



Ngai Tāmanuhiri Claims Settlement Act 2012 registration guideline

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1 Terms and definitions

General

- (a) For the purposes of this guideline, the terms and definitions in the Ngai Tāmanuhiri Claims Settlement Act 2012 (Act) apply, unless stated otherwise. Refer to ss 9, 10, 11, 12, 53, 82, and 87 of the Act for interpretation.
 - (b) Terms and abbreviations used in this guideline that are not defined in the Act are defined below.
 - (c) Any reference to a section in this guideline is a reference to that section of the Act.
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Term/abbreviation	Definition
Act	Ngai Tāmanuhiri Claims Settlement Act 2012
authorised person	an authorised person defined in ss 57(7), 66(6), 72(5), and 85(4), as the case may be
Chief Executive	Chief Executive of Land Information New Zealand
cultural redress property	a property listed in s 53 and described in Schedule 2 of the Act
commercial redress property	a property defined as commercial redress property in s 10
deed of settlement	deed of settlement referred to in s 3 and defined in s 10
LINZ	Land Information New Zealand
protected site	property defined as a protected site in s 82
RFR land	land defined as RFR land in s 87 (right of first refusal)
RGL	Registrar-General of Land appointed under s 4 of the Land Transfer Act 1952
trustees	trustees of the Tāmanuhiri Tutu Poroporo Trust as defined in s 10

2 Foreword

Introduction	<ul style="list-style-type: none">(a) The Ngai Tāmanuhiri Claims Settlement Act 2012 (Act) came into force on 1 August 2012.(b) The land concerned is in the Gisborne and Hawke's Bay Land Registration Districts.
Purpose	The Registrar-General of Land (RGL) has issued this guideline to ensure that applications received by Land Information New Zealand (LINZ) under the Act are dealt with correctly.
Scope	<ul style="list-style-type: none">(a) This document contains guidelines for compliance with the Act. It covers:<ul style="list-style-type: none">(i) the requirements for certificates, applications, and other transactions to be lodged for registration with the RGL, and(ii) registration requirements and memorial formats.(b) The guideline focuses primarily on the provisions of the Act that impact on the registration process.
Intended use of guideline	The RGL has issued this guideline for employees of LINZ with delegated authority to exercise registration functions under the Land Transfer Act 1952.
Application where part computer register affected	When this guideline refers to parcels of land or whole computer registers, but the incoming application affects only part, memorials and actions should be amended accordingly.
References	<p>The following documents are necessary for the application of this guideline:</p> <ul style="list-style-type: none">(a) Ngai Tāmanuhiri Claims Settlement Act 2012(b) Deed of Settlement for Ngai Tāmanuhiri dated 5 March 2011.¹

¹ Refer to the Office of Treaty Settlements website for a copy of the deed of settlement and its amendments

3 Removal of memorials

Trigger	A certificate under s 16 for the removal of certain memorials from a computer register.
Authorised person	A statement in the certificate that the signatory is acting on delegation or authority of the Chief Executive shall be taken as evidence of the authority of the person to execute the certificate on behalf of the Chief Executive.
Legislation	<p>(a) Section 15 provides that certain legislative provisions do not apply to a settlement property or a deferred selection property or for the benefit of Ngai Tāmanuhiri or a representative entity.</p> <p>(b) Section 15(2) lists the legislative provisions as:</p> <ul style="list-style-type: none">(i) sections 8A to 8HJ of the Treaty of Waitangi Act 1975,(ii) sections 27A to 27C of the State-Owned Enterprises Act 1986,(iii) sections 211 to 213 of the Education Act 1989,(iv) Part 3 of the Crown Forest Assets Act 1989, and(v) Part 3 of the New Zealand Railways Corporation Restructuring Act 1990.
Certificate	<p>Section 16(4) requires the RGL to register a certificate against the affected registers, cancelling any relevant memorial referred to in s 15(2). The certificate must:</p> <ul style="list-style-type: none">(a) be issued by the Chief Executive (s 16(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 16(1)), and(c) state that it is issued under s 16 (s 16(3)).

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Removal of memorials, continued

Action

When a certificate under s 16 is presented for registration:

- (a) any memorial on the current view of the computer register which relates to an enactment referred to in s 15(2) should be removed,
- (b) the following memorial should be recorded on the historic view of that register:

'[instrument number] Certificate under section 16 of the Ngai Tāmanuhiri Claims Settlement Act 2012 cancelling [memorial to be cancelled] [date and time]'.

- (c) the Landonline registration code is RRSM, and
- (d) the standard registration fee is payable.

Note: If the existing memorial on the title refers to an Act in general, such as 'subject to the Crown Forest Assets Act 1989', the original notation remains on the computer register, but it should be recorded on the computer register that 'Part 3 of the Crown Forest Assets Act 1989 (or any other relevant section mentioned in s 15(2)) does not apply'.

4 Vesting of cultural redress properties

Legal description of land to vest

The following land vests in the trustees.

Site	Land description
Mangapoike	Hawke's Bay Land District: Gisborne and Wairoa District. 62.6773 hectares, more or less, being Lot 1 DP 21726 (formerly Part Nuhaka 2B2A2 Block). All Computer Freehold Register HBP4/1288
Young Nick's Head/Te Kuri a Paoa Historic Reserve	Gisborne Land District: Gisborne District. 38.7300 hectares, more or less, being Lot 1 DP 319260. All Computer Freehold Register 75811. Subject to national historic reserve referred to in section 55, subject to Reserves Act 1977.

Trigger

Receipt of a written application under s 57(2) by an authorised person to register the trustees as proprietors of the fee simple estate.

Action – registration of trustees

- (a) In the case of Young Nick's Head/Te Kuri a Paoa Historic Reserve, the RGL must:
 - (i) register the trustees as the proprietors of the fee simple, and
 - (ii) make entries in the register and do all other things necessary to give effect to subpart 4 of part 2 of the Act and to Part 5 of the deed of settlement.
 - (b) In the case of Mangapoike, the RGL must:
 - (i) create one computer freehold register in the name of the trustees, and
 - (ii) enter any encumbrances that are registered, notified, or notifiable and that are described in the application (s 57(3)).
 - (c) Creation of the above computer register is subject to completion of any necessary survey (s 57(5)).
 - (d) The standard registration fee is payable.
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Vesting of cultural redress properties, continued

Action — vestings subject to encumbrances

- (a) The cultural redress properties are vested subject to the encumbrances set out in Part 1 of Schedule 2 of the Act (s 56).
 - (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.
-

Statutory action – Young Nick's Head/Te Kuri a Paoa Historic Reserve

- (a) Young Nick's Head/Te Kuri a Paoa Historic Reserve vests in the trustees as if it were vested under s 26 of the Reserves Act 1977.
 - (b) Under s 55(2), Young Nick's Head/Te Kuri a Paoa Historic Reserve is declared a national reserve for the purposes of s 13 of the Reserves Act 1977.
-

Action - memorials

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

- (a) In the case of Mangapoike:

'[registration number] Application under section 57(4) of the Ngai Tāmanuhiri Claims Settlement Act 2012 vesting the within land in [*names of the trustees*] [date and time]'

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

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

- (b) In the case of Te Kuri a Paoa/Young Nick's Head National Historic Reserve:

'[registration number] Application under section 57(2) of the Ngai Tāmanuhiri Claims Settlement Act 2012 vesting the within land in [*names of the trustees*] [date and time]'

'Subject to section 61 of the Ngai Tāmanuhiri Claims Settlement Act 2012'

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

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Vesting of cultural redress properties, continued

Statutory exemptions

Cultural redress properties are not subject to:

- (a) the subdivisional requirements of the Resource Management Act 1991, or
 - (b) the council's requirements for consent under s 348 of the Local Government Act 1974.
-

Statutory limitation on transferring land

The fee simple estate in Te Kuri a Paoa/Young Nick's Head National Historic Reserve may be transferred only in accordance with s 61 of the Act.

Certificate – transfer of Te Kuri a Paoa/Young Nick's Head National Historic Reserves

The instrument to transfer Te Kuri a Paoa/Young Nick's Head National Historic Reserve must be accompanied by a certificate (s 61(2)(c)) given by the transferees, or the transferees' solicitor, verifying that:

- (a) the transferors of the reserve are, or were, the trustees, and
 - (b) the transferees are the trustees of the same trust, after
 - (i) any new trustees have been appointed to the trust, or
 - (ii) any transferor has ceased to be a trustee of the trust.
-

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Vesting of cultural redress properties, continued

Legal description -
Te
Whereowhero

Site	Land description
Te Whereowhero	<p>Gisborne Land District: Gisborne District</p> <p>79 hectares, approximately, being Part Lot 3 and Lot 4 DP 3709. Part Computer Freehold Register 504589. Subject to survey.</p> <p>Subject to open space covenant under section 22 of the Queen Elizabeth the Second National Trust Act 1977 created by transfer 162149.1.</p> <p>Subject to drainage easement and together with rights of way, both to be registered in conjunction with the transfer.</p>

Trigger

Receipt of orders for computer freehold registers for Te Whereowhero under s 64.

Action -
transfer of Te
Whereowhero

- (a) The RGL must create:
- (i) one computer freehold register for the fee simple estate in Te Whereowhero in the names of the trustee, and
 - (ii) one computer freehold register for the fee simple estate in the balance of the land in computer register 504589 in the name of the transferor.
- Note:** Transferor is defined in s 64(3).
- (b) Section 348 of the Local Government Act 1974 does not apply to any right of way or private road.
- (c) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to s 64.

5 Vesting of commercial redress properties

Trigger A written application by an authorised person under s 66(2) to create a computer freehold register.

**Action -
deferred
selection
property**

- (a) If a deferred selection property
- (i) is not all 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 computer freehold register in the name of the Crown.
- (b) Creation of the above computer register is subject to
- (i) and together with, any encumbrances that are registered, or described in the application, but without any statement of purpose,
 - (ii) completion of any necessary survey.
- (c) Standard registration fees apply.
-

Trigger A written request by an authorised person under s 66(4) to register a covenant.

**Action -
covenant for
later creation
of computer
freehold
register**

- (a) If:
- (i) no computer freehold register exists, and
 - (ii) an authorised person requests the RGL to register a covenant in accordance with s 66,
- the RGL must register the covenant and create a computer interest register in the name of the Crown.
- (b) Standard registration fees apply.
-

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Vesting of commercial redress properties, continued

Application of other enactments

- (a) Section 67 sets out how certain other enactments apply to commercial redress properties upon registration of a transfer from the Crown.
 - (c) In addition to the standard transfer memorial recording the details of the transferee, the following memorials must be added:
 - (i) 'Subject to Part 4A of the Conservation Act 1987 (but section 24(2A) , 24A and 24AA of that Act do not apply to the disposition)'
 - (ii) 'Subject to section 11 of the Crown Minerals Act 1991'.
 - (d) Under s 67(2)(b), if a right of way easement is registered, s 348 of the Local Government Act 1974 does not apply.
 - (e) Section 11 and Part 10 of the Resource Management Act do not apply to the transfer of a relevant property as defined in s 67(1).
-

6 Licensed land

- Wharerata Forest**
- (a) Wharerata Forest ceases to be Crown forest land on the registration of the transfer of the fee simple estate to the trustees (s 70).
 - (b) However, nothing can be registered or noted that would be consistent with the Crown Forests Assets Act 1989, but inconsistent with part 3 subpart 1 of the Act.
-

Trigger A written application by an authorised person and after the completion of any necessary survey under s 72(2) to create a computer freehold register.

- Action – create computer freehold register**
- (a) The RGL must create
 - (i) one computer freehold register in the name of the Crown for that part of the Wharerata Forest situated in the Gisborne Land Registration District, and
 - (ii) one computer freehold register in the name of the Crown for that part of the Wharerata Forest situated in the Hawke's Bay Land Registration District.
 - (b) Creation of the above computer registers is subject to and together with any encumbrances that are registered or described in the application but without any statement of purpose.
 - (c) Standard registration fees apply.
-

Trigger A written request by an authorised person under s 72(4) to register a covenant in accordance with s 66.

- Action - covenant for later creation of computer freehold register**
- (a) If no computer freehold register exists, the RGL must register the covenant and create a computer interest register.
 - (b) Standard registration fees apply.
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Licensed land, continued

- Application of other enactments**
- (a) Section 74 sets out how certain other enactments apply to Wharerata Forest land upon registration of a transfer from the Crown.
 - (b) In addition to the standard transfer memorial recording the details of the transferee, the following memorials must be added:
 - (i) 'Subject to Part 4A of the Conservation Act 1987 (but section 24(2A), 24A and 24AA of that Act do not apply)'
 - (ii) 'Subject to section 11 of the Crown Minerals Act 1991'.
-

Trigger Written application by an authorised person under s 85(1) to note a right of access.

Action – right of access The RGL must make a notation on the computer freehold register that the land is, or at any future time may be, subject to the right of access set out in s 83.

Memorial A suitable memorial would be

'[part of] the within land is [or may at any future time] be subject to a right of access under section 83 of the Ngai Tāmanuhiri Claims Settlement Act 2012 see application [registration number] [*date and time*]'

7 Right of first refusal

Trigger Receipt of a certificate from the Chief Executive under s 109 that identifies one or more computer registers for RFR land.

**Action—
memorials
record RFR
land**

(a) Add the following memorial to the current view of the computer register identified in the s 109 certificate:

'[*certificate identifier*] Certificate under section 109(2) of the Ngai Tāmanuhiri Claims Settlement Act 2012 that the within land is RFR land as defined in section 87 and is subject to Subpart 4 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 110
certificate**

Receipt of a certificate from the Chief Executive under s 110(1) for the removal of s 109 memorials from a computer register on land ceasing to be RFR land.

**Action –
registration
requirements**

(a) The RGL must record the following memorial on the historic view of the register:

'[*certificate identifier*] Certificate under section 110(1) of the Ngai Tāmanuhiri Claims Settlement Act 2012 removing [*memorial identifier*] entered under section 109 [*date and time*]'

(b) The transfer or vesting must be registered.

(c) The standard registration fee is payable.

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Right of first refusal, continued

Trigger - s 111 certificate

Receipt of a certificate from the Chief Executive under s 111(1) for the removal of s 109 memorials from a computer register at the end of the RFR period.

Action – registration requirements

(a) The RGL must record the following memorial on the historic view of the register:

'[certificate identifier] Certificate under section 111(1) of the Ngai Tāmanuhiri Claims Settlement Act 2012 removing [memorial identifier] entered under section 109 [date and time]'.

(b) The standard registration fee is payable.

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 109(2), cannot be registered unless:

- (a) the dealing is in favour of the trustees, the Crown, or a Crown Body (s 94), or
 - (b) a certificate from the Chief Executive has been received under s 109(1), or
 - (c) at the end of the RFR period, a certificate from the Chief Executive has been received under s 111(1) for the removal of the memorial under s 109.
-