Version
as at 23 December 2023

Mauao Historic Reserve Vesting Act 2008

Public Act	2008 No 31
Date of assent	22 May 2008
Commencement	see section 2

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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 the Ministry of Māori Development—Te Puni Kōkiri.

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Preamble

(1) Mauao, or Mount Maunganui, is of significant cultural, traditional, historical, and spiritual importance to Ngāi Te Rangi, Ngāti Ranginui, and Ngāti Pūkenga:

(2) In addition, Waitaha have ancestral associations and historical connections with Mauao:

(3) Mauao historic reserve (comprising almost all of Mauao) is vested in fee simple in the Crown, and is subject to the Reserves Act 1977. Under that Act, Tauranga City Council is the administering body of the reserve:

(4) In July 2004, in order to assist its objective of building healthy relationships with Ngāi Te Rangi, Ngāti Ranginui, Ngāti Pūkenga, and Waitaha, the Crown agreed (in principle) to transfer the fee simple estate in Mauao historic reserve to Ngāi Te Rangi, Ngāti Ranginui, and Ngāti Pūkenga, subject to certain conditions. The transfer was not to be consideration 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 in any other way:

(5) By deed dated 2 July 2007, the Mauao Trust was created empowering the trustees of the trust to hold the fee simple estate in Mauao historic reserve on trust for Ngāi Te Rangi, Ngāti Ranginui, and Ngāti Pūkenga:

(6) Legislation is required to enable Mauao historic reserve to be vested in the trustees of the Mauao Trust and the Crown's conditions in relation to the vesting to be met:

(7) An agreement to introduce vesting legislation in relation to Mauao, dated 11 August 2007, was signed by the Minister of Māori Affairs, representatives of Ngāi Te Rangi, Ngāti Ranginui, Ngāti Pūkenga, and Waitaha, and the trustees of the Mauao Trust:

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Mauao Historic Reserve Vesting Act 2008.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Preliminary provisions

3 Interpretation

In this Act, unless the context otherwise requires,—

deed of trust—

(a) means the deed of trust, dated 2 July 2007, between Te Runanganui o Tauranga Moana Incorporated (as settlor) and the trustees (being representatives of Ngāi Te Rangi, Ngāti Ranginui, and Ngāti Pūkenga) establishing the Mauao Trust; and

(b) includes any amendments validly made to the deed

Mauao historic reserve means the land—

(a) described in Schedule 1; and

(b) declared to be a historic reserve by *Gazette* notice 1981 Vol III, p 3065

Mauao Trust means the trust established by the deed of trust

Minister means the Minister of Conservation

Ngāi Te Rangi means every individual who affiliates to Ngāi Te Rangi through descent from a primary ancestor of the iwi (as determined by the iwi)

Ngāti Pūkenga means every individual who affiliates to Ngāti Pūkenga through descent from a primary ancestor of the iwi (as determined by the iwi)

Ngāti Ranginui means every individual who affiliates to Ngāti Ranginui through descent from a primary ancestor of the iwi (as determined by the iwi)

trustees means the trustees, for the time being, of the Mauao Trust

vesting agreement means the agreement to introduce vesting legislation in relation to Mauao dated 11 August 2007 and signed by the Minister of Māori Affairs, representatives of Ngāi Te Rangi, Ngāti Ranginui, Ngāti Pūkenga, and Waitaha, and the trustees

Waitaha means every individual who affiliates to Waitaha through descent from a primary ancestor of the iwi (as determined by the iwi).

4 Act binds the Crown

This Act binds the Crown.

Part 2
Vesting of Mauao historic reserve and related matters

Vesting of Mauao historic reserve

5 Mauao historic reserve vested in trustees of Mauao Trust

(1) The fee simple estate in Mauao historic reserve is vested, by way of gift, in the trustees of the Mauao Trust subject to—

(a) this Act; and

(b) the encumbrances set out in Schedule 2; and

(c) any authority granted to the Tauranga City Council under the Heritage New Zealand Pouhere Taonga Act 2014 to retain, maintain, and replace existing fencing on the reserve; and

(d) any statutory access or other rights in relation to the reserve that any person may have (including rights of access under the Cadastral Survey Act 2002 or the Maritime Transport Act 1994 to the trig station and navigational beacon on the reserve).

(2) The trustees must hold the fee simple estate on trust for Ngāi Te Rangi, Ngāti Ranginui, and Ngāti Pūkenga in accordance with the deed of trust.

(3) This section is subject to section 7.

Section 5(1)(c): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

6 Trustees must not dispose of, transfer, or charge Mauao historic reserve

(1) The trustees must not dispose of, transfer, or charge Mauao historic reserve or any part of it.

(2) Subsection (1) is subject to section 8.

7 Mauao historic reserve status preserved

(1) Mauao historic reserve—

(a) remains a historic reserve under the Reserves Act 1977 (unless and until its reserve status is changed, or its reservation as a reserve is revoked, under that Act); and

(b) for that purpose—

(i) the Minister continues to have, in respect of it, the functions, obligations, and powers that the Minister has under the Reserves Act 1977 in relation to a reserve vested in the Crown; and

(ii) the Tauranga City Council continues to be appointed as the administering body of the reserve under section 28 of the Reserves Act 1977 (unless and until its appointment as the administering body is revoked under that Act).

(2) However, this section does not entitle the Minister to exercise—

(a) the power under section 26 of the Reserves Act 1977 (being the power to vest the reserve in other persons); or

(b) the power under section 15 of the Reserves Act 1977 (being the power to exchange the land comprising the reserve or part of it) unless he or she has complied with section 8 of this Act.

(3) Unless and until the reservation of Mauao historic reserve as a reserve is revoked under the Reserves Act 1977, the Crown continues to have, in relation to the reserve, the rights and obligations of the holder of the fee simple estate (including any obligations in respect of occupational health and safety, building, or rating liability legislation).

Exchange of part of Mauao historic reserve

8 Exchange of part of Mauao historic reserve

(1) The Minister may authorise the exchange of part of Mauao historic reserve in accordance with section 15 of the Reserves Act 1977, but only if the Minister has the written consent of the trustees to do so.

(2) If the Minister acts in accordance with subsection (1),—

(a) the fee simple in the part of the reserve that is exchanged—

(i) ceases to be vested in the trustees; and

(ii) is no longer subject to this Act or the Reserves Act 1977; and

(b) the land acquired by way of the exchange—

(i) vests in fee simple in the trustees; and

(ii) is held by the trustees on trust for Ngāi Te Rangi, Ngāti Ranginui, and Ngāti Pūkenga in accordance with the deed of trust; and

(iii) is held as part of Mauao historic reserve subject to—

(A) the same control and management and for the same objects and purposes as those for which the land given in exchange was held; and

(B) this Act and the Reserves Act 1977.

Revocation of reserve status

9 Revocation of reserve status

(1) If the Minister revokes the reservation of Mauao historic reserve, or a part of it, as a reserve under section 24 of the Reserves Act 1977,—

(a) the fee simple in the reserve (or the part of it that ceases to be reserve) remains vested in the trustees, subject to any restrictions, encumbrances, liens, or interests specified in the *Gazette* notice revoking the reservation; and

(b) sections 7 and 8 of this Act cease to apply to the reserve (or the part of it that ceases to be reserve).

(2) To avoid doubt, and without limiting subsection (1)(b), Mauao historic reserve (or the part of it that ceases to be reserve) does not become—

(a) Crown land available for disposal under the Land Act 1948 in accordance with section 25 of the Reserves Act 1977; or

(b) land over which the Minister may specify, under section 25 of the Reserves Act 1977, the manner in and purpose for which it may be disposed.

Vesting has no effect on existing rights

10 Vesting has no effect on existing rights

The vesting of Mauao historic reserve under section 5(1) does not affect any rights or obligations in respect of the reserve of any person—

(a) who is not a party to the vesting agreement, including any rights or obligations in relation to the ownership, management, or control of fixtures, structures, and improvements (including trees) attached to, on, or under the reserve; and

(b) that arise before any revocation of its reservation as a reserve.

Particular application of other enactments and general law

11 Application of other enactments

(1) Nothing in section 11 or Part 10 of the Resource Management Act 1991 applies to the vesting of Mauao historic reserve under section 5(1).

(2) The vesting of Mauao historic reserve under section 5(1) does not limit section 10 or 11 of the Crown Minerals Act 1991.

(3) The vesting of Mauao historic reserve under section 5(1) is not a disposition of land by the Crown for the purposes of Part 4A of the Conservation Act 1987, unless—

(a) the reservation of the reserve as a reserve is revoked, in which case—

(i) the reserve is to be treated as having been disposed of by the Crown for the purposes of Part 4A; and

(ii) that Part, other than sections 24(2A), 24A, 24AA, and 24B, applies accordingly with any necessary modifications; or

(b) the reservation of part of the reserve as a reserve is revoked, in which case—

(i) the part of the reserve is to be treated as having been disposed of by the Crown for the purposes of Part 4A; and

(ii) that Part, other than sections 24(2A), 24A, 24AA, and 24B, applies accordingly with any necessary modifications.

Section 11(1): 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).

12 Limit on duration of trusts does not apply

No rule of law or provisions of an Act limiting the duration of a trust, including section 16 of the Trusts Act 2019, prescribe or restrict the period during which—

(a) the Mauao Trust may exist in law; or

(b) the trustees (in their capacity as trustees) may hold or deal with property (including income derived from the property).

Section 12 heading: replaced, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 12: amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Waitaha statement of recognition

13 Waitaha statement of recognition

(1) The Crown, Ngāi Te Rangi, Ngāti Ranginui, and Ngāti Pūkenga acknowledge the statement of recognition of Waitaha in Schedule 3.

(2) However, the statement of recognition—

(a) must not affect, or be taken into account by, a person exercising a power or performing a function or duty under an enactment or a bylaw made by a local authority under an enactment; and

(b) does not affect the lawful rights or legal obligations of any person; and

(c) does not grant, create, or affect any interests or rights relating to Mauao historic reserve.

Miscellaneous provisions

14 Registration of ownership

(1) The Registrar-General of Land must, on written application by the Minister of Māori Affairs, comply with subsections (2) and (3).

(2) The Registrar-General of Land must—

(a) register the trustees as the proprietors of the fee simple estate in Mauao historic reserve; and

(b) make the entry in the register; and

(c) include a notification on the entry recording that the reserve—

(i) was vested in accordance with this Act; and

(ii) is subject to this Act, including a specific reference to sections 5(1) and 11(3).

(3) However, if Mauao historic reserve does not comprise all the land in a computer freehold register, or there is no computer freehold register for all or part of the reserve, the Registrar-General must instead—

(a) create a computer freehold register and register the trustees as the proprietors of the fee simple estate in Mauao historic reserve; and

(b) include a notification on the entry recording that the reserve—

(i) was vested in accordance with this Act; and

(ii) is subject to this Act, including a specific reference to sections 5(1) and 11(3).

(4) The Registrar-General of Land complies with subsection (2)(a) or (3)(a) by registering the trustees as the proprietors using the words “the trustees for the time being of Mauao Trust”.

(5) Subsection (3) applies subject to any survey necessary to facilitate the creation of the computer freehold register being completed.

(6) A computer freehold register must be created under this section as soon as is reasonably practicable but no later than—

(a) 2 years after the reserve vests in the trustees; or

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

(7) This section overrides sections 26A(3), 112(2), and 116 of the Reserves Act 1977 and, in the event of inconsistency, any other enactment or rule of law to the contrary.

15 Alteration of Schedule 1 by Order in Council

(1) The Governor-General may, by Order in Council, make amendments to Schedule 1 to reflect any changes in—

(a) the legal description of Mauao historic reserve resulting from an exchange of land authorised by the Minister under section 8 or any other lawful alteration to the boundaries of the reserve; or

(b) the computer freehold register for Mauao historic reserve.

(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 15(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 1
Description of Mauao historic reserve

s 3

75.6658 hectares, more or less, being part Section 1, Section 3, and Section 12, Block VI, Tauranga Survey District as shown on SO Plans 4802 and 51477.

Schedule 2
Encumbrances

s 5(1)(b)

1 The right of the Tauranga City Council to construct and operate on Mauao historic reserve a firefighting water line, and to include an additional power cable duct within the firefighting water line trench (Tauranga City Council Resource Consent No 1581; details of easement concerned shown on DP 368290).

2 The right of the Tauranga City Council to retain and maintain on Mauao historic reserve—

(a) the existing water reservoir (comprising 2437 square metres, being Section 1 SO Plan 400511) for a 60-year period (by lease dated 18 April 2008, granted by the Department of Conservation to Tauranga City Council); and

(b) the associated water and power supply lines (comprising 5733 square metres, being Areas A, C, D, and E DP 368290 and 2731 square metres, being Areas A and B SO Plan 400511) for a 60-year period (by lease dated 18 April 2008, granted by the Department of Conservation to Tauranga City Council).

Schedule 3
Statement of recognition of Waitaha's ancestral associations and historical connections with Mauao

s 13(1)

This statement of recognition reflects the history to which Waitaha subscribes, but it does not recount that history in full. Waitaha's history will sit alongside other iwi and hapū histories and altogether these histories make up the diverse relationships that are attributed to Mauao.

For Waitaha, that place is borne of the occupation of the maunga by Tutauaroa (the son of Waitaha), his son Taiwhanake, and Taiwhanake's son Kinonui. Tutauaroa moved to Otamarakau, leaving Taiwhanake to maintain Waitaha's presence on Mauao. Ngāti Ranginui and Waitaha occupied Mauao, later followed by Ngāi Te Rangi after the Battle of Kokowai. Mauao continues to be an integral part of Waitaha's history and their tribal future.

For Waitaha, the enduring protection of Waitaha's ancestral associations and historical connections with Mauao is paramount.

Notes

1 General

This is a consolidation of the Mauao Historic Reserve Vesting Act 2008 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

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

Trusts Act 2019 (2019 No 38): section 161

Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26): section 107

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