



Ngati Porou Claims Settlement Act 2012 registration guideline

LINZG20738

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Table of contents

1	TERMS AND DEFINITIONS	4
	General	4
2	FOREWORD	5
	Introduction	5
	Purpose	5
	Scope	5
	Intended use of guideline	5
	References	5
3	REMOVAL OF MEMORIALS	6
	Trigger	6
	Legislation	6
	Certificate	6
	Action	6
4	VESTING OF CULTURAL REDRESS PROPERTIES	7
	Trigger	7
	Authorised persons	7
	Action Registration of trustees	7
	Statutory exemptions	8
	Action –vesting’s subject to encumbrances	8
	Action –vestings subject to trustees’ encumbrances or covenants	9
	Memorials	10
	Revocation and re-conferring of reserve status	11
	Action –statutory actions	12
	Trigger	12
	Action –memorials	12
	Action –removal of memorials	13
	Trigger	13
	Action –transfer of reserve land section 79	13
5	VESTING OF COMMERCIAL REDRESS PROPERTIES	14
	Trigger	14
	Action - commercial redress property and deferred selection property	14
	Trigger	14
	Action - single Crown forestry licence	14
	Trigger	14
	Action - covenants for later creation of computer freehold register	15
	Trigger	15
	Action - application of other enactments	15
	Trigger	15
	Action 5 school sites -section 89	16
	Trigger	16
	Termination or expiry of lease –section 89(5)	16
6	LICENSED LAND, RIGHT OF ACCESS	17
	Trigger	17
	Action	17
	Authorised person – section 97(4)	17

Memorial	17
7 RIGHT OF FIRST REFUSAL (RFR) PROPERTIES.....	18
Trigger.....	18
Action—memorials record RFR land.....	18
Trigger - certificate for removal of memorial on transfer or vesting	18
Action - registration requirements.....	18
Trigger—s 124 certificate for removal of.....	18
Action—registration requirements.....	19
Action—ongoing monitoring of RFR land	19
8 TRANSITION – NOTING OF REGISTERS.....	20
Transition – section 143	20

1 Terms and definitions

General

- (a) For the purposes of this guideline, the terms and definitions in the Ngati Porou Claims Settlement Act 2012 apply, unless stated otherwise. Refer to ss 9, 10, 11, 12, 57, 94, and 98 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	Ngati Porou Claims Settlement Act 2012
authorised person	an authorised person as defined in s 10
Chief Executive	Chief Executive of Land Information New Zealand
Deed of Settlement	the Deed of Settlement for Ngati Porou dated 22 December 2010
LINZ	Land Information New Zealand
RGL	Registrar-General of Land appointed under s 4 of the Land Transfer Act 1952
trustees	the governance entity for Ngati Porou as defined in s 10 of the Act

2 Foreword

- Introduction**
- (a) The Ngati Porou Claims Settlement Act 2012 (Act) came into force on 5 April 2012.
 - (b) All the land concerned is in the Gisborne Land Registration District.
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Purpose This 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) 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.

- References** The following documents are necessary for the application of this guideline:
- (a) Deed of Settlement for Ngati Porou dated 22 December 2009
 - (b) Ngati Porou Claims Settlement Act 2012.
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3 Removal of memorials

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

Legislation Section 15(2) refers to the following enactments:

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

Certificate 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:

- (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)).

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(2) 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 Ngati Porou Claims Settlement Act 2012 cancelling [*memorial to be cancelled*] [*date and time*]

4 Vesting of cultural redress properties

Trigger Receipt of a written application under s 74(2) by a person authorised by the Director-General of Conservation to register the trustees of the Taonga Trust as proprietors of the fee simple estate.

Authorised persons Section 74(7) identifies authorised persons as a person authorised by the persons set out below for the stated properties:

Authorisation by	Property
the Chief Executive of LINZ	The Taitai site
the Director-General of Conservation	in all other cases

**Action
Registration of
trustees**

- (a) If a cultural redress property is all of the land contained in a computer freehold register that is not limited as to parcels, the RGL must register the trustees as the proprietors of the fee simple.
 - (b) If:
 - (i) a cultural redress property is not all of the land in a computer freehold register, or
 - (ii) the computer freehold register is limited as to parcels or
 - (iii) there is no computer freehold register for all or part of the property,
 - (iv) the RGL must create one or more computer freehold registers in the name of the trustees and enter any encumbrances described in the application.
 - (c) Creation of the above computer registers is subject to completion of any necessary survey.
 - (d) The standard registration fee is payable.
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Vesting of cultural redress properties, continued

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.
-

Action – vestings subject to encumbrances

- (a) The cultural redress properties are vested subject to the encumbrances set out in Schedule 3 of the Act (s 73).
 - (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 – 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 section
Awanui	Conservation covenants to the Crown to be treated as conservation covenants for the purposes of section 77 of the Reserves Act 1977 and section 27 of the Conservation Act 1987	58(4)
Whanokao	Conservation covenants to the Crown to be treated as conservation covenants for the purposes of section 77 of the Reserves Act 1977 and section 27 of the Conservation Act 1987	59
Raparapaririki	Conservation covenants to the Crown over lots 6,7 and 8 Raparapaririki to be treated as conservation covenants for the purposes of section 77 of the Reserves Act 1977 and section 27 of the Conservation Act 1987	60
Ruataupare	Conservation covenants to the Crown to be treated as conservation covenants for the purposes of section 77 of the Reserves Act 1977 and section 27 of the Conservation Act 1987	61
Waipare Redwoods	Conservation covenants to the Crown to be treated as conservation covenants for the purposes of section 77 of the Reserves Act 1977 and section 27 of the Conservation Act 1987	62
Anaura	A right to convey water (in gross) in favour of the Minister of Conservation	63

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Vesting of cultural redress properties, continued

Memorials

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

(a) any cultural redress property except reserve sites:

'[registration number] Application under section 74 of the Ngati Porou 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 sites described in Parts 2 and 3 of schedule 3 of the Act:

'[registration number] Application under section 74 of the Ngati Porou 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 75(3) and 79 of the Ngati Porou Claims Settlement Act 2012 '

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

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Vesting of cultural redress properties, 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
Awanui	Endowment for primary education	58(1)	fee simple	<i>No specified purpose</i>	58(3)
Whanokao	Conservation area	59(3)	fee simple	<i>No specified purpose</i>	59(4)
Raparapariki	Conservation area	60(1)	fee simple	<i>No specified purpose</i>	60(2)
Ruataupare	Conservation Area	61(1)	fee simple	<i>No specified purpose</i>	61(2)
Waipare Redwoods	Scenic	62(1)	fee simple	<i>No specified purpose</i>	61(2)
Anaura	Scenic	63(1)	fee simple	Scenic Reserve	63(3)
Herenga	Scenic	64(1)	fee simple	Scenic Reserve	64(3)
Aorangi	Scenic	65(1)	fee simple	Scenic Reserve	65(3)
Pakuturi	Conservation Area	66(1)	fee simple	Scenic Reserve	66(3)
Paraheka	Scenic	67(1)	fee simple	Scenic Reserve	67(3)
Pukeamaru	Scenic	68(1)	fee Simple	Scenic Reserve	68(3)
Waimahru	Conservation Area	69(1)	fee simple	Scenic Reserve	69(3)
Te Puia	Hot Springs Reserve	70(1)	fee simple	Local Purpose Reserve (Geothermal and walking track) subject to s 23 Reserves Act 1977	70(3)
Whangaokeno	Government purpose reserve for wildlife	71(1)	fee simple	Local Purpose Reserve (cultural and wildlife management) reserve subject to s 23 of the Reserves Act 1977'.	71(3)
Taitai	N/A	72	fee simple	No specified purpose	72

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Vesting of cultural redress properties, continued

**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

Application from the Director-General of Conservation, under s 76(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.

**Action –
memorials**

The approved format for the cancellation memorial which must be recorded on the historic view of the title is:

'[application identifier] Application under section 76(3) of the Ngati Porou Claims Settlement Act 2012 revoking the reserve status of [part of] the within land [date and time]'

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Vesting of cultural redress properties, continued

**Action –
removal of
memorials**

The following notifications must be removed:

- (a) 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)', and
 - (b) the memorial 'Subject to sections 75(3) and 79 of the Ngati Porou Claims Settlement Act 2012'.
-

Trigger

Transfer instrument pursuant to s 79 transferring reserve land to new owners.

**Action –
transfer of
reserve land
section 79**

- (a) The fee simple estate in reserve land may be transferred to any other person only in accordance with s 79.
 - (b) The written consent of the Minister of Conservation must accompany the transfer instrument.
 - (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 memorial must contain a statement that the new owners hold the land for the same 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 79 (3 - 6) do not apply.
-

5 Vesting of commercial redress properties

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

Action - commercial redress property and deferred selection property

- (a) If a commercial redress property or a deferred selection property is not all the land in a computer freehold register, or 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:
 - (i) subject to and together with any encumbrances that are registered, or described in the application but
 - (ii) without any statement of purpose.
- (b) Standard registration fees apply.

Trigger A written application by an authorised person under s 86(2) to create a computer freehold register.

Action - single Crown forestry licence

- (a) In the case of a single Crown forestry licence defined in s 86(1), the RGL must create a computer freehold register in the name of the Crown:
 - (i) subject to and together with any relevant encumbrances that are registered, or described in the application,
 - (ii) without any statement of purpose.
- (b) Creation of the above computer freehold registers is subject to the completion of any necessary survey.
- (c) Standard registration fees apply.

Trigger A written request by an authorised person under s 87(2) to register a covenant.

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Vesting of commercial redress properties, continued

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

- (a) If no computer freehold register exists and an authorised person requests the RGL to register a covenant in accordance with s 74, the RGL must register the covenant and create a computer interest register.
 - (b) Standard registration fees apply.
-

Trigger

Registration of a transfer of a commercial redress property or a deferred selection property under s 83 from the Crown to the trustee.

**Action -
application of
other
enactments**

- (a) Section 88 sets out how certain other enactments apply to commercial redress properties or a deferred selection property upon registration of a transfer from the Crown. 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 section 24 of that Act does not apply)'

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

- (b) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to the transfer of a commercial redress property or a deferred selection property.
 - (c) Section 348 of the Local Government Act 1974 does not apply to the granting of any right of way or private road.
-

Trigger

- (a) Registration of a transfer of a commercial redress property or a deferred selection property from the Crown to the trustee.
 - (b) Written application by the Minister of Education under s 89(5).
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Vesting of commercial redress properties, continued

Action 5 school sites - section 89

- (a) Section 89 sets out the application of the Conservation Act 1987 to school sites being Tolaga Bay Area school, Te Kura Kaupapa Maori o Mangatuna, and Whangara school.
 - (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 section 24 of that Act does not apply)'
 - 'Subject to section 89(2) (b) of the Ngati Porou Claims Settlement Act 2012'
 - 'Subject to section 11 of the Crown Minerals Act 1991'
-

Trigger

Written application by the Minister of Education under s 89(5)

Termination or expiry of lease -section 89(5)

- The following notifications must be removed:
- (a) 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) the memorial ' Subject to section 89(2) (b) of the Ngati Porou Claims Settlement Act 2012'
-

6 Licensed land, Right of Access

Trigger Written application by an authorised person under s 97 to note a right of access

Action 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 95

Authorised person – section 97(4)

- (a) For licensed land; a person authorised by the Chief Executive.
- (b) For unlicensed Crown Forest land; a person authorised by the Director-General of the Ministry of Agriculture and Forestry.

Memorial A suitable memorial would be

'[[part of] the within land is subject to a right of access under section 95 of the Ngati Porou Claims Settlement Act 2012 see application [registration number] [*date and time*]'

7 Right of first refusal (RFR) properties

Trigger Receipt of a certificate from the Chief Executive under s 122 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 122 certificate:

'[certificate identifier] Certificate under section 122(2) of the Ngati Porou Claims Settlement Act 2012 that the within land is RFR land as defined in section 99 and is subject to Subpart 5 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 -
certificate for
removal of
memorial on
transfer or
vesting**

Receipt of a certificate from the Chief Executive under s 123(1) that:

- (a) specifies the legal description of the land, and
 - (b) identifies the computer register that contains the land, and
 - (c) specifies the details of the transfer or vesting of the land, and
 - (d) states that it is issued under this section.
-

**Action -
registration
requirements**

- (a) The standard registration fee is payable.
- (b) The transfer or vesting must be registered.
- (c) When the certificate is received, the memorial noting the land to be RFR land under s 122 must be removed and the following memorial should be recorded on the historic view of the register:

'[certificate identifier] Certificate under section 123(1) of the Ngati porou Claims Settlement Act 2012 removing [memorial identifier] entered under section 122 [date and time]'

**Trigger—s 124
certificate for
removal of**

Receipt of a certificate from the Chief Executive under s 124(1) for the removal of s 122 memorials from a computer register, at the end of the RFR period.

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Right of first refusal (RFR) properties, continued

Action— registration requirements

- (a) The standard registration fee is payable.
- (b) When the certificate is received, the memorial noting the land to be RFR land under s 122 must be removed and following memorial must be recorded on the historic view of the register:

'[certificate identifier] Certificate under section 124(1) of the Ngati Porou Claims Settlement Act 2012 removing [memorial identifier] entered under section 122 [date and time]'

Action— ongoing monitoring of RFR land

- (a) 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 122(2), cannot be registered, unless:
 - (i) the dealing is in favour of the trustees, the Crown, a Crown Body or any of ss 106 to 116 and 117(1) of the Act (s 100), or
 - (ii) a certificate from the Chief Executive has been received under s 123(1), or
 - (iii) at the end of the RFR period, a certificate from the Chief Executive has been received under s 123(1) for the removal of the memorial under s 122.
 - (b) Notwithstanding registration of a transfer under (a) the RFR memorial under s 122 remains on the title until a certificate under either s 123 or s 124 for its removal is registered.
-

8 Transition – noting of registers

Transition – section 143

- (a) The RGL does not need to change the registered proprietors of any interest without first receiving a written application transfer or other instrument authorised for registration under this Act.
 - (b) Any application or instrument presented to the RGL may, in the absence of evidence to the contrary, be taken as sufficient proof that the property is vested in the trustee as specified in the instrument
-