



Ngāti Pāhauwera Treaty Claims Settlement Act 2012 registration guideline

LINZG20733

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1 Terms and definitions

General

- (a) For the purposes of this guideline, the terms and definitions in the Ngāti Pāhauwera Treaty Claims Settlement Act 2012 apply, unless stated otherwise. Refer to ss 10 – 13, 26, 91, and 96 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 Pāhauwera Treaty Claims Settlement Act 2012
authorised person	an authorised person as defined in s 11 and <ul style="list-style-type: none">• s 42(7) in respect of cultural redress property, or• s 85(3), or 94(4) in respect of commercial redress property of the Act, as the case may be
Chief Executive	Chief Executive of Land Information New Zealand
commercial redress property	a property defined as commercial redress property in s 11 of the Act
cultural redress property	a property listed in s 26 and described in Schedule 3 of the Act
Deed of Settlement	Deed of Settlement for Ngāti Pāhauwera dated 17 December 2010 as defined in s 11 of the Act
LINZ	Land Information New Zealand
RFR land	land defined as RFR land in s 96 (right of first refusal)
RGL	Registrar-General of Land appointed under s 4 of the Land Transfer Act 1952

2 Foreword

- Introduction**
- (a) The Ngāti Pāhauwera Treaty Claims Settlement Act 2012 (Act) came into force on 6 April 2012.
 - (b) The land concerned is in the Hawkes Bay and Gisborne Land Registration Districts.
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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.
-

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.

- References** The following documents are necessary for the application of this guideline:
- (a) Deed of Settlement for Ngāti Pāhauwera dated 17 December 2010¹
 - (b) Ngāti Pāhauwera Treaty 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 17 for the removal of certain memorials from a computer register.

Legislation

- (a) Section 16 provides that certain legislative provisions do not apply to land within an RFR area, or for the benefit of Ngāti Pāhauwera or a representative entity.
- (b) Section 16(2) lists the legislation 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 17(4) requires the RGL to register a certificate against the affected registers, cancelling any relevant memorial referred to in s 16. The certificate must:

- (a) be issued by the Chief Executive of Land Information New Zealand (Chief Executive) (s 17(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 an RFR property, and computer register which contains such a memorial (s 17(1)), and
- (c) state that it is issued under s 17 (s 17(3)).

Action When a certificate under s 17 is presented for registration:

- (a) any memorial on the current view of the computer register which relates to an enactment referred to in s 16(2) should be removed,
- (b) the following memorial should be recorded on the historic view of that register:

'[instrument number] Certificate under section 17 of the Ngāti Pāhauwera Treaty Claims Settlement Act 2012 cancelling [memorial identifier] [date and time],
- (c) the standard registration fee is payable.

Vesting of cultural redress properties

4 Overview

Introduction This section sets out the vesting of cultural redress properties.

Contents This section contains the following topics:

Topic	page
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Properties vested in the name of the trustees of Ngāti Pāhauwera Tiaki Trust	9

5 Vesting of Te Heru o Tureia

Te Heru o Turei

The following properties vest in the trustees on behalf of Ngāti Pāhauwera.

Sites vested in fee simple

Site	Land description	Subject to
Site vested in fee simple		
Te Heru o Rureia	Hawke's Bay Land District: Hastings and Wairoa Districts Means the combined area of Te Heru o Tūreia Gift Area described in Part 2 and Te Heru o Tūreia (Area B) and Nakunaku described in Part 3.	
Site vested in fee simple subject to gifting		
Te Heru o Tūreia Gift Area	Hawke's Bay Land District: Hastings and Wairoa Districts 1489.2000 hectares, more or less, being sections 2, 3, and 4 SO 438297. Part R7457 and Part Proclamation 539179.1.	
Sites vested in fee simple subject to conservation covenant or to be administered as historic reserve		
Te Heru o Tūreia (Area B)	Hawke's Bay Land District: Hastings and Wairoa Districts. 164.0000 hectares, more or less, being section 1 SO 438297. Part R7457 and Part Proclamation 539179.1	Subject to the conservation covenant referred to in s 24(1) Subject to an unregistered telecommunications concession with a concession number ECHB-1216-CON
Nakunaku	Hawke's Bay Land District: Wairoa District. 52.910 hectares, more or less, being section 4 SO 9433. Part Proclamation 539179.1	Subject to s 18 of the Reserves Act 1977 for the purposes of a historic reserve

6 Properties vested in the name of the trustees of Ngāti Pāhauwera Tiaki Trust

Legal description of properties to vest

Applications for issue of a computer freehold register in the name of the trustees of the Ngāti Pāhauwera Tiaki Trust will be lodged for the properties in the table below.

Site	Land description
Takauere	Hawke's Bay Land District: Wairoa District. 19.0600 hectares, more or less, being section 1 SO 430512. Part Computer Freehold Register HBK4/1385.
Ononi	Hawke's Bay Land District: Wairoa District. 1.9400 hectares, more or less, being section 1 SO 430226. Part GN570972.1.
Te Kuta	Hawke's Bay Land District: Hastings District. 2.0116 hectares, more or less, being sections 2 and 4 SO 443558. Part <i>Gazette</i> 1931 page 281.
Tauwhareroa	Hawke's Bay Land District: Wairoa District. 8.9720 hectares, more or less, being Mohaka B15. All Computer Freehold Register HBL4/253.
Kuwatawata	Hawke's Bay Land District: Hastings District. 0.0441 hectares, more or less, being section 1 SO 441789. Part Deed 46 and Part GN 337680.1.
Ngakoauau (Area A)	Hawke's Bay Land District: Wairoa District. 56.9200 hectares, more or less, being section 1 SO 431384. Part Computer Freehold Register HBL3/257.
Paaka Te Ahu	Hawke's Bay Land District: Wairoa District. 16.1874 hectares, more or less, being section 18 Block XII Mohaka Survey District. All GN388123.2.
Bed of lake Rotongaio	Gisborne Land District: Wairoa District. 12.4600 hectares, more or less, being section 1 SO 430169, which excludes the Crown stratum as defined in s 26(2).
Bed of part lake Rotoroa	Gisborne Land District: Wairoa District. 10.7370 hectares, more or less, being section 1 SO 430206, which excludes the Crown stratum as defined in s 26(2).
Mangawharangi	Hawke's Bay Land District: Wairoa District. 60.0600 hectares, more or less, being section 2 SO 430226. Part GN570972.1.
Ngakoauau (Area B)	Hawke's Bay Land District: Wairoa District. 300.8000 hectares, more or less, being section 2 SO 431384. All Computer Freehold Register HBL2/561, Balance Computer Freehold Registers HBL3/257 and HBL1/942 and Part Transfer 313229.3.
Tanga Kakariki	Hawke's Bay Land District: Wairoa District. 108.6400 hectares, more or less, being section 53 Block VII Mohaka Survey District. Part GN392786.1.
Putere	Gisborne Land District: Wairoa District. 47.7529 hectares, more or less, being section 5 Block XXIV Waiau Survey District. All <i>Gazette</i> 1927 page 3537.
Raupunga Reserve	Hawke's Bay Land District: Wairoa District. 229.7602 hectares, more or less, being section 3 Block VI Waihua Survey District. All Computer Freehold Register HBJ1/1274.

Properties vested in the name of the trustees of Ngāti Pāhauwera Tiaki Trust, continued

Trigger Receipt of a written application under s 42(2) by an authorised person to register the trustees as proprietors of the fee simple estate.

Action - registration of trustees

- (a) If a cultural redress property (other than Ngakoauau (Area B)) 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) record all things and take all steps necessary to give effect to Part 2 of the Act and Part 5 of the Deed of Settlement.
- (b) In the case of Ngakoauau (Area B) or 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 (s 42(4)).
- (c) Creation of the above computer registers is subject to completion of any necessary survey (s 42(5)).
- (d) The standard registration fee is payable.

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Properties vested in the name of the trustees of Ngāti Pāhauwera Tiaki Trust, continued

Resource Management Act 1991 - vestings

Section 45(2) of the Act specifies that s 11 and part 10 of the Resource Management Act 1991 do not apply to vestings under ss 21 - 40 of the Act.

Local Government Act 1974 – right of way or private road

Council consent under s 348 of the Local Government Act 1974 is not required for any right of way or private road in relation to a cultural redress property (s 45(4)).

Action - vestings subject to encumbrances

- (a) The cultural redress properties are vested subject to the encumbrances set out in Schedule 2 or 3 of the Act (s 41).
 - (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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Properties vested in the name of the trustees of Ngāti Pāhauwera Tiaki Trust, continued

Action - 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 (register)	Refer to...
Tauwhareroa	Conservation covenants to the Crown to be treated as conservation covenants for the purposes of s 77 of the Reserves Act 1977	s 30(3)
Kuwatawata	Conservation covenants to the Crown to be treated as conservation covenants for the purposes of s 77 of the Reserves Act 1977 and s 27 of the Conservation Act 1987	s 31(3)
Ngakoauau (Area A)	<ul style="list-style-type: none"> • A right of way in favour of the Crown over part shown B on SO 431384 and • Conservation covenants to the Crown over parts shown A B C and D on SO 431384 to be treated as conservation covenants for the purposes of s 77 of the Reserves Act 1977 and s 27 of the Conservation Act 1987 	s 32(3)
Paaka Te Ahu	Conservation covenant to the Crown to be treated as conservation covenants for the purposes of s 77 of the Reserves Act 1977 and s 27 of the Conservation Act 1987	s 33(3)
Bed of Lake Rotongaio	<ul style="list-style-type: none"> • Conservation covenants to the Crown to be treated as conservation covenants for the purposes of s 77 of the Reserves Act 1977 and s 27 of the Conservation Act 1987 • Subject to ss 47, 48, and 49 of the Act 	s 34(6)
Bed of Lake Rotoroa	<ul style="list-style-type: none"> • Conservation covenants to the Crown to be treated as conservation covenants for the purposes of s 77 of the Reserves Act 1977 and s 27 of the Conservation Act 1987 • Subject to ss 47, 48 and 49 of the Act 	s 35(6)

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Properties vested in the name of the trustees of Ngāti Pāhauwera Tiaki Trust, continued

Action - memorials

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 42 of the Ngāti Pāhauwera Treaty Claims Settlement Act 2012 vesting the within land in [*names of the trustees*] of the Ngāti Pāhauwera Tiaki Trust [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 Nakunaku, Mangawharangi, Ngakoauau (Area B), Tanga Kakariki, Putere, and Raupunga Reserve:

'[registration number] Application under section 42 of the Ngāti Pāhauwera Treaty Claims Settlement Act 2012 vesting the within land in [*names of the trustees*] of the Ngāti Pāhauwera Tiaki 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 43(3) and 54 of the Ngāti Pāhauwera Treaty Claims Settlement Act 2012'

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

- (c) Kuwatawata, the bed of Lake Rotongaio and the bed of Lake Rotoroa:

'[registration number] Application under section 42 of the Ngāti Pāhauwera Treaty Claims Settlement Act 2012 vesting the within land in [*names of the trustees*] of the Ngāti Pāhauwera Tiaki Trust [date and time]'

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

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

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Properties vested in the name of the trustees of Ngāti Pāhauwera Tiaki Trust, continued

Revocation and re-conferring 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
Takauere	Conservation area	27(1)	fee simple	<i>No specified purpose</i>	27(2)
Ononi	Scenic	28(1)	fee simple	<i>No specified purpose</i>	28(2)
Te Kuta	Local purpose (stock resting)	29(1)	fee simple	<i>No specified purpose</i>	29(2)
Tauwhareroa	Scenic	30(1)	fee simple	<i>No specified purpose</i>	30(2)
Kuwatawata	Conservation Area	31(1)	fee simple	<i>No specified purpose</i>	31(2)
Ngakoauau (Area A)	Conservation area	32(1)	fee simple	<i>No specified purpose</i>	32(2)
Paaka Te Ahu	Scenic	33(1)	fee simple	<i>No specified purpose</i>	33(2)
Bed of Lake Rotongaio	Conservation area	34(1)	fee simple	No specified purpose but the stratum above the bed of Lake Rotongaio is declared local purpose reserve (Wildlife management) subject to s 23 Reserves Act 1977 (s 34(4))	34(4)
Bed of Lake Rotoroa	Conservation area	35(1)	fee simple	No specified purpose but the stratum above the bed of Lake Rotongaio is declared local purpose reserve (Wildlife management) subject to s 23 Reserves Act 1977 (s35(4))	35(3)
Mangawharangi	Scenic	36(1)	fee simple	Scenic Reserve	36(3)
Ngakoauau (Area B)	Conservation area	37(1)	fee simple	Scenic reserve	37(3)
Tanga Kakariki	Scenic	38(1)	fee simple	Scenic reserve	38(3)
Putere	Scenic	39(1)	fee simple	Scenic Reserve	39(3)
Raupunga Reserve	Scenic	40(1)	fee simple	Local Purpose (water supply)	40(3)

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Properties vested in the name of the trustees of Ngāti Pāhauwera Tiaki Trust, continued

Action - statutory actions

- (a) When an application is made in respect of a reserve site, the statutory action revoking the reserve must be noted 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

Application from the Director-General of Conservation, under s 44(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.

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 which must record the cancellation is:

'[application identifier] Application under section 44(3) of the Ngati Pahauwera Treaty Claims Settlement Act 2012 revoking the reserve status of [part of] the within land [date and time]'

Action - removal of memorials

The following notifications must be modified as follows:

- (a) delete the words '(but section 24 of that Act does not apply)' from the memorial 'Subject to Part 4A of the Conservation Act 1987 (but section 24 of that Act does not apply)'
 - (b) delete the memorial 'Subject to sections 43(3) and 54 of the Ngati Pahauwera) Claims Settlement Act 2012'.
-

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Properties vested in the name of the trustees of Ngāti Pāhauwera Tiaki Trust, continued

Trigger

Transfer instrument transferring reserve land to new owners.

Action - transfer of reserve land – section 54

- (a) The fee simple estate in reserve land may only be transferred in accordance with s 54.
 - (b) The written consent of the Minister of Conservation must accompany the transfer instrument along with the notification required by s 54(5)(a) and any other relevant documents.
 - (c) If any other documents are required for registration they must be registered or lodged.
 - (d) Upon receipt of the transfer and consent, the RGL must register the transfer.
 - (e) The transfer must contain a statement that will be memorialised, that the new owners hold the land for the same reserve purpose as the previous owners held it.
 - (f) 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 accompanying a subsequent transfer is sufficient proof that ss 54(3) – 54(6) do not apply.
-

7 Vesting of commercial redress properties

Trigger A written application by an authorised person under s 83(2) to create a computer freehold register.

Commercial redress property That property described in Table A of Part 4 of the provisions schedule of the Deed of Settlement.

Action - create computer freehold register (non-licensed land)

(a) If:

- (i) a commercial redress property (except licensed land) 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) the completion of any necessary survey

(c) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to applications under s 83(2).

(d) Standard registration fees (if any) apply.

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Vesting of commercial redress properties, continued

Trigger A written application by an authorised person under s 85(2) to create a computer freehold register.

Licensed land Land listed in Table B of Part 4 of the provisions schedule to the Deed of Settlement.

Action - create computer freehold register (licensed land)

- (a) In the case of licensed land, the RGL must create:
 - (i) a computer freehold register for the land in the Gisborne land registration district, and
 - (ii) a computer freehold register for the land in the Hawkes Bay land registration districtin the name of the Crown.
- (b) The two computer freehold registers are subject to and together with any relevant encumbrances that are registered, or described in the application.
- (c) Creation of the above computer freehold registers is subject to the completion of any necessary survey.
- (d) Standard registration fees apply.

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Vesting of commercial redress properties, continued

Trigger Registration of a transfer of a commercial redress property from the Crown to the trustees of the Ngāti Pāhauwera Development Trust (ss 81 and 83).

**Action –
application of
other
enactments**

- (a) Section 84 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:
 - (i) 'Subject to Part 4A of the Conservation Act 1987 (but sections 24(2A), 24A, and 24AA do not apply)'
 - (ii) 'Subject to section 11 of the Crown Minerals Act 1991'
 - (c) Section 348 of the Local Government Act 1974 does not apply to the granting or laying out of a right of way or road.
 - (d) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to transfers of commercial redress property.
-

8 Licensed land

Licensed land – section 85

- (a) Licensed land ceases to be Crown forest land on the registration of the transfer of the fee simple estate to the trustees.
 - (b) However, nothing can be registered or noted that would be consistent with the Crown Forest Assets Act 1989 but inconsistent with Part 3 Subpart 2 of the Act.
-

Trigger

Transfer of any land that is settlement licensed land which is held in a crown forestry licence.

Action

In addition to the normal transfer memorial, the computer freehold register must contain a notation that the land is subject to a public right of entry for recreational purposes pursuant to s 89(1) of the Act.

Memorial

A suitable memorial would be:

'Subject to a public right of entry for recreational purposes pursuant to section 89(1) Ngāti Pāhauwera Claims Settlement Act 2012'

Removal of right of public entry memorial – section 89(2)

- (a) On the expiry of the crown forestry licence, the registered proprietor may apply to have the memorial noting a right of public entry removed.
 - (b) On receipt of a written application by the registered proprietor, the RGL must remove the memorial noting the right of public entry.
 - (c) The crown forestry licence must have expired.
-

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Licensed land, continued

Public right of way easement section 90

If an easement in gross granting a public right of way easement is registered under s 8 of the Crown Forest Assets Act 1989:

- (a) section 348 of the Local Government Act 1974 does not apply, and
 - (b) sections 26 and 27 of the Crown Forest Assets Act 1989 apply to any variation, renewal, or cancellation of the easement under s 8(b) of that Act.
-

Trigger

Written application by an authorised person under s 94 to note a right of access.

Action – subject to right of access

The RGL must make a notation on the computer freehold register that the land is subject to the right of access set out in s 92.

Memorial

A suitable memorial would be

'[part of] the within land is subject to a right of access under section 92 of the Ngāti Pāhauwera Treaty Claims Settlement Act 2012 see application [registration number] [*date and time*]'

9 Right of first refusal

Trigger—s 118 certificate Receipt of a certificate from the Chief Executive under s 118 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 118 certificate:

'[*certificate identifier*] Certificate under section 118(2) of the Ngāti Pāhauwera Treaty Claims Settlement Act 2012 that the within land is RFR land as defined in section 96 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 119 certificate

Receipt of a certificate from the Chief Executive under s 119(1) for the removal of s 118 memorials from a computer register, on land ceasing to be RFR land.

**Action—
registration
requirements**

(a) The transfer or vesting must be registered.

(b) The standard registration fee is payable.

(c) When the certificate is received, the following memorial should be recorded on the historic view of the register:

'[*certificate identifier*] Certificate under section 119(1) of the Ngāti Pāhauwera Treaty Claims Settlement Act 2012 removing [*memorial identifier*] entered under section 118 [*date and time*]'

(d) The memorial under s 118 that the land is RFR land should be removed from the current view of the computer register.

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Right of first refusal, continued

Trigger—s 120 certificate

- (a) Receipt of a certificate from the Chief Executive under s 120(1) for the removal of s 118 memorials from a computer register at the end of the RFR period.
 - (b) As there will be no standard date for the end of an RFR period, the certificate can be taken as evidence that the RFR period has in fact ended.
-

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 120(1) of the Ngāti Pāhauwera Claims Settlement Act 2012 removing [memorial identifier] entered under section 118 [date and time]'
 - (c) The memorial under s 118 that the land is RFR land should be removed from the current view of the computer register.
-

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 118(2), cannot be registered unless:

- (a) the dealing is in favour of the trustees, the Crown, or a Crown Body (s 102), or
 - (b) a certificate from the Chief Executive has been received under s 119(1), or
 - (c) at the end of the RFR period, a certificate from the Chief Executive has been received under s 120(1) for the removal of the memorial under s 118.
-