



# Ngāti Whare Claims Settlement Act 2012 registration guideline

LINZG20736

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# 1 Terms and definitions

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## General

- (a) For the purposes of this guideline, the terms and definitions in the Ngāti Whare Claims Settlement Act 2012 (Act) apply, unless stated otherwise. Refer to s 10 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.
  - (d) Section 97 of the Act provides if a provision in the Act has the same effect for a jointly vested site as a provision in the Ngāti Manawa Claims Settlement Act 2012, the provisions must be given effect to only once as if they were one provision.
- 

| Term/abbreviation        | Definition   |
|--------------------------|--|
| Act                      | Ngāti Whare Claims Settlement Act 2012   |
| authorised person        | an authorised person as defined in s 10 of the Act                                     |
| Chief Executive          | Chief Executive of Land Information New Zealand  |
| CNI                      | Central North Island   |
| deed of settlement       | deed of settlement for Ngāti Whare dated 8 December 2009 as defined in s 10 of the Act |
| former Crown forest land | land as defined in s 10 of the Act   |
| LINZ                     | Land Information New Zealand   |
| Reserve site             | site as defined in s 10 of the Act   |
| RGL                      | Registrar-General of Land appointed under s 4 of the Land Transfer Act 1952            |
| trustees                 | trustees of Te Rūnanga o Ngāti Whare as defined in s 10 of the Act                     |
| Wharepakau               | the eponymous ancestor of Ngāti Whare.   |

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## 2 Foreword

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**Introduction** The Act came into force on 6 April 2012.

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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.

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**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) This 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.

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**Provisions of relating to jointly vested sites** Section 97 provides if a provision in the Act has the same effect for a jointly vested site as a provision in the Ngāti Manawa Claims Settlement Act 2012, the provisions must be given effect to only once as if they were one provision.

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**References** The following documents are necessary for the application of this guideline:

- (a) Deed of Settlement for Ngāti Whare dated 8 December 2009<sup>1</sup>
- (b) Ngāti Whare Claims Settlement Act 2012.

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<sup>1</sup> Refer to the Office of Treaty Settlements' website [www.ots.govt.nz](http://www.ots.govt.nz) for a copy of the Deed of Settlement

### 3 Removal of memorials

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#### Trigger

A certificate issued by the Chief Executive of Land Information New Zealand (Chief Executive) under s 16 for the removal of certain memorials from a computer register.

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#### Background

The RGL is required to register a certificate against the affected registers, and cancel each memorial that is entered in accordance with the following enactments:

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

#### Certificate

The certificate must:

- (a) be issued by the Chief Executive (s 16) 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, and
  - (c) state that it is issued under s 16.
- 

#### Action

When a certificate under s 16 is presented for registration:

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

`[*instrument number*] Certificate under section 16 of the Ngāti Whare Claims Settlement Act 2012 cancelling [*memorial to be cancelled*] [*date and time*]

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## 4 Properties vested in the name of trustees of Te Rūnanga o Ngāti Whare

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### Sites vested

Applications for the issue of a computer freehold register in the name of the trustees of Te Rūnanga o Ngāti Whare (trustees) will be lodged for the following properties:

| Site                         | Land description  |
|------------------------------|---|
| Parerānui site               | South Auckland Land District - 4.9998 hectares, more or less, being section 3 SO 433101. Part computer freehold register 50755  |
| Tauranga-o-Reti site         | South Auckland Land District - 4.997 4.9997 hectares, more or less, being section 2 SO 433101. Part computer freehold register 507554.  |
| Te Teko site                 | South Auckland Land District - 4.9998 hectares, more or less, being section 1 SO 433101. Part computer freehold register 507554.  |
| Mangamate Kāinga site        | South Auckland Land District - 4.9991 hectares, more or less, being section 1 SO 431517. Part computer freehold register 507554.  |
| Balance of Regeneration Land | South Auckland Land District - 608.0686 hectares, more or less, being Section 2 SO 431517, section 2 SO 432338, sections 4 and 7 SO 433101. Part computer freehold register 507554. |
| Waimurupūhā site             | South Auckland Land District - 4.9997 hectares, more or less, being section 6 SO 433101. Part computer freehold register 507554.  |
| Mangamate Falls site         | South Auckland Land District - 5.6000 hectares, more or less, being section 1 SO 432338. Part computer freehold register 507554.  |

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## Properties vested in the name of trustees of Te Rūnanga o Ngāti Whare, continued

**Table cont.**

| <b>Site</b>                                    | <b>Land description</b>   |
|--|---|
| Te Takanga-a- Wharepakau Historic Reserve site | South Auckland Land District - 1.3327 hectares, more or less, being section 3 SO 432338. (Part formerly part of the marginal strip retained by the Crown on the disposition of Lot 1 DPS 63738. Part computer freehold register 507554) 4.2670 hectares, more or less, being section 6 SO 432338. |
| Otutakahiao                                    | South Auckland Land District - 0.2171 hectares, more or less, being section 1 SO 428392. Part Gazette 1984 page 643.  |
| Wekanui Kāinga                                 | South Auckland Land District - 5.8468 hectares, more or less, being section 1 SO 428388. Part GN S372705  |
| Otahi Kāinga                                   | South Auckland Land District - 2.1535 hectares, more or less, being section 1 SO 428391. Part GN S372705.   |
| Te Pukemohoa Kāinga                            | South Auckland Land District - 1.1751 hectares, more or less, being section 1 SO 428390. Part GN S372705.   |
| Matuatahi Pā                                   | South Auckland Land District - 0.8778 hectares, more or less, being section 1 SO 428389. Part GN S372705.   |



## 5 Registration of ownership in the trustees of Te Rūnanga o Ngāti Whare

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|                  |  |
|------------------|--|
| <b>Scope</b>     | This part applies to the fee simple estate in property (other than a jointly vested property) vested in the trustees under the Act.  |
| <b>Trigger</b>   | Receipt of a written application under s 93(2) of the Act for creation of a computer freehold register in the name of the trustees under s 93(3) or s 94(4) of the Act.  |
| <b>Action</b>    | <ul style="list-style-type: none"><li>(a) If the land described in the application is all of the land contained in a computer freehold register:<ul style="list-style-type: none"><li>(i) register the trustees as the proprietors of the fee simple estate in the land, and</li><li>(ii) enter on the register any encumbrances, restrictions, and interests that are described in the application.</li></ul></li><li>(b) If the land described in the application is not all of the land contained in a computer freehold register, or there is no computer freehold register for all or part of the land:<ul style="list-style-type: none"><li>(i) create one or more computer freehold registers for the fee simple estate in the land in the names of the trustees, and</li><li>(ii) enter on the register any encumbrances, restrictions, and interests that are described in the application.</li></ul></li></ul> |
| <b>Memorials</b> | <p>The following memorials are to be recorded upon registration of a vesting application under s 93 and to reflect the requirements of ss 94 and 95 in regard to Part 4 of the Conservation Act 1987 and the Crown Minerals Act 1991.</p> <ul style="list-style-type: none"><li>(a) '[<i>registration number</i>] Application under section 93 of the Ngāti Whare Claims Settlement Act 2012 vesting the within land in the trustees of Te Rūnanga o Ngāti Whare [<i>date and time</i>]'</li><li>(b) 'Subject to Part 4A of the Conservation Act 1987 (but section 24 of that Act does not apply)</li><li>(c) 'Subject to section 11 of the Crown Minerals Act 1991'</li></ul>   |

## 6 Properties vested in the name of Wharepakau for an undivided half share

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### Scope

Applications for issue of separate computer freehold registers in the name of Wharepakau for an undivided half share for the fee simple estate will be lodged for the following properties:

| Site              | Land description  |
|-------------------|---|
| Hinamoki Pā       | South Auckland Land District:<br>1.0882 hectares, more or less, being section 1 SO 428393. Part Gazette 1984 page 643.  |
| Okārea Pā site    | South Auckland Land District -<br>4.9999 hectares, more or less, being section 1 SO 431558. Part Gazette 1983 page 2029   |
| Te Rake Pā site   | South Auckland Land District -<br>4.9997 hectares, more or less, being section 5 SO 433101. Part computer freehold register 507554.                                   |
| Te Tāpiri Pā site | South Auckland Land District -<br>1.2219 hectares, more or less, being section 1 SO 433064. Part Gazette 1976 page 2865 and part computer freehold register SA86/152. |

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### Trigger

Receipt of a written application by an authorised person under s 91 of the Act for creation of a computer freehold register in the name of Wharepakau for an undivided half share for the fee simple estate in the land described in this application.

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### Action

Create a separate computer freehold register for the **undivided half share** in the land described in the application, and

- enter Wharepakau on the register as the registered proprietor, and
  - enter on the register any encumbrances, restrictions, and interests that are described in the application, and
  - make a notation on the register that the land is a Māori reservation created under s 89, and is subject to s 90.
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## Properties vested in the name of Wharepakau for an undivided half share, continued

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### Memorials

The following memorials are to be recorded on a computer freehold register created upon registration of an application under s 91, and to reflect the requirements of s 94 and s 95 in regard to Part IV of the Conservation Act 1987 and the Crown Minerals Act 1991.

- (a) '[*registration number*] Application under s 91 of the Ngāti Whare Claims Settlement Act 2012 vesting the within land in Wharepakau [*date and time*]'
  - (b) 'Subject to Part 4A of the Conservation Act 1987 (but section 24 of that Act does not apply)
  - (c) 'Subject to section 11 of the Crown Minerals Act 1991'
-

## 7 Registration in the name of the trustees of Te Rūnanga o Ngāti Whare or in the name of Wharepakau

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### Trigger

The trustees may give the RGL a written notice requiring that the fee simple estate in land that is registrable, or registered under the Land Transfer Act 1952 in the name of the trustees, be registered in the name of Wharepakau, rather than in the name of the trustees, or be no longer registered in the name of Wharepakau, and instead be registered in the name of the trustees.

**Note:** This provision does not apply to land vested in Wharepakau for an undivided half share under s 91.

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### Notice requirements

- (a) The written notice will:
    - (i) contain a recital that the direction is given under s 104(2)(a) or s 104(2)(b) the Act,
    - (ii) be executed or purport to be executed by the trustees, and
    - (iii) relate to land registrable or registered in the name of the trustees or in the name of Wharepakau.
  - (b) In the absence of evidence to the contrary, the direction is sufficient evidence that the direction has been given under s 104(2) of the Act. The RGL must give effect to the direction, notwithstanding the Land Transfer Act 1952 or any other enactment or rule of law.
- 

### Action

- (a) On receiving a direction by the trustees that contains a recital that the direction is given under s 104(2)(a):
    - (i) record Wharepakau as the registered proprietor on the relevant computer freehold register, and
    - (ii) note the land is subject to s 104(4).
  - (b) On receiving a direction by the trustees that contains a recital that the direction is given under s 104(2)(b):
    - (i) record the trustees as the registered proprietor on the relevant computer freehold register, and
    - (ii) remove the subject to s 104(4) of the Act memorial.
- 

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## Registration in the name of the trustees of Te Rūnanga o Ngāti Whare or in the name of Wharepakau, continued

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### **Te Rūnanga o Ngāti Whare have rights of a registered proprietor**

In respect of the land registered in the name of Wharepakau, the trustees have all the duties, powers, and rights of the registered proprietor of the land, and the trustees carry out every such duty and exercise every such power or right in their own name and not in the name of Wharepakau. The RGL is bound by this arrangement.

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## 8 Transfer of Reserve Land

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### Trigger

Receipt of the following documents:

- (a) a transfer instrument to transfer the fee simple estate in the reserve land to the new owners, including a notification that the new owners are to hold the reserve land for the same reserve purposes as it was held by the administering body immediately before the transfer,
  - (b) the written consent of the Minister of Conservation to the transfer of the reserve land, and
  - (c) any other document required for the registration of the transfer instrument.
- 

### Legislation

The trustees are the administering body of a reserve site for the purposes of the Reserves Act 1977. The fee simple estate in a reserve site (reserve land) may be transferred to any other person, subject to the provisions of s 100.

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### Action

Register the new owners as the proprietors of the fee simple estate in the reserve land.

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## 9 Removal of easement relating to Te Rake Pā Forest site

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### **Vesting provisions**

- (a) The Central North Island (CNI) forests sites were vested in CNI Iwi Holdings Limited under the Central North Island Forest Land Collective Settlement Act 2008.
  - (b) Section 101 of the Act provides that upon the vesting of the former Crown forest land in the trustees, s 10 of the Central North Island Forests Land Collective Settlement Act 2008 ceases to apply and the public right of way easement is extinguished.
- 

### **Trigger**

Receipt of a written application from an authorised person under s 102 specifying the right of way easement to be extinguished and the relevant computer interest register for the easement.

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### **Action**

Record the extinguishment of the public right of way easement over the former Crown forest land on:

- (a) whichever relevant computer freehold register or registers exist at the time the application is made for that area of land known as the Kaingaroa Whirinaki Block currently contained in computer freehold register 507554, and
  - (b) the relevant computer register for the public right of way easement.
-

## 10 Removal of Crown forestry licence memorials

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**Trigger**

A written application to the RGL under s 103 by the registered proprietor of a CNI forests site containing the following:

- (a) confirmation that all of the land contained in the computer freehold register or registers for the site was returned on the 'return date' specified in the Act, and
  - (b) a statement from the relevant licensee under the Crown forestry licence, endorsing the above confirmation.
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**Action**

Remove the Crown forestry licence memorial from the computer freehold register or registers for the land described in the application.

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## 1 1 Application of other enactments to land vested under the Act

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### Relevant enactments

- (a) The land vested under the Act is subject to Part 4A of the Conservation Act 1987.
  - (b) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to:
    - (i) the vesting of the fee simple estate (or a share of the fee simple estate), or
    - (ii) any matter incidental to, or required for the purpose of, the vesting.
  - (c) The vesting of the fee simple estate (or a share of the fee simple estate) does not:
    - (i) limit ss 10 or 11 of the Crown Minerals Act 1991, or
    - (ii) affect other rights to subsurface minerals.
  - (d) The permission of a council under s 348 of the Local Government Act 1974 is not required for laying out, forming, granting, or reserving a private road, private way, or right of way required to fulfil the terms of the deed of the settlement.
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## 12 Fees

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**Fees payable** The standard registration fees are payable for all lodgements under the Act.

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## 13 Definition of land for issue of computer registers

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**Survey definition** Applications to the RGL under the Act to create a computer freehold register are subject to the completion of any survey necessary for adequate definition of the affected land.

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