Ngāti Rangiteaorere Claims Settlement Act 2014 registration guideline

LINZG20743

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Terms and definitions

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| General | 1. For the purposes of this guideline, the terms and definitions in the Ngāti Rangiteaorere Claims Settlement Act 2014 (Act) apply, unless stated otherwise. Refer to sections 13, 14, 45, 51, 56, 62 and 63 of the Act for relevant interpretation. 2. Terms and abbreviations used in this guideline that are not defined in the Act are defined below. 3. 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 Rangiteaorere Claims Settlement Act 2014 |
| authorised person | The Chief Executive, for the Waiohewa site, and the  Director-General of Conservation, for all other properties |
| Chief Executive | Chief Executive of Land Information New Zealand |
| cultural redress property | a property listed in s 45 and described in Schedule 2 of the Act |
| deed of settlement | the Ngāti Rangiteaorere and Ngāti Rangiteaorere Koromatua Council Trust Deed of Settlement dated 14 June 2013, including the schedules of, and attachments to, the deed; and any amendments to the deed or its schedules and attachments |
| LINZ | Land Information New Zealand |
| resumptive memorials | memorials entered under any enactment referred to in s 18 |
| RFR (right of first refusal) land | land defined as RFR land in s 63 |
| RGL | Registrar-General of Land appointed under s 4 of the Land Transfer Act 1952 |
| settlement date | Settlement date as defined in s 13, being 20 May 2014 |
| trustees | and trustees of the Ngāti Rangiteaorere Koromatua Council mean the trustees, acting in their capacity as trustees, of the Ngāti Rangiteaorere Koromatua Council |

Foreword

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| Introduction | 1. The Ngāti Rangiteaorere Claims Settlement Act 2014 (Act) came into force on 16 April 2014. 2. The land concerned is in the South 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. |

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| Scope | 1. This document contains guidelines for compliance with the Act. It covers:    1. the requirements for certificates, applications, and other transactions to be lodged for registration with the RGL, and    2. registration requirements and memorial formats. 2. 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. |

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| References | The following documents are necessary for the application of this guideline:   1. the Ngāti Rangiteaorere and Ngāti Rangiteaorere Koromatua Council Trust deed of settlement dated 14 June 2013[[1]](#footnote-1); 2. the Ngāti Rangiteaorere Claims Settlement Act 2014; and 3. Customer Services Technical Circular 2013.T06 - Registration of Treaty Claims Settlement Dealings. |

# Noting of statutory restrictions on registration

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| **Statutory prohibitions restricting dealing with computer registers** | Sections, 56, 59, and 64 of the Act contain restrictions against dealing with land held in computer registers. In each case a memorial of the statutory restrictions on registration should be entered on the relevant computer register. |

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| **Follow up for Landonline** | When a computer register contains any of the following memorials:  'Subject to section 56 of the Ngāti Rangiteaorere Claims Settlement Act 2014'  'Subject to section 59 of the Ngāti Rangiteaorere Claims Settlement Act 2014'  '[*certificate identifier*] Certificate under section 85 of the Ngāti Rangiteaorere Claims Settlement Act 2014 that the within land is RFR land as defined in section 63 and is subject to Part 3 of the Act (which restricts disposal, including leasing, of the land) [*date and time*]'  Ensure the 'prevents registration' flag has been set. |

# Removal of resumptive memorials

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| Trigger | Receipt of a certificate under s 19(1) for the removal of certain memorials from a computer register. |

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| Authorised person | 1. A statement in the certificate that the signatory is acting under delegation or authority of the Chief Executive shall be taken as evidence of the authority of the person to execute the certificate on behalf of the Chief Executive. 2. A template certificate has been approved by the RGL and is set out in the Technical Circular 2013.T06. |

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| Legislation | 1. Section 18(1) provides that certain legislative provisions do not apply to a cultural redress property, the RFR land, or for the benefit of Ngāti Rangiteaorere or a representative entity. 2. Section 18(2) lists the legislative provisions as:    1. Part 3 of the Crown Forest Assets Act 1989;    2. Sections 211 to 213 of the Education Act 1989;    3. Part 3 of the New Zealand Railways Corporation Restructuring Act 1990;    4. Sections 27A to 27C of the State Owned Enterprises Act 1986;    5. Sections 8A to 8HJ of the Treaty of Waitangi Act 1975.   **Note**: These legislative provisions, being statutory notations, do not fall within the definition of 'interest' in treaty settlement legislation, so must be brought down onto the computer registers created for the relevant entity or trustees. They are only to be noted as 'cancelled' by the RGL, acting on the certificate issued as below. |

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Removal of resumptive memorials, continued

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| Certificate | Section 19(4) requires the RGL to register a certificate against the affected registers, cancelling any relevant memorial referred to in s 18(2). The certificate must:   1. be issued by the Chief Executive, as soon as reasonably practicable after the settlement date (s 19(2)); 2. identify each allotment, which is all, or part, of a settlement property, and computer register which contains such a memorial (s 19(1)); and 3. state that it is issued under s 19 (s 19(3)). |

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| Action | When a certificate under (s 19(1)) is presented for registration:   1. any memorial on the current view of the computer register which relates to an enactment referred to in s 18(2) should be removed; 2. the following memorial should be recorded on the historic view of that register:   '[*instrument number*] Certificate under section 19of the Ngāti Rangiteaorere Claims Settlement Act 2014 cancelling [*memorial identifier*] [*date and time*]';   1. the Landonline registration code is RRSM; 2. 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 18(2)) does not apply'. |

# Cultural redress properties to vest in the Ngāti Rangiteaorere Koromatua Council Trust

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| Vesting of cultural redress properties | The properties set out in schedule 2 of the Act vest in the trustees as provided in ss  46 to 48. |

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| Trigger | Receipt of a written application under s 51(3) (property is *all* the land contained in a computer freehold register) by an authorised person to register the trustees as proprietors of the fee simple estate.  An authorised person means a person authorised by the chief executive of LINZ, for the Waiohewa site and the Director-General, for all other properties. |

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| Action - registration of trustees | 1. The RGL must:    1. register the trustees as the proprietors of the fee simple estate in the property; and    2. record any entry on the computer freehold register, and do anything else, necessary to give effect to subpart 3 of Part 2 of the Act and to part 5 (*Cultural Redress*) of the deed of settlement. 2. The standard registration fee is 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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| Trigger | Receipt of a written application under s 51(5) (where the property is *not* all the land contained in a computer freehold register) by an authorised person for the creation of a computer register for the trustees as proprietors of the fee simple estate. |

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# Vesting of cultural redress properties, continued

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| Action - registration of trustees | 1. The RGL must:    1. create a computer freehold register in the name of the trustees; and    2. record on the computer freehold register any interests that are registered, notified, or notifiable and that are described in the application. 2. Creation of the above computer register is subject to completion of any necessary survey. 3. The standard registration fee is 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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| Action - vestings subject to interests | The cultural redress properties are vested subject to the interests set out in the third column in Schedule 2 of the Act (s 49).   1. The interests may include unregistrable instruments. 2. Only the interests referred to in the application are required to be entered on the computer register. 3. Interests that are not interests in land apply as if the trustees were the grantor of the interest (s 50). |

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| Statutory exemptions | Cultural redress properties are not subject to:   1. the subdivision requirements of the Resource Management Act 1991, (s 54(4)); or 2. the Council's requirements for consent under s 348 of the Local Government Act 1974 (s 54(2)). |

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# Vesting of cultural redress properties, continued

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| Action - matters to be recorded on computer freehold register for the Waiohewa site | The following must be recorded on the computer register (s.54):  'Subject to Part 4A of the Conservation Act 1987'  'Subject to section 11 of the Crown Minerals Act 1991' |

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| Action - matters to be recorded on computer freehold register for the Rangiteaorere site and Whakapoungakau | The following must be recorded on the computer register (ss.53(1)(a) and 54) – (and see s.56 below):  'Subject to Part 4A of the Conservation Act 1987 but section 24 of that Act does not apply'  'Subject to section 52(4) of the Ngāti Rangiteaorere Claims Settlement Act 2014’  'Subject to section 11 of the Crown Minerals Act 1991'  **Note:** Section 52(4) deals with the revocation of all, or part, of a reserve property. In such case, the s 24 exemption (other than s 24(2A)) ceases to apply. |

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| Action –  vesting of Whakapoungakau subject to provision of grant of easement | 1. Whakapoungakau is vested subject to the trustees creating the walkway easement in gross over the reserve (s.48(5)), referred to above. 2. The application in respect of Whakapoungakau must be accompanied by the Easement Instrument creating the walkway easement. |

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| Statutory restriction on transfer of reserve land | 1. The fee simple estate in the reserve land may not be transferred to any other person (s.56), except to:    1. Trustees of the existing administering body if trustees change (s.58); or    2. a new administering body (s.57) - [See below]. 2. The following must be recorded on the computer register:   'Subject to section  56 of the Ngāti Rangiteaorere Claims Settlement Act 2014’ |

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# Vesting of cultural redress properties, continued

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| Transfer of reserve land to trustees of existing administering body if trustees change | 1. The registered proprietors of the reserve land may transfer the fee simple estate in the reserve land (s.58) if—    1. the transferors are or were the trustees of a trust; and    2. the transferees are the trustees of the same trust, after any new trustee has been appointed to the trust, or any transferor has ceased to be a trustee of the trust; and    3. the instrument to transfer the reserve land is accompanied by a certificate given by the transferees, or the transferees' solicitor, verifying that paragraphs (i) and (ii) apply. |

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| Transfer of reserve land to new administering body | The registered proprietors of the reserve land may apply in writing to the Minister of Conservation (s.57(1)) for consent to transfer the fee simple estate in the reserve land to 1 or more persons (the new owners). |

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| Trigger | 1. Receipt, under s.57(3) of:    1. a transfer instrument to transfer the fee simple estate in reserve land to new owners, including a notification that the new owners are to hold the reserve land for the same reserve purposes as those for which it was held by the administering body immediately before the transfer; and    2. the written consent of the Minister of Conservation to the transfer of the reserve land; and    3. any other document required for the registration of the transfer instrument. |

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# Vesting of cultural redress properties, continued

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| Action - registration of new owners | 1. The RGL must register the new owners as the proprietors of the fee simple estate in the reserve land (s 57(3)). 2. A transfer that complies with s 57 need not comply with any other requirements. 3. From the time of their registration under s 57, the new owners:   (i) are the administering body of the reserve land; and  (ii) hold the reserve land for the same reserve purposes as those for which it was held by the administering body immediately before the transfer. |

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| Statutory restriction on reserve land | The registered proprietors of a reserve property must not mortgage, or give a security interest in, any part of the property that remains a reserve under the Reserves Act 1977 after the property has vested in the trustees. |

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| Action – notification of restriction | 1. The following must be recorded on the computer register:   'Subject to section 59 of the Ngāti Rangiteaorere Claims Settlement Act 2014'   1. Ensure the 'prevents registration' flag has been set. |

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# Vesting of cultural redress properties, continued

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| TriggerRevocation 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 | | Rangiteaorere | Recreation reserve | 47(1) | fee simple | Recreation reserve (s 17 Reserves Act 1977) | 47(3) | | Whakapoungakau | Scenic reserve | 48(1) | fee simple | Scenic reserve (s 17 Reserves Act 1977) | 48(3) | |

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| Action - statutory action | 1. 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. 2. 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. |

# Right of first refusal

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| Recording RFR on registerTrigger – s 85 certificate | 1. Receipt of a certificate from the Chief Executive under s 85(1) that:    1. specifies the legal description of, and    2. identifies the computer register for,— 2. RFR land, for which:    1. there is a computer register on the settlement date; and    2. a computer register is first created after the settlement date; and    3. there is a computer register and which becomes RFR land after the settlement date. |

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| Action—memorials record RFR land | 1. Add the following memorial to the current view of the computer register identified in the s 85 certificate:   '[*certificate identifier*] Certificate under section 85 of the Ngāti Rangiteaorere Claims Settlement Act 2014 that the within land is RFR land as defined in section 63 and is subject to Part 3 of the Act (which restricts disposal, including leasing, of the land) [*date and time*]'   1. Ensure the 'prevents registration' flag has been set; 2. The standard registration fee is payable. |

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| Removal of RFR from registerTrigger – s 86 certificate | Receipt of a certificate from the Chief Executive under s 86(1) for the removal of s 85 memorials from a computer register on land ceasing to be RFR land. |

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# Right of first refusal, continued

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| Action – registration requirements | 1. The RGL must record the following memorial on the historic view of the register:   '[*certificate identifier*] Certificate under section 86(1) of the Ngāti Rangiteaorere Claims Settlement Act 2014 removing [*memorial identifier*] entered under section 85(5) [*date and time*]'   1. The transfer or vesting must be registered; 2. The standard registration fee is payable.   **Note:** In addition to the legal description, computer register identifier and statement that the certificate is issued under the section, Section 86(1)(c) of the Act requires the certificate to include “the details of the transfer or vesting of the land”. The certificate template is designed to account for this by the reference “transferred to or vested in the person(s) named in the instrument lodged with this certificate.” Therefore, certificates in this form should be accepted for registration. |

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| Removal of RFR from register at end of RFR periodTrigger – s 87 certificate | Receipt of a certificate from the Chief Executive under s 87(1) for the removal of s 85 memorials from a computer register at the end of the RFR period. |

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| Action – registration requirements | 1. The RGL must record the following memorial on the historic view of the register:   '[*certificate identifier*] Certificate under section 87(1) of the Ngāti Rangiteaorere Claims Settlement Act 2014 removing [*memorial identifier*] entered under section 85(5) [*date and time*]'.   1. The standard registration fee is payable. |

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# Right of first refusal, continued

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| Action – on-going 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 85, cannot be registered unless:   1. a certificate from the Chief Executive has been received under s 86(1), or 2. at the end of the RFR period, a certificate from the Chief Executive has been received under s 87(1) for the removal of the notification under s 85(5), or 3. the dealing is in favour of the Crown or a Crown Body (s 70).   **Note**: Transfers of RFR land without a preceding s 86(1) certificate should only be accepted if it is absolutely clear that the transferee is the Crown or a Crown Body. If there is any doubt, these matters should be escalated to a senior officer (eg Titles Advisor) for resolution.  **Note**: Where land is disposed of to the Crown or a Crown body in terms of s 70, the RFR will remain on the title and must continue to be monitored and enforced by LINZ until it is removed under ss 86(3) or 87(3). |

1. Refer to the Office of Treaty Settlements website (‘Completed Settlements’) for a copy of the deed of settlement and its amendments [↑](#footnote-ref-1)