



# Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 registration guideline

LINZG20718

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# 1. Terms and definitions

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## Introduction

- (a) For the purposes of this guideline, the terms and definitions in the Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 (the Act) apply, unless stated otherwise.
- (b) For interpretation of the Act, refer particularly to sections:
- 7—general interpretation of the Act
  - 8—meaning of “Taranaki Whānui ki Te Upoko o Te Ika”
  - 9—meaning of “historical claims”
  - 38—definitions relating to cultural redress properties
  - 91–92—definitions relating to RFR land.
- (c) Any reference to a section in this guideline is a reference to that section of the Act, unless stated otherwise.
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## Term/abbreviation Definition

the Act	the Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009
actual deferred settlement date	the date on which settlement of a deferred selection property takes place under clause 4.53* of the Provisions Schedule  *NOTE: The Act incorrectly states clause 4.66.
Chief Executive	the Chief Executive of Land Information New Zealand
cultural redress property	a property listed in s 38(1) and described in Schedule 2 of the Act
Deed of Settlement	the Deed of Settlement of Historical Claims between Taranaki Whānui ki Te Upoko o Te Ika, the Port Nicholson Block Settlement Trust, and the Sovereign in Right of New Zealand, signed on 19 August 2008
deferred selection property	a property described in subpart H of Part 4 of the Provisions Schedule to the Deed of Settlement, which the trustees have the opportunity to purchase up to: <ul style="list-style-type: none"><li>• two years from the settlement date (non-leaseback), or</li><li>• ten years from the settlement date (leaseback)</li></ul>

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## Terms and definitions, continued

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### Introduction (continued)

<b>Term/abbreviation</b>	<b>Definition</b>
Provisions Schedule	the first Schedule to the Deed of Settlement
RFR land	land defined in s 92 and referred to in ss 91–117 of the Act, vested in the Crown or a Crown body, on the settlement date and listed in the RFR Schedule to the Deed of Settlement, which land is subject on disposal to the trustees' right of first refusal, a right which lasts until 2 September 2109
RGL	the Registrar-General of Land, appointed under the State Sector Act 1988, in accordance with s 4(1) of the Land Transfer Act 1952
settlement date	2 September 2009, being 20 business days after 5 August 2009, the date on which the Act came into force

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## 2. Foreword

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<b>Introduction</b>	<p>(a) The Act came into force on 5 August 2009. The settlement date for the passing of title to the land involved is 2 September 2009, though the vesting of certain property on that date is conditional.</p> <p>(b) All the land concerned is in the Wellington Land Registration District.</p>
<b>Purpose of guideline</b>	<p>This guideline has been issued by the RGL to ensure that applications received by LINZ under the Act are dealt with correctly.</p>
<b>Scope of guideline</b>	<p>(a) This document contains guidelines for compliance with the Act. It covers:</p> <ul style="list-style-type: none"><li>(i) the requirements for certificates, applications, and other transactions to be lodged with the RGL for registration, and</li><li>(ii) registration requirements and memorial formats.</li></ul> <p>(b) The primary focus of the guideline is on the provisions of the Act that impact on the registration process.</p>
<b>Intended use of guideline</b>	<p>This guideline has been issued by the RGL for employees of LINZ with delegated authority to exercise registration functions under the Land Transfer Act 1952.</p>
<b>References</b>	<p>The Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 is necessary for the application of this guideline.</p>

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### 3. Removal of memorials

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**Trigger** A certificate issued under s 13(1) for the removal of certain memorials from a computer register.

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**Action**

- (a) The standard registration fee is payable.
- (b) Any memorial on the current view of the computer register for the relevant property which relates to an enactment referred to in s 12(2) must be cancelled.
- (c) The following memorial should be recorded on the historic view of the register:  

“*[certificate identifier]* Certificate under section 13(1) of the Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 cancelling *[memorial identifier]* *[date and time]*”

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## 4. Background to removal of memorials

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### Legislation

Section 12 refers to the following enactments:

- (a) sections 8A to 8HJ of the Treaty of Waitangi Act 1975,
  - (b) sections 27A to 27C of the State-Owned Enterprises Act 1986,
  - (c) sections 211 to 213 of the Education Act 1989,
  - (d) Part 3 of the Crown Forest Assets Act 1989, and
  - (e) Part 3 of the New Zealand Railways Corporation Restructuring Act 1990.
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### Certificate

Section 13(4) requires the RGL to register a certificate against the affected registers, cancelling any relevant memorial referred to in s 12. The certificate must:

- (a) be issued by the Chief Executive (s 13(1)), as soon as reasonably practicable after the settlement date, or actual deferred settlement date,
  - (b) identify each allotment, which is all, or part, of a settlement property, and computer register which contains such a memorial (s 13(1)), and
  - (c) state that it is issued under s 13 (s 13(3)).
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## 5. Vesting of cultural redress properties

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**Trigger** Receipt of a written application under s 73(2) by an authorised person to register the trustees as proprietors of the fee simple estate.

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**Authorised persons** Section 73(11) identifies authorised persons as a person authorised by the persons set out below for the stated properties:

<b>Authorisation by</b>	<b>Property</b>
the Chief Executive of LINZ	1 Thorndon Quay
the Secretary for Justice	<ul style="list-style-type: none"><li>• 81–87 Thorndon Quay</li><li>• the Waiwhetu Road site</li><li>• the former Wainuiomata College site</li><li>• the former Wainuiomata Intermediate School site</li><li>• the Pipitea Marae site</li><li>• the urupā site</li></ul>
the Secretary for Education	the former Waiwhetu School site
the Director-General of Conservation	in all other cases

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## Vesting of cultural redress properties, continued

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### **Action 1— registration of trustees**

- (a) To the extent that a cultural redress property is all of the land contained in a computer freehold register, the RGL must register the trustees as the proprietors of the fee simple.
  - (b) If:
    - (i) a cultural redress property is not all of the land in a computer freehold register, or
    - (ii) there is no computer freehold register for all or part of the property,  
  
the RGL must create one or more computer freehold registers in the name of the trustees and enter any encumbrances described in the application.
  - (c) Creation of the above computer registers is subject to completion of any necessary survey.
  - (d) The standard registration fee is payable.
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### **Action 2— Pipitea Marae special provisions**

- (a) The part of the site that that was formerly Section 1 SO 406978 ceases to be held under the Public Works Act 1981 for the purposes of buildings of general government, including public buildings (s 45(1)).
  - (b) Any part of the site subject to s 15 of the Māori Purposes Act 1969 or s 9 of the Māori Purposes Act 1974 ceases to be:
    - (i) subject to those sections, and
    - (ii) held for the purposes specified (s 45(2)).
  - (c) The fee simple of any part of the site listed in (b) vests in the Crown as Crown land subject to the Land Act 1948 (s 45(3)).
  - (d) The fee simple of the site then vests in the trustees (s 45(4)).
  - (e) There is provision for the subsequent vesting of Pipitea Marae in the Pipitea Marae Charitable Trust, if that trust:
    - (i) becomes a registered charitable entity under the Charities Act 2005, and
    - (ii) gives written notice of that registration to the Secretary for Justice, on or before 2 September 2011 (s 46).
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## Vesting of cultural redress properties, continued

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### **Action 2— Pipitea Marae special provisions (continued)**

- (f) On receipt of an application from an authorised person, confirming the vesting of the fee simple in the Pipitea Marae Charitable Trust, the RGL must:
    - (i) create a computer freehold register in the names of the Trustees; and enter any encumbrances described in the application, then
    - (ii) immediately register the Pipitea Marae Charitable Trust as the proprietor of the fee simple (s 73(6)).
  - (g) If:
    - (i) the Pipitea Marae Charitable Trust has not become registered; and
    - (ii) given that notice by the required date; and
    - (iii) an application is received from an authorised person,the RGL must register the Trustees as the proprietors of the fee simple and enter any encumbrances described in the application (s.73(7)).
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### **Action 3— vestings subject to encumbrances**

- (a) Twelve of the cultural redress properties are vested subject to the encumbrances set out in Schedule 2 of the Act (s 72).
  - (b) A number of the encumbrances are unregistered instruments.
  - (c) Only the encumbrances referred to in the application are required to be entered on the computer register.
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## Vesting of cultural redress properties, continued

### Action 4— vestings subject to trustees' encumbrances or covenants

- (a) The cultural redress properties set out below are vested subject to the trustees creating the encumbrances or covenants as stated.
- (b) The applications in respect of these sites must be accompanied by the instruments creating the encumbrances or covenants referred to.

Property	Encumbrance or covenant the trustees must create	Refer to...
urupā site	<ul style="list-style-type: none"> <li>an easement and encumbrance to MEL (West Wind) Limited, and</li> <li>with the Crown, a deed of covenant to MEL (West Wind) Limited and Meridian Energy Limited</li> </ul>	s 48(4)
Matiu Scientific Reserve	a registrable lease to Wellington Regional Council in relation to the part of the property that is Section 3 SO 20946	s 63(7)
bed of Lake Kohangatera and Lake Kohangatera esplanade land	registrable conservation covenants to the Crown to be treated as conservation covenants for the purposes of section 77 of the Reserves Act 1977 and section 27 of the Conservation Act 1987	s 49(6)
bed of Lake Kohangapiripiri and Lake Kohangapiripiri esplanade land		s 50(7)

### Action 5— vesting with benefit of right of way

Wellington Regional Council must provide the trustees with a registrable right of way easement in favour of the dendroglyph site in the form set out in Part 4 of the documents schedule of the deed of settlement.<sup>1</sup> (s 47(6))

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<sup>1</sup> Refer to the Office of Treaty Settlements website for a copy of the Taranaki Whānui ki Te Upoko o Te Ika Deed of Settlement.

## Vesting of cultural redress properties, continued

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### Action 6— memorial formats

The following are examples of suitable memorials to record the vesting on an existing computer freehold register.

- (a) Any cultural redress property except those referred to in (b) and (c) below :

"[registration number] Application under section 73 of the Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 vesting the within land in [names of the trustees], the trustees of the Port Nicholson Block Settlement Trust [date and time]"

"Subject to Part 4A of the Conservation Act 1987"

"Subject to section 11 of the Crown Minerals Act 1991"

- (b) Wi Tako Scenic Reserve; Point Dorset Recreation Reserve; Korokoro Gateway; the Makaro, Mokopuna and Matiu Scientific Reserves and the Matiu Historic Reserve:

"[registration number] Application under section 73 of the Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 vesting the within land in [names of the trustees], the trustees of the Port Nicholson Block Settlement Trust [date and time]"

"Subject to Part 4A of the Conservation Act 1987 (but section 24 of that Act does not apply)"

"Subject to sections 74(3) and 78 of the Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009"

"Subject to section 11 of the Crown Minerals Act 1991"

- (c) the beds of Lakes Kohangatera and Lake Kohangapiripiri and their respective esplanade lands:

"[registration number] Application under section 73 of the Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 vesting the within land in the [names of] the trustees of the Port Nicholson Block Settlement Trust [date and time]"

"Subject to section 11 of the Crown Minerals Act 1991"

"Part 4A of the Conservation Act 1987 does not apply"

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## Vesting of cultural redress properties, continued

### Revocation and re-conferring of reserve status

The reserve status of the following sites is revoked and/or new reserve status conferred:

Property	Reserve Status	Section	New status	Section
dendroglyph site	recreation	s 47(1)	Māori—TTWMA s338(1)	s 47(4)
urupā site	none		Māori—TTWMA s338(1)	s 48(2)
bed of Lake Kohangatera and the Lake Kohangatera esplanade land	esplanade	s 49(1)	scientific as to Crown stratum above the bed of Lake Kohangatera	s 51
	wildlife	s 49(3)		
bed of Lake Kohangapiri and the Lake Kohangapiri esplanade land	esplanade	s 50(2)	scientific as to Crown stratum above the bed of Lake Kohangapiri	s 51
	wildlife	s 50(4)		
Wi Tako Scenic Reserve	scenic	s 58(1)	scenic	s 58(3)
Point Dorset Recreation Reserve	recreation	s 59(1)	recreation	s 59(3)
Korokoro Gateway site	stewardship	s 60(1)	local purpose	s 60(3)
Makaro Scientific Reserve	scientific	s 61(1)	scientific	s 61(3)
Mokopuna Scientific Reserve	scientific	s 62(2)	scientific	s 62(4)
Matiu Scientific Reserve	scientific	s 63(3)	scientific	s 63(5)
Matiu Historic Reserve	historic	s 64(1)	historic	s 64(3)

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## Vesting of cultural redress properties, continued

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### Action 7— statutory actions

- (a) When an application is made in respect of a reserve site, the statutory action revoking the reserve must be captured before the registration of the trustees as registered proprietors.
  - (b) When the trustees have been registered, the new status of the reserve must be noted on the current view of the computer register created.
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### Trigger

Application from the Director-General of Conservation, under s 75(3), to cancel memorials recording that s 24 of the Conservation Act 1987 does not apply, if the reservation of a reserve site is revoked, in whole or in part.

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### Action 8— memorial format

The approved format for the memorial which must record the cancellation is:

“*[application identifier]* Application under section 75(3) of the Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 removing the reserve status of [part of] the within land *[date and time]*”

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### Action 9— removal of memorials

The following notifications must be removed:

- (a) from the memorial “Subject to Part 4A of the Conservation Act 1987 (but section 24 of that Act does not apply)” the words “(but section 24 of that Act does not apply)”;
  - (b) the memorial “Subject to sections 74(3) and 78 of the Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009”
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## 6. Transfer of deferred selection properties

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**Trigger** Receipt of a certificate from the Chief Executive under s 13 after notification of a deferred selection settlement date by an authorised person under s 88(2).<sup>2</sup>

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**Action 1—  
removal of  
memorials**

- (a) The standard registration fee is payable.
- (b) Any memorial on the current view of the computer register for the relevant property which relates to an enactment referred to in s 12(2) must be cancelled.
- (c) The following memorial should be recorded on the historic view of the register:

“*[certificate identifier]* Certificate under section 13(1) of the Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 cancelling *[memorial identifier]* *[date and time]*”

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**Trigger** Receipt of an application from an authorised person under s 89(2) to create a computer freehold register

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**Action 2—  
transfer to the  
trustees**

- (a) If a computer register exists for a deferred selection property, the transfer to the trustees executed on behalf of the chief executive of the land holding agency or the Commissioner of Crown Lands must be registered.
- (b) When:
  - (i) a deferred selection property is not all the land in a computer register, or
  - (ii) there is no computer freehold register for all or part of the property

to enable the transfer to the trustees, the RGL must, after completion of any necessary survey, create a computer freehold register in the name of the Crown subject to, and together with, any registered, notified, or notifiable encumbrances described in the application; but without any statement of purpose (s 89(2)).

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<sup>2</sup> For background to removal of memorials see section 4 of this guideline.

## Transfer of deferred selection properties, continued

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**Action 3—  
application of  
other  
enactments**

Section 90 sets out how certain other enactments apply to deferred selection properties. The necessary memorials are:

“Subject to Part 4A of the Conservation Act 1987”

“Subject to section 11 of the Crown Minerals Act 1991”

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## 7. Right of first refusal

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**Trigger—s 115 certificate** Receipt of a certificate from the Chief Executive under s 115 that identifies a computer register for RFR land.

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**Action—memorials record RFR land**

- (a) Add the following memorial to the current view of the computer register identified in the s 115 certificate:

“*[certificate identifier]* Certificate under section 115(2) of the Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 that the within land is RFR land as defined in section 92 and is subject to Subpart 2 of Part 3 of the Act (which restricts disposal, including leasing, of the land) *[date and time]*”

- (b) The standard registration fee is payable.
- 

**Trigger—s 116 certificate** Receipt of a certificate from the Chief Executive under s 116(1) for the removal of s 115 memorials from a computer register, on land ceasing to be RFR land.

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**Action—registration requirements**

- (a) The standard registration fee is payable.  
(b) The transfer or vesting must be registered.  
(c) When the certificate is received, the following memorial should be recorded on the historic view of the register:

“*[certificate identifier]* Certificate under section 116(1) of the Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 removing *[memorial identifier]* entered under section 115 *[date and time]*”

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## Right of first refusal, Continued

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**Trigger—s 117 certificate** Receipt of a certificate from the Chief Executive under s 117(1) for the removal of s 115 memorials from a computer register, at the end of the RFR period (September 2109).

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**Action—registration requirements**

- (a) The standard registration fee is payable.
- (b) When the certificate is received, the following memorial must be recorded on the historic view of the register:

“[certificate identifier] Certificate under section 117(1) of the Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 removing [memorial identifier] entered under section 115 [date and time]”

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**Action—ongoing monitoring of RFR land** A transfer or vesting of the fee simple estate, or grant of a lease for 50 years or more (including any rights of renewal or extensions), in a computer register that has a memorial recorded on it under s 115(2), cannot be registered, unless:

- (a) the dealing is in favour of the trustees, the Crown, or a Crown Body (s 99); or
  - (b) a certificate from the Chief Executive has been received under s 116(1); or
  - (c) at the end of the RFR period, a certificate from the Chief Executive has been received under s 117(1) for the removal of the memorial under s 115.
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