



Ngāti Whātua Ōrākei Claims Settlement Act 2012 registration guideline

LINZG20729

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1 Terms and definitions

- General**
- (a) For the purposes of this guideline, the terms and definitions in the Ngāti Whātua Ōrākei Claims Settlement Act 2012 (Act) apply, unless stated otherwise. Refer to ss 9, 10, 11, 12, 49, and 59 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	Ngāti Whātua Ōrākei Claims Settlement Act 2012
Chief Executive	Chief Executive of Land Information New Zealand
deed of settlement	the deed of settlement for Ngāti Whātua Ōrākei dated 5 November 2011 as defined in s 10 of the Act
LINZ	Land Information New Zealand
RGL	Registrar-General of Land appointed under s 4 of the Land Transfer Act 1952
resumptive memorials	memorials entered under any enactment referred to in s 16(2) of the Act
trustees	trustees of the Ngāti Whātua Ōrākei Trust as defined in s 10 of the Act

2 Foreword

- Introduction**
- (a) The Ngāti Whātua Ōrākei Claims Settlement Act 2012 (Act) comes into force on 1 February 2013.
 - (b) All the land concerned is in the North Auckland Land Registration District.
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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**
- (a) This document contains guidelines for compliance with the Act. It covers:
 - (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.
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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**
- The following documents are necessary for the application of this guideline:
- (a) Deed of Settlement for Ngāti Whātua Ōrākei dated 5 November 2011¹
 - (b) Ngāti Whātua Ōrākei Claims Settlement Act 2012.
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¹ Refer to the Office of Treaty Settlements' website for a copy of the Deed of Settlement.

3 Removal of memorials

Trigger A certificate issued under s 16 for the removal of certain memorials from a computer register.

Legislation

- (a) Section 15 provides that certain legislative provisions do not apply:
 - (i) to the Pourewa Creek site, or
 - (ii) to a commercial property, or
 - (iii) for the benefit of Ngāti Whātua Ōrākei or a representative entity.
- (b) Section 15(2) lists the legislative provisions as:
 - (i) ss 8A to 8HJ of the Treaty of Waitangi Act 1975,
 - (ii) ss 27A to 27C of the State-Owned Enterprises Act 1986,
 - (iii) ss 211 to 213 of the Education Act 1989,
 - (iv) Part 3 of the Crown Forest Assets Act 1989,
 - (v) Part 3 of the New Zealand Railways Corporation Restructuring Act 1990.

Note: These legislative provisions, being statutory notations, do not fall within the definition of 'encumbrance' in treaty settlement legislation, so must be brought down onto the computer registers created for the relevant entity or trustees. They may then be noted as 'cancelled' by the RGL, acting on the certificate issued as below.

Certificate Section 16(4) requires the RGL to register a certificate against the affected registers, cancelling any memorial referred to in s 15. The certificate must:

- (a) be issued by the Chief Executive of LINZ (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

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 the Chief Executive's behalf.

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 Ngāti Whātua Ōrākei Claims Settlement Act 2012 cancelling [*memoria(s) to be cancelled*] (*date and time*),

- (c) the Landonline 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 xx) does not apply'.

4 Vesting of cultural redress properties (Pourewa Creek site)

Trigger Receipt of a written application under s 48(1) by the Director-General of Conservation to register the trustees as proprietors of the fee simple estate.

Statutory application The subdivisional requirements of the Resource Management Act 1991 do not apply to the vesting of the Pourewa Creek site (s 45(3)).

Statutory exemptions Cultural redress properties are not subject to:

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

Legal description of land to vest The following properties will vest upon applications for issue of a computer freehold register in the name of the trustees.

Land description (all North Auckland Land District—Auckland City)	Encumbrances
6.8250 hectares, more or less, being Section 1 SO 445650	Recreation reserve subject to section 17 of the Reserves Act 1977
26.8000 hectares, more or less, being Section 2 SO 445650. Part computer freehold registers NA646/33 and NA974/199	Subject to a right to convey and drain stormwater. Created by deed of easement 5486019.5 (affects Section 1 SO 445650 only)
	Subject to an unregistered deed of authority (to use the site for a station for the transmission, emission, or reception of any form of radio, electric, or electronic communication) to Bellsouth New Zealand Limited (now Vodafone New Zealand Limited), dated 20 June 1995 as renewed by deed of authority dated 11 February 2008 (affects Section 2 SO 445650 only)
	Subject to an unregistered concession for a lease and licence to St Heliers Bay Pony Club Incorporated, dated 10 May 2001 as renewed and varied by concession document numbered AK-0041–GRA and dated 10 August 2011

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Vesting of cultural redress properties (Pourewa Creek site), continued

Actions

All actions set out in the following paragraphs must be taken:

- (a) [Action - registration of trustees](#)
 - (b) [Action - vesting subject to encumbrances](#)
 - (c) [Statutory action - revocation and reconferring of reserve status](#)
 - (d) [Action – noting of reserve status](#)
-

Action - registration of trustees

- (a) The RGL must create one computer freehold register for the fee simple in the Pourewa estate site in the name of the trustees and enter on the computer register any encumbrances described in the application (s 48(1)(a)), and the following:
 - (i) 'Subject to section 43 of the Ngāti Whātua Ōrākei Claims Settlement Act 2012',
 - (ii) 'Subject to section 45(2) of the Ngāti Whātua Ōrākei Claims Settlement Act 2012',
 - (iii) 'Subject to Part 4A of the Conservation Act 1987 (but section 24 of that Act does not apply)',
 - (iv) 'Subject to section 11 of the Crown Minerals Act 1991'.
- (b) Creation of the above computer register is subject to the completion of any necessary survey.
- (c) The standard registration fee and new title fees are payable.

Note: The resumptive memorials must be brought down onto the computer registers created for the relevant entity or trustees. They cannot be noted as 'cancelled' until a certificate by the Chief Executive authorising the removal of the memorials is lodged for registration.

Action - vesting subject to encumbrances

- (a) The Pourewa Creek site vests subject to the encumbrances set out in Schedule 1 of the Act (s 44).
 - (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 (Pourewa Creek site), continued

Statutory action - revocation and reconferring of reserve status

The reserve status of the Pourewa Creek site as a conservation estate is revoked under s 42(1) and a new reserve status of '*Reserve subject to section 17 of the Reserves Act 1977*' conferred under s 42(3).

Action – noting of reserve status

- (a) When an application is made in respect of the Pourewa Creek site, the statutory action revoking the status as conservation area must be captured before the registration of the trustees as registered proprietors.
 - (b) When the vesting in the trustees has been registered, the new reserve status must, where applicable, be noted on the current view of the relevant computer register.
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Trigger

Written application by the Director-General of Conservation under s 48(5) for the removal of certain memorials from the Pourewa Creek site.

Action – removal and recording of memorials

- (a) The RGL must
 - (i) remove the following:
 - on 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 the Conservation Act 1987 does not apply', and
 - the notification that the site is subject to s 45(2) of the Ngāti Whātua Ōrākei Claims Settlement Act 2012.
 - (ii) record the following memorial on the historic view of the register:

'[instrument number] Application under section 48(5) of the Ngāti Whātua Ōrākei Claims Settlement Act 2012 removing [the notification that section 24 of the Conservation Act 1987 does not apply to the within land and removing the notification that the within land is subject to section 45(2) of the Ngāti Whātua Ōrākei Claims Settlement Act 2012] [date and time].
 - (b) The application may be for part of a computer register, in which case only notifications over the part affected should be cancelled.
 - (c) If the application is for part of a computer register, there is no requirement that the part affected be defined by survey.
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5 Vesting of commercial redress properties

Trigger A written application from an authorised person of the land holding agency under s 56(1) to create a computer freehold register.

Legal description The following land vests in the trustees

North Auckland Land District—Auckland City
3.2085 hectares, more or less, being Section 1 SO 448861. Part computer interest register 330050.

Action – create computer freehold register

- (a) If:
- (i) a commercial redress property 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
- (iii) create one computer freehold register in the name of the Crown [s 56(1)(a)], and
 - (iv) enter on the computer freehold register any encumbrances that are registered, notified and notifiable and that are described in the application [s 56(1)(b)].
- Note:** Do not record any statement of purpose (s 56(1)(c)).
- (b) Creation of the above computer register is subject to the completion of any necessary survey.
- (c) The standard registration fee and new title fees are payable.

Note: The resumptive memorials must be brought down onto the computer registers created for the relevant entity or trustees. They cannot be noted as 'cancelled until a certificate by the Chief Executive authorising the removal of the memorials is lodged for registration.

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Vesting of commercial redress properties, continued

Trigger Receipt of a written request by an authorised person of the land holding agency under s 56(4) to register a covenant.

Registration code Where the request includes the covenant for registration, the request and covenant should together be coded as COV.

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 the Chief Executive's behalf.

Action - covenant for interim creation of computer interest 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 56,

the RGL must register the covenant and create a computer interest register in the name of the Crown [s 56(4)(b)].

(b) The standard registration fee is payable.

Trigger Registration of a transfer of commercial redress property from the Crown.

Statutory application Before the Crown can transfer a commercial redress property, a computer freehold register must either already exist or have been created under s 56.

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Vesting of commercial redress properties, continued

- Action – application of other enactments**
- (a) Section 57 sets out how certain other enactments apply to commercial redress properties upon registration of a transfer from the Crown.
 - (b) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to the transfer of commercial redress property.
 - (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 sections 24(2A), 24A, and 24AA of that Act do not apply)' [s 57(3)]
 - (ii) 'Subject to section 11 of the Crown Minerals Act 1991' [s 57(2)].
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- Right of way**
- (a) Under s 57(8), if a right of way easement is registered, s 348 of the Local Government Act 1974 does not apply.
 - (b) The right of way easement may either be lodged in the same dealing as a request for a computer freehold register or a transfer or later. If it is lodged later, it must contain a recital that it is created to fulfil the terms of the deed of settlement in relation to a transfer of commercial property under the Act.
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Trigger Transfer for the purpose of s 53(a) of a commercial redress property under s 56.

- Action – transfer to person other than trustee**
- (a) If commercial redress property is transferred to anyone other than the trustee, the transfer must be accompanied by a certificate from the person as defined in s 58 or that person's solicitor verifying that the transfer is for the purpose of s 53(a).
 - (b) The RGL must, upon receiving the transfer, certificate, and any other document required to complete registration, register the transfer.
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6 Orakei Block

- Prohibition on dealings with Hapu land**
- (a) Section 64 expressly prohibits any dealings with Hapu land except as provided in s 63.
 - (b) Hapu land includes papkainga and whenua rangatira and land added under s 70 (s 59).

Legal descriptions of Hapu land

The following table sets out the legal descriptions of Hapu land.

Development land
1.7414 hectares, more or less, being Lots 1 to 8 and 10 to 19 DP 40823. Balance computer freehold register NA99C/181
809 square metres, more or less, being Lot 9 DP 40823. All computer freehold register 515541
5,309 square metres, more or less, being Lots 30 to 34 DP 37786. All computer freehold register NA99C/182
1.1429 hectares, more or less, being Section 810 Town of Orakei. All computer freehold register NA99C/183
8,410 square metres, more or less, being Section 1 SO 446761. Part computer freehold register NA99C/205
5.9007 hectares, more or less, being Sections 2 to 6 SO 446762. Part computer freehold registers 366906, NA99C/185, NA99C/186 and NA99C/189
288 square metres, more or less, being Lot 1 DP 391385 together with a 1/16 share in 955 square metres, more or less, being Lot 100 DP 391385. All computer freehold register 366897
233 square metres, more or less, being Lot 2 DP 391385 together with a 1/16 share in 955 square metres, more or less, being Lot 100 DP 391385. All computer freehold register 366898
233 square metres, more or less, being Lot 3 DP 391385 together with a 1/16 share in 955 square metres, more or less, being Lot 100 DP 391385. All computer freehold register 366899
262 square metres, more or less, being Lot 4 DP 391385 together with a 1/16 share in 955 square metres, more or less, being Lot 100 DP 391385. All computer freehold register 366900
284 square metres, more or less, being Lot 13 DP 391385 together with a 1/16 share in 955 square metres, more or less, being Lot 100 DP 391385. All computer freehold register 366901
222 square metres, more or less, being Lot 14 DP 391385 together with a 1/16 share in 955 square metres, more or less, being Lot 100 DP 391385. All computer freehold register 366902
221 square metres, more or less, being Lot 15 DP 391385 together with a 1/16 share in 955 square metres, more or less, being Lot 100 DP 391385. All computer freehold register 366903
321 square metres, more or less, being Lot 16 DP 391385 together with a 1/16 share in 955 square metres, more or less, being Lot 100 DP 391385. All computer freehold register 366904

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Orakei Block, continued

Legal descriptions of Hapu land, continued

Development land, continued
2,477 square metres, more or less, being Lot 17 DP 391385 together with a 1/16 share in 955 square metres, more or less, being Lot 100 DP 391385. All computer freehold register 366905
1,103 square metres, more or less, being Lot 3 DP 50515. All computer freehold register NA99C/187
3,285 square metres, more or less, being Lots 2 to 4 DP 39988. All computer freehold register NA99C/188
573 square metres, more or less, being Section 2 SO 63269. All computer freehold register NA99C/190
5,895 square metres, more or less, being Section 3 SO 63269. All computer freehold register 557119
5,641 square metres, more or less, being Lot 1 DP 92924. All computer freehold register NA99C/193
7,473 square metres, more or less, being Lot 2 DP 92924. All computer freehold register NA99C/194
3,460 square metres, more or less, being Lot 3 DP 92925. All computer freehold register NA99C/195
Hapu reservation (papakainga)
4,535 square metres, more or less, being Section 722 Town of Orakei. All computer freehold register NA99C/196
1.2157 hectares, more or less, being Section 790 Town of Orakei. All computer freehold register NA99C/197
9 square metres, more or less, being Section 793 Town of Orakei. All computer freehold register NA99C/198
94 square metres, more or less, being Section 794 Town of Orakei. All computer freehold register NA99C/199
1,229 square metres, more or less, being Section 1 SO 63269. All computer freehold register NA99C/200
1,721 square metres, more or less, being Section 792 Town of Orakei. All computer freehold register NA99C/201
2,012 square metres, more or less, being Section 802 Town of Orakei. All computer freehold register NA99C/202
1,644 square metres, more or less, being Orakei No 1 Reserve C. All computer freehold register NA99C/203
Stopped road (Papakainga)
232 square metres, more or less, being Stopped Road shown marked "F" on SO 63269. All computer freehold register 557699

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Orakei Block, continued

**Statutory
action – s 60**

- (a) The fee simple of Hapu land is vested in the trustee.
 - (b) Hapu land is deemed to be Māori freehold land within the meaning of s 4 of the Te Ture Whenua Māori Act 1993.
 - (c) Whenua rangatira is deemed to be set apart as a Māori reservation and treated as if it were a recreation reserve under the Reserves Act 1977.
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Trigger

Any transaction authorised by Part 4 (ss 59 to 76) of the Act.

**Statutory
direction to
the RGL – s 75**

- (a) If all or part of the land in a transaction under Part 4 of the Act is contained in a computer freehold register, the RGL must register the trustees as the proprietors of the fee simple.
 - (b) If:
 - (i) no computer freehold register exists, and
 - (ii) an authorised person requests the RGL to register an instrument or enter a memorial under Part 4 of the Act,the RGL must create a computer interest register and note the memorial accordingly.
 - (c) Section 75 specifically overrides any other enactment [s 75(3)].
 - (d) No registration fee is payable.
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7 Transition

Statutory actions

- (a) The RGL is not required to change the name of any registered proprietor or trust board solely because of the provisions of subpart 1 of part 5 of the Act.
 - (b) The trustee may present the RGL with instruments other than instruments of transfer if they comply with s 88.
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