act.

(6) The Registrar-General of Land must, upon receiving the documents specified in subsection (7), register the new owners as the proprietors of the fee simple estate in the reserve land.

(7) The documents are—

(a) a transfer instrument to transfer the fee simple estate in the reserve land to the new owners, including a notification that the new owners are to hold the reserve land for the same reserve purposes as it was held by the administering body immediately before the transfer; and

(b) the written consent of the Minister of Conservation to the transfer of the reserve land; and

(c) any other document required for registration of the transfer instrument.

(8) The new owners, from the time of registration under subsection (6),—

(a) are the administering body of the reserve land for the purposes of the Reserves Act 1977; and

(b) hold the reserve land for the same reserve purposes as it was held by the administering body immediately before the transfer.

(9) This section does not apply to a transfer of the fee simple estate in the reserve land if—

(a) the transferors of the reserve land are or were the trustees of a trust; and

(b) the transferees are the trustees of the same trust, after any new trustee has been appointed to the trust or any transferor has ceased to be a trustee of the trust; and

(c) the instrument to transfer the reserve land is accompanied by a certificate, given by the transferees or the transferees' solicitor, verifying that the conditions in paragraphs (a) and (b) are met.

Miscellaneous

33 Limit on duration of trusts does not apply to first transferees

(1) No rule of law or provisions of an Act, including section 16 of the Trusts Act 2019, prescribes or restricts the period during which—

(a) a relevant trust may exist in law; or

(b) relevant trustees may hold or deal with property (including income derived from the property).

(2) However, if a relevant trust becomes a charitable trust,—

(a) subsection (1) ceases to apply; and

(b) the trust may continue indefinitely under section 16(6)(a) of the Trusts Act 2019.

(3) For the purposes of this section,—

(a) a trust is a **relevant trust** if—

(i) a resulting parcel of land is transferred to the trustees of that trust as part of the subdivision and transfer of a relevant Reserve in accordance with section 25; and

(ii) it is not a charitable trust; and

(b) **relevant trustees** are the trustees for the time being of a relevant trust.

Section 33 heading: replaced, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 33(1): amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 33(2)(b): replaced, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

34 Election of first transferees to become Māori authorities

For the purposes of the Income Tax Act 2007,—

(a) the first transferee of each resulting parcel of land is deemed to be a company falling within section HF 2(2) or, as the case may be, trustees of a trust falling within section HF 2(3) of that Act; and

(b) accordingly, each first transferee is deemed to be eligible under that section to make an election under section HF 11 of that Act to become a Māori authority.

Schedule 1
Descriptions of land

s 3

Arikikapakapa section 8 land

3.2931 hectares, more or less, being Section 8 Block XLIX Town of Rotorua. Part *Gazette* 1932 page 1252.

Arikikapakapa section 101 land

0.9143 hectares, more or less, being Section 101 Block I Tarawera Survey District. All GN H496075.

Closed roads

(a) 330 square metres, more or less, being Part Section 40 Block I Tarawera Survey District. Part *Gazette* 1958 page 622; and

(b) 599 square metres, more or less, being Part Section 3 Block V Tarawera Survey District. Part *Gazette* 1958 page 622.

Roto-a-Tamaheke Reserve

4.2110 hectares, more or less, being Sections 1, 2, and 3 SO 389705. Part *Gazette* 1904 page 2119.

Southern Arikikapakapa Reserve

19.5800 hectares, more or less, being section 1 SO 408975, formerly being—

(a) 0.5978 hectares, more or less, being Part Lot 1 DP 23567. Part computer freehold register SA621/156; and

(b) 12.8247 hectares, more or less, being Part Lot 3 DP 23567. Part computer freehold register SA621/156; and

(c) the Arikikapakapa section 8 land; and

(d) the Arikikapakapa section 101 land; and

(e) the closed roads.

Whakarewarewa Thermal Springs Reserve

43.4200 hectares, more or less, being Section 1 SO 390094. Part *Gazette* 1904 page 2119.

Schedule 2
Encumbrances and other matters

ss 6(1), 11(1), 12(1)

Southern Arikikapakapa Reserve

The encumbrances and other matters are—

(a) the existing Arikikapakapa lease; and

(b) the existing Arikikapakapa section 101 lease; and

(c) caveat No 5130240.1; and

(d) that the land must be administered as a recreation reserve subject to section 17 of the Reserves Act 1977.

Roto-a-Tamaheke Reserve

The encumbrances and other matters are—

(a) that the land must be administered as a recreation reserve subject to section 17 of the Reserves Act 1977; and

(b) that the land is subject to Part 4A of the Conservation Act 1987, but section 24 of that Act does not apply; and

(c) that the land is subject to sections 112(4) and 117 of the Affiliate Te Arawa Act; and

(d) that the land is subject to section 11 of the Crown Minerals Act 1991.

Whakarewarewa Thermal Springs Reserve

The encumbrances and other matters are—

(a) the existing Whakarewarewa Thermal Springs lease; and

(b) that the land must be administered as a recreation reserve subject to section 17 of the Reserves Act 1977; and

(c) that the land is subject to Part 4A of the Conservation Act 1987, but section 24 of that Act does not apply; and

(d) that the land is subject to sections 112(4) and 117 of the Affiliate Te Arawa Act; and

(e) that the land is subject to section 11 of the Crown Minerals Act 1991.

Notes

1 General

This is a consolidation of the Whakarewarewa and Roto-a-Tamaheke Vesting Act 2009 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68): section 6

Natural and Built Environment Act 2023 (2023 No 46): section 805(1)

Secondary Legislation Act 2021 (2021 No 7): section 3

Trusts Act 2019 (2019 No 38): section 161

Whakarewarewa and Roto-a-Tamaheke Vesting Act Commencement Order 2010 (SR 2010/372)

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