



Rongowhakaata Claims Settlement Act 2012 registration guideline

LINZG20732

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1 Terms and definitions

- General**
- (a) For the purposes of this guideline, the terms and definitions in the Rongowhakaata Claims Settlement Act 2012 (Act) apply, unless stated otherwise. Refer to ss 11, 12, 13, 14, 45, and 69 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	Rongowhakaata Claims Settlement Act 2012
authorised person	authorised person as defined in ss 56(6) or 66(6), as the case may be
Chief Executive	Chief Executive of Land Information New Zealand
commercial redress property	commercial redress property as defined in s 12 of the Act
cultural redress property	those sites set out in s 45 of the Act and defined as cultural redress property
deed of settlement	deed of settlement of the historical claims of Rongowhakaata as defined in s 12 of the Act
LINZ	Land Information New Zealand
RGL	Registrar-General of Land appointed under s 4 of the Land Transfer Act 1952
RFR land	land defined as RFR land in s 69 of the Act (right of first refusal)
trustees	trustees of Rongowhakaata Settlement Trust as defined in s 12 of the Act

2 Foreword

- Introduction**
- (a) The Act came into force on 1 August 2012.
 - (b) The land concerned is in the Gisborne 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 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 guidelines focus 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 of the historical claims of Rongowhakaata ¹
 - (b) Rongowhakaata 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 and its amendments.

3 Removal of memorials

Trigger A certificate issued under s 18 for the removal of certain memorials from a computer register.

Legislation

- (a) Section 17 provides that certain legislative provisions do not apply to a settlement property, or for the benefit of Rongowhakaata or a representative entity.
- (b) Section 17(2) lists the legislative provisions as:
 - (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 Section 18(4) requires the RGL to register a certificate against the affected registers, cancelling any memorial referred to in s 17. The certificate must:

- (a) be issued by the Chief Executive (s 18(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 18(1)), and
- (c) state that it is issued under s 18 (s 18(3)).

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Removal of memorials, continued

Action

When a certificate under s 18 is presented for registration:

- (a) any memorial on the current view of the computer register which relates to an enactment referred to in s 17(2) should be removed,
- (b) the following memorial should be recorded on the historic view of that register:

'[instrument number] Certificate under section 18 of the Rongowhakaata Claims Settlement Act 2012 cancelling [memorial identifier] [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 17(2)) does not apply'.

4 Vesting of cultural redress properties

Trigger Receipt of a written application under s 56(2) by an authorised person to register the trustees as proprietors of the fee simple estate.

Authorised persons For the purpose of vesting cultural redress properties, s 56(6) identifies authorised persons as a person authorised by the persons set out below for the stated properties:

Authorisation by	Property
Secretary for Justice	<ul style="list-style-type: none">• the Part AML site• 75 Birrell Street• 295 Palmerston Road Gisborne• the ex Railway land
Director-General of Conservation	<ul style="list-style-type: none">• the London Street site• Matawhero site A and Matawhero site B• Waikanae Creek site• Rakaukaka

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Vesting of cultural redress properties, continued

Legal descriptions to cultural redress sites

Applications for issue of a computer freehold register in the name of the trustees will be lodged for the following properties.

Site	Land description
Part AML site	1.9285 hectares, more or less, being Lot 1 DP 6263. All Computer Freehold Register GS4B/409 Subject to 226828.1 <i>Gazette</i> Notice declaring part adjoining road to be a limited access road.
75 Birrell Street	0.0783 hectares, more or less, being Lot 5 DP 7625. All Computer Freehold Register GS5B/25 Subject to a right (in gross) to transmit electric current over part marked F on DP 7625 in favour of the Poverty Bay Electric Power Board created by Transfer 173576.3. Subject to section 309(1)(a) of the Local Government Act 1974.
London Street site	0.1361 hectares, more or less, being Lot 3 DP 5589. All GN 103173.
Matawhero site B	1.3775 hectares, more or less, being Section 50, Block I, Turanganui Survey District. All Computer Interest Register 69502. 5427983.1 <i>Gazette</i> Notice declaring the adjoining State highway No 2 to be a limited access road. 5399552.1 Notice pursuant to section 91 of the Government Roothing Powers Act 1989. Subject to an unregistered lease with Concession (lease) number ECHB-17568-OTH dated 27/8/2007 to Ecoworks (NZ) Ltd. Subject to the right of way easement in gross referred to in section 49(3)
295 Palmerston Road, Gisborne	0.0891 hectares, more or less, being Part Section 219 Town of Gisborne. Balance Computer Freehold Register GS2B/1022.
Ex-Railway land	1.2772 hectares, more or less, being Lot 1 DP 9549. All Computer Freehold Register GS6C/1000 226426.3 Consent notice pursuant to section 221(1) of the Resource Management Act 1991. Together with a right to drain sewage specified in Easement Certificate 230659.3 subject to section 243(a) of the Resource Management Act 1991. Subject to development plans for archaeological sites and to conditions relating to any new vehicle crossings in consent notice G.226426.3. Subject to an unregistered Lease No. 55190 of Railway premises at Gisborne, HM the Queen to Gisborne Village Railway Society.
Matawhero site A	1.5327 hectares, more or less, being Lots 3 and 4 DP 4751. All GN 146886.1. 46.5927 hectares, more or less, being Section 23, Block I, Turanganui Survey District and Lots 2, 5, 6, and 7 DP 4751. All GN 114343.4. Recreation Reserve subject to s 17 of the Reserves Act 1977
Rakaukaka	5.6922 hectares, more or less, being Section 26, Block VIII, Patutahi Survey District. All <i>Gazette</i> 1956 p 1228. Scenic Reserve subject to s 19(1)(a) of the Reserves Act 1977.
Waikanae Creek site	3.6900 hectares, more or less, being Sections 48, 50, and 57, Block II, Turanganui Survey District. Recreation Reserve subject to s 17 of the Reserves Act 1977

Vesting of cultural redress properties, continued

Action - registration of trustees

- (a) If a cultural redress property is all of the land contained in a computer freehold register, the RGL must:
 - (i) register the trustees as the proprietors of the fee simple, and
 - (ii) make any entry and do all things necessary to give effect to Part 2 subpart 3 of the Act (s 56(2)).
 - (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 register in the name of the trustees or the Nga Uri o Te Kooti Rikirangi trustees and enter any encumbrances described in the application (s 56(3)).
 - (c) Creation of the above computer registers is subject to the completion of any necessary survey.
 - (d) The standard registration fee is payable.
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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.
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Action - vesting subject to encumbrances

- (a) The cultural redress properties are vested subject to the encumbrances set out in part 1 or 2 of Schedule 2 of the Act (s 55).
 - (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 - vesting subject to trustees' encumbrances, covenants or easements

- (a) The cultural redress property set out below is vested subject to the trustees creating the encumbrances or covenants as stated.
- (b) The applications in respect of this site must be accompanied by the instruments creating the encumbrances, easements, or covenants referred to and any necessary survey plan must be completed.

Property	Encumbrance, easement or covenants to be created and registered	Refer to...
Matawhero site B	<ul style="list-style-type: none"> trustees to grant a right of way easement in gross in favour of Minister of Conservation and s 348 of the Local Government Act 1974 does not apply to the right of way 	<p>s 49(3)</p> <p>s 59</p>

Action - memorials

The following are examples of suitable memorials to record the vesting on an existing computer freehold register (upon registration of an application under s 56) and to reflect the requirements of s 58 in regard to Part 4 of the Conservation Act 1987.

- (a) any cultural redress property except those referred to in (b) below:
- '[*registration number*] Application under section 56 of the Rongowhakaata 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) reserve sites, being Matawhero site A, Rakaukaka, and Waikanae Creek site:
- '[*registration number*] Application under section 56 of the Rongowhakaata 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 (but section 24 of that Act does not apply)'
- 'Subject to sections 57(3) and 61 of the Rongowhakaata Claims Settlement Act 2012'
- 'Subject to section 11 of the Crown Minerals Act 1991'

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Vesting of cultural redress properties, continued

Action - revocation and reconfering of reserve status

The reserve status of the following sites is revoked and/or new reserve status or no reserve status conferred.

Property	Revoked status	Section	Estate	New status/purpose	Section
Part AML site	General utility reserve and a wildlife refuge	46(1)	fee simple	<i>No specific purpose</i>	46(2)
London Street	Local purpose (playcentre)	48(1)	fee simple	<i>No specified purpose</i>	48(2)
Matawhero site B	Reserve subject to the Reserves Act	49(1)	fee simple	<i>No specified purpose</i>	49(2)
Matawhero site A	Wildlife management	52(1)	fee simple	<i>Recreation reserve subject to s 17 Reserves Act 1977</i>	52(3)
Rakaukaka	<i>Scenic reserve</i>	53(1)	fee simple	<i>Scenic Reserve (for the purposes specified in s 19(1)(a) Reserves Act 1977</i>	53(3)
Waikanae Creek site	<i>Conservation area</i>	54(1)	fee simple	<i>Recreation reserve</i>	54(3)

Action - 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 vesting in the trustees has been registered, the new reserve status (if any) must, where applicable, be noted on the current view of the relevant computer register as per the above table.

Trigger

Receipt of an application from the Director-General of Conservation, under s 58(3)(a), 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.

Note: The application must be preceded by the relevant documentation revoking the reservation in terms of the Reserves Act 1977.

Action - memorial

The approved format for the memorial on the historic view of the computer freehold register which must record the cancellation is:

'[application identifier] Application under section 58(3) of the Rongowhakaata Claims Settlement Act 2012 [date and time]'

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Vesting of cultural redress properties, continued

Action - removal of memorials

The following notifications must be modified accordingly:

- (a) delete 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) delete the memorial 'Subject to sections 57(3) and 61 of the Rongowhakaata Claims Settlement Act 2012'.
-

Trigger

Receipt of a transfer instrument transferring reserve land to new owners.

Action - transfer of reserve land

- (a) The fee simple estate in reserve land may only be transferred to any other person in accordance with s 61.
- (b) The written consent of the Minister of Conservation must accompany the transfer instrument along with the notification required by s 61(5)(a) and any other relevant documents.
- (c) Upon receipt of the transfer instrument and consent, the RGL must register the transfer.
- (d) The transfer memorial must contain a statement that the new owners hold the land for the same reserve purpose as the previous administering body held it.
- (e) The above does not apply in certain circumstances where the land is held in a trust and the effect of the transfer is to change the trustees. A certificate given by the transferees (or their solicitor) in terms of s 61(7) must accompany the transfer and is sufficient proof that s 61(3) - s 61(6) do not apply.

5 Vesting of commercial redress properties

Trigger Receipt of a written application from an authorised person to create a computer freehold register under s 66(2).

Authorised person A statement in the application that a person is an authorised person for the purpose of s 66(2) is sufficient evidence for the RGL that the person is so authorised.

Statutory application The subdivisional requirements of the Resource Management Act 1991 do not apply to commercial redress property or a deferred selection property (s 67(3)).

Action - deferred selection property

- (a) If:
 - (i) a commercial redress property or a deferred selection 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 create one computer freehold register in the name of the Crown.
- (b) Creation of the above computer register is subject to, and together with, any encumbrances that are registered, or described in the application, but without any statement of purpose.
- (c) Creation of the above computer register is subject to completion of any necessary survey.
- (d) The standard registration fee is payable.

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Vesting of commercial redress properties, continued

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

Authorised person A statement in the application that a person is an authorised person for the purpose of s 66 is sufficient evidence for the RGL that the person is so authorised.

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(5),

the RGL must register the covenant and create a computer interest register.

(b) The standard registration fee is payable.

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Vesting of commercial redress properties, continued

Trigger Registration of a transfer of commercial redress property from the Crown (s 65).

**Action -
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.
- (b) In addition to the standard transfer memorial recording the details of the transferee, the following memorials must be added:

'Subject to Part 4A of the Conservation Act 1987 but sections 24(2A), 24A, and 24AA of that Act do not apply'

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

6 Right of first refusal

Trigger—s 91 certificate Receipt of a certificate from the Chief Executive under s 91 that identifies a computer register 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 91 certificate:

'[*certificate identifier*] Certificate under section 91(1) of the Rongowhakaata Claims Settlement Act 2012 that the within land is RFR land as defined in section 69 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 92 certificate Receipt of a certificate from the Chief Executive under s 92(1) for the removal of s 91 memorials from a computer register, on land ceasing to be RFR land (when land is transferred or vested).

Action - registration requirements

- (a) The transfer or vesting must be registered.
(b) When the certificate is received, the s 91 memorial should be removed and the following memorial recorded on the historic view of the register:

'[*certificate identifier*] Certificate under section 92(1) of the Rongowhakaata Claims Settlement Act 2012 removing [*memorial identifier*] entered under section 91 [*date and time*]'

- (c) The standard registration fee is payable.
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Right of first refusal, continued

Trigger-s 93 certificate

Receipt of a certificate from the Chief Executive under s 93(1) for the removal of s 91 memorials from a computer register at the end of the RFR period.

Action - registration requirements

- (a) When the certificate is received, the s 91 memorial should be removed and the following memorial recorded on the historic view of the register:

'[certificate identifier] Certificate under section 93(1) of the Rongowhakaata Claims Settlement Act 2012 removing [memorial identifier] entered under section 91 [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 91(5), cannot be registered unless:

- (a) the dealing is in favour of the trustees, the Crown, or a Crown Body (s 76), or
- (b) a certificate from the Chief Executive has been received under s 92(1), or
- (c) at the end of the RFR period, a certificate from the Chief Executive has been received under s 93(1) for the removal of the memorial under s 91.
-