



Te Kawerau ā Maki treaty settlement Act 2015 registration guideline

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Terms and definitions

General

- (a) For the purposes of this guideline, the terms and definitions in the Te Kawerau ā Maki Claims Settlement Act 2015 (Act) apply, unless stated otherwise. Refer to ss 10 to 13, 21, 60, 71, 95, 109, and 110 of the Act for interpretation.
 - (b) Terms and abbreviations used frequently in this guideline are defined below.
 - (c) Any reference to a section in this guideline is a reference to that section of the Act.
-

| Term/abbreviation | Definition |
|-----------------------------|--|
| Act | Te Kawerau ā Maki Claims Settlement Act 2015 |
| authorised person | an authorised person as defined in ss 83(8), 84(6), and 99(6), as the case may be. |
| Chief Executive | Chief Executive of Land Information New Zealand |
| CFR | computer freehold register, as defined in s-2 of the Land Transfer Act 1952 |
| commercial redress property | defined in s 95 as licensed land described in part 3 of the property redress schedule in the deed of settlement. |
| commercial redress | Includes commercial redress property, access to protected sites and right of first refusal |
| Crown forest land | defined s 95 by reference to s 2(1) of the Crown Forest assets Act 1989 |
| Crown forestry licence | as defined in s 95 by reference to s 2(1) of the Crown Forest Assets Act 1989 and, in relation to the Licensed Land, the licence described in column two of the table in Part 3 of the Property Redress Schedule. |
| cultural redress property | a property listed in s 60 and described in Schedule 3 of the Act |
| deed of settlement | the Deed of Settlement signed on behalf of the Crown, Te Kawerau ā Maki, and the trustees of the Te Kawerau Iwi Settlement Trust dated 22 nd February 2014, referred to in s 3 and as defined in s 11 of the Act. |
| Housing Block | defined in s95 under 'Auckland Prison Housing Block and Housing Block'. |
| Licensed land | licensed land described in part 3 of the property redress schedule in the deed of settlement, and as defined in s 95 of the Act (see also commercial redress property). |

| | |
|-------------------|--|
| LINZ | Land Information New Zealand |
| MLC | Māori Land Court |
| Relevant Trustees | defined in s71, distinct from the trustees, and relate only to the Kopironui property |
| RFR land | land defined as RFR land in s 110 (right of first refusal) |
| RGL | Registrar-General of Land defined in s 4 of the Land Transfer Act 1952 |
| settlement date | 40 working days after the date on which the Act comes into force, as defined in s 11, being 11 th November 2015. |
| trustees | trustees of Te Kawerau Iwi Settlement Trust acting in their capacity as trustees of Te Kawerau Iwi Settlement Trust as defined in s 11 of the Act. |

Foreword

- Introduction**
- (a) The Te Kawerau ā Maki Claims Settlement Act 2015 (Act) came into force on 15th September 2015.
 - (b) The provisions of the Act take place on settlement date being 11th November 2015 unless specifically stated otherwise [s 4(1)].
 - (c) The land concerned is in the North Auckland Land Registration District.
-

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 Te Kawerau ā Maki dated 22nd February 2014.
 - (b) Te Kawerau ā Maki Claims Settlement Act 2015.
 - (c) Customer Services Technical Circular 2013.T06 - Registration of Treaty of Waitangi Claims Settlement Dealings.
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1 Landonline settings to reflect statutory prohibitions on subsequent registration after initial vesting

Purpose

The purpose of this section is to highlight that a Landonline setting that stops registration must be put against each of the memorials for the statutory prohibitions

Trigger - Memorial of statutory restricting dealing

- (a) Subpart 5 of Part 2 of the Act:
 - (i) prescribes a process that applies to some of the land which vests as reserve under the Act if its owners wish to transfer it (s 90); and
 - (ii) prohibits owners of land which vests as reserve under the Act from securing or mortgaging it (s 93).
 - (b) Subpart 4 of Part 3 of the Act:
 - (i) prescribes a process for recording a right of first refusal against some land (s 138).
 - (c) Specific guidance on which land is affected, along with instructions about memorials that must be entered on the relevant computer registers, are included in the sections of this guideline on processing the applications for vesting the relevant land.
 - (d) As noted above, the purpose of this section is to highlight that a Landonline setting that stops registration must be put against each of the memorials for the statutory prohibitions.
-

Action - Put Landonline setting that "prevents registration" against specified memorials

- (a) Where a computer register contains one or more of the following memorials:
 - 'Subject to section 90 of the Te Kawerau ā Maki Claims Settlement Act 2015',
 - 'Subject to section 93 of the Te Kawerau ā Maki Claims Settlement Act 2015 (which prohibits reserve land from being mortgaged)',
 - '[*certificate identifier*] Certificate under section 138(1) of the Te Kawerau ā Maki Claims Settlement Act 2015 that the within land is RFR land as defined in section 110 of that Act and is subject to Subpart 4 of Part 3 of the Act (which restricts disposal, including leasing, of the land) [*date and time*]'.
 - (b) **Ensure the "prevents registration" flag has been set for each of the memorials.**
-

2 Removal of resumptive memorials

Trigger Receipt of a certificate under s 17 for the removal of certain memorials from a computer register.

Authorised person

- (a) A statement in the certificate that the signatory is acting on 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.
- (b) A template certificate has been approved by the RGL and is set out in appendix II of Technical Circular 2013.T06.

Legislation

- (a) Section 16 provides that certain legislative provisions do not apply to:
 - (i) Auckland prison; or
 - (ii) a cultural redress property (other than Kopironui property during the period before it is vested under s 72); or
 - (iii) The Kopironui property on and from the date of its vesting under s 72; or
 - (iv) the commercial redress property; or
 - (v) a deferred selection property on and from the date of its transfer to the trustee; or
 - (vi) to the exclusive RFR land; or
 - (vii) to the Housing Block on and from the date of its transfer under s 96; or
 - (viii) to non-exclusive RFR land on and from the date of its disposal under a contract formed under s 119; or
 - (ix) for the benefit of Te Kawerau ā Maki or a representative entity.
- (b) Section 16(2) lists the legislative provisions as:
 - (i) Part 3 of the Crown Forest Assets Act 1989;
 - (ii) sections 211 to 213 of the Education Act 1989;
 - (iii) Part 3 of the New Zealand Railways Corporation Restructuring Act 1990;
 - (iv) sections 27A to 27C of the State-Owned Enterprises Act 1986;
 - (v) sections 8A to 8HJ of the Treaty of Waitangi Act 1975.

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Removal of resumptive memorials, continued

Note: These legislative provisions, being statutory notations, do not fall within the definition of 'encumbrance' 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' as soon as reasonably practicable after receiving a certificate described below.

Certificate

Section 17(4) requires the RGL to register as soon as reasonably practicable after receiving a certificate issued under s 17(1) which states that it is issued under s 17[(s 17(3))], and specifies the legal description of, and identifies the CFRs for, each allotment that is all or part of:

- (a) Auckland Prison,
- (b) a cultural redress property,
- (c) the commercial redress property,
- (d) a deferred selection property,
- (e) the exclusive RFR land,
- (f) the Housing Block,
- (g) non-exclusive RFR land disposed of under a contract formed under s 119

and is subject to a resumptive memorial recorded under any enactment listed in s 16(2) (copied above in (b) under "Legislation").

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Removal of resumptive memorials, continued

Action

As soon as reasonably practicable after receiving a certificate under s 17(1) the RGL must:

- (a) remove each memorial on the current view of the computer register identified in the certificate recorded under an enactment referred to in s 16(2), and
- (b) record the following memorial on the historic view of that register:
'[instrument number] Certificate under section 17(1) of Te Kawerau ā Maki Claims Settlement Act 2015 cancelling [memorial identifier] [date and time]',
- (c) the Landonline registration code is RRSM (see T06 2013 Technical Circular, p2), and
- (d) the standard registration fee is payable.

Note: If the existing memorial on the title refers to an Act in general, such as 'subject to the Crown Forest Assets Act 1989', the original notation remains on the computer register, but it should be recorded on the computer register that 'Part 3 of the Crown Forest Assets Act 1989 (or any other relevant section mentioned in s 16(2)) does not apply'.

3 Vesting of cultural redress properties

Background:

Vesting of cultural redress properties in trustees - s 81

The cultural redress properties that vests in the trustees (or in the case of the Kopironui property, in the Relevant Trustees as defined in s 71) pursuant to subpart 5 of Part 2 of the Act.

Trigger - receipt of a written application under s 83(3)

- (a) Receipt of a written application under s 83(3) by an authorised person, to register the trustees as proprietors of the fee simple estate in a cultural redress property (other than the Kopironui property).
 - (b) Section 83(8) defines authorised person as a person authorised by:
 - (i) the Chief Executive of the Ministry of Justice for Te Onekiritea Point property, and
 - (ii) the Director General of Conservation for all other properties (except the Kopironui property – see below).
-

Action - registration of trustees under s 83(3) when Cultural Redress Property is all land contained in a CFR

- (a) When an application under s 83(3) by an authorised person is presented for registration and a cultural redress property (other than the Kopironui property) is all of the land contained in a CFR, the RGL must:
 - (i) register the trustees as the proprietors of the fee simple, and
 - (ii) make any entry and do all things necessary to give effect to Part 2 subpart 5 of the Act and Part 5 of the deed of settlement (s 83(3)(b)). Refer to Table 1.

Note: Part 5 of the deed of settlement relates to the vesting of cultural redress properties and other related matters that are covered in the Act. There is nothing in Part 5 of the deed of settlement that requires the RGL to do anything more than is required under the Act.

- (b) The standard registration fee is payable.

Note: Any resumptive memorials shown on a prior computer register 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 under s 17(1) is lodged for registration.

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Vesting of cultural redress properties, continued

Action - registration of trustees under s 83(5) when Cultural Redress Property part of the land contained in a CFR

- (a) When an application under s 83(5) by an authorised person is presented for registration and a cultural redress property (other than the Kopironui Property) is not all of the land in a CFR, or there is no CFR for all or part of the property, the RGL must:
 - (i) Subject to completion of any necessary survey, create a CFR in the name of the trustees; and
 - (ii) record any interests described in the application (s 83(5)). Refer to Table 1 for details.
- (b) The standard registration fee is payable.
- (c) Section 83(7) states that a CFR must be created as soon as reasonably practicable after the date on which the property vests, but not later than –
 - (i) 24 months after that date; or
 - (ii) any later date that may be agreed in writing by the Crown and the trustees.

Note: All cultural redress properties (except the Kopironui property and Te Kawerau Pā) vest on the settlement date. The Kopironui property vesting date is defined in s71 under "Kopironui vesting date" and the vesting date for Te Kawerau Pā is defined in s60 under "Te Kawerau Pā vesting date".

If any applications are received outside these timeframes, seek advice from the RGL team before requisitioning or rejecting the dealings.

Note: Any resumptive memorials shown on a prior computer register 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 under s 17(1) is lodged for registration.

Background: Kopironui Property

- (a) On and from the Kopironui vesting date (s 71), the Kopironui property ceases to be Crown forest land and, subject to any subdivision and easement orders the fee simple estate vests in the Relevant Trustees specified by order of the MLC in accordance with s 77 [s 72].
- (b) The MLC has jurisdiction under ss 72 and 75 to determine ownership of Kopironui property.

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Vesting of cultural redress properties, continued

Trigger -
Application for vesting of Kopironui property under s 84(2)

- (a) Receipt of a written application under s 84(2) by an authorised person to create a CFR and register the trustees as proprietors of the fee simple estate, following an Order of the MLC under s 77.
 - (b) An authorised person means a person authorised by the Chief Executive.
-

Action - Vesting of Kopironui property in Relevant Trustees by order of the MLC under s 84(2) (not following subdivision or vesting as tenants in common)

Subject to any Order subdividing or vesting of Kopironui property in the Relevant Trustees as tenant in common (see the next section of this guideline):

- (a) upon receipt of an application by the Chief Executive under s 84(2); the RGL must:
 - (i) subject to completion of any necessary survey, create a CFR in the name of the Relevant Trustees (s 71) declared by order of the MLC to be owners of the fee simple estate in the Kopironui property; and
 - (ii) record any interests described in the application (s 84(2)(b)). Refer to Table 1 for details.
- (b) The standard registration fee is payable.
- (c) Section 84(5) states that a CFR must be created as soon as reasonably practicable after the Kopironui vesting date, but not later than –
 - (i) 24 months after that vesting date; or
 - (ii) any later date that may be agreed in writing by the Crown and the Relevant Trustees identified by the MLC as provided in s 77.

Note: All cultural redress properties (except the Kopironui property and Te Kawerau Pā) vest on the settlement date. The Kopironui property vesting date is defined in s71 under "Kopironui vesting date" and the vesting date for Te Kawerau Pā is defined in s60 under "Te Kawerau Pā vesting date".

If any applications are received outside these timeframes, seek advice from the RGL team before requisitioning or rejecting the dealings.

Note: Any resumptive memorials shown on a prior computer register 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 under s 17(1) is lodged for registration.

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Vesting of cultural redress properties, continued

Kopironui Property

Trigger –
Application for vesting of Kopironui property following subdivision or vesting as tenants in common

- (a) If by order of the MLC the Kopironui property is subdivided or vested in the Relevant Trustees as tenants in common, the RGL will receive a written application from the authorised person under s 84(3).
- (b) An authorised person means a person authorised by the Chief Executive.

Action - creation of CFRs

- (a) When the Kopironui property has been subdivided or vested in the Relevant Trustees as tenants in common by order of the MLC, upon receipt of a written application by the Chief Executive under s 84(3); for a CFR or CFRs for the Kopironui property, the RGL must:
 - (i) subject to completion of any necessary survey, create a CFR or CFRs for the fee simple estate in the names of the Relevant Trustees identified by the MLC in respect of the relevant parcels of the Kopironui property, or
 - (ii) subject to completion of any necessary survey, in the case of all or part of the Kopironui property being vested in the Relevant Trustees as tenants in common, create CFRs for specified undivided shares of the fee simple estate in the property, or the relevant part of the property, in the names of the Relevant Trustees, and
 - (iii) record any interests described in the application (s 84(3)(b)). Refer to Table 1 for details.

The standard registration fee is payable.

- (b) Section 84(5) states that a CFR must be created as soon as reasonably practicable after the Kopironui vesting date, but not later than –
 - (i) 24 months after that vesting date; or
 - (ii) any later date that may be agreed in writing by the Crown and the Relevant Trustees identified by the MLC as provided in s77.

Note: All cultural redress properties (except the Kopironui property and Te Kawerau Pā) vest on the settlement date. The Kopironui property vesting date is defined in s 71 under "Kopironui vesting date" and the vesting date for Te Kawerau Pā is defined in s60 under "Te Kawerau Pā vesting date".

If any applications are received outside these timeframes, seek advice from the RGL team before requisitioning or rejecting the dealings.

Note: Any resumptive memorials shown on a prior computer register 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 under s 17(1) for the removal of the memorials is lodged for registration

New Memorials created due to the Act

(a) The following is an example of a suitable memorial to record the vesting of a cultural redress property, other than the Kopironui property, on an existing CFR. Under s 83:

'[registration number] Application under section 83(3) of the Te Kawerau ā Maki Claims Settlement Act 2015 vesting the within land in [names of the trustees] [date and time]'

(b) The following must also be recorded on CFRs [s 86]. Refer to Table 1 for further details:

Note: Ensure the "prevents registration" flag is set for any ss 66, 90 and 93 memorials.

| | |
|---|---|
| <p><u>For two of the three reserve properties (being Parihoa site B and Te Henga site B)</u> (but not Te Kawerua Pā – see next section)</p> <p>Reserve properties are the properties named in each of paragraphs (d) to (f) of the definition of cultural redress property in s 60.</p> <p>Note the s 93 memorial is an additional memorial to the requirements of s 86 that applies to Reserve Land. See s 93.</p> | <p>'Subject to Part 4A of the Conservation Act 1987 but section 24 of that Act does not apply'</p> <p>'Subject to section 11 of the Crown Minerals Act 1991'</p> <p>'Subject to sections 85(3) and 90 of the Te Kawerau ā Maki Claims Settlement Act 2015'. Ensure the "prevents registration" flag is set.</p> <p>'Subject to section 93 of the Te Kawerau ā Maki Claims Settlement Act 2015 (which prohibits reserve land from being mortgaged or charged for security)'. Ensure the "prevents registration" flag is set.</p> |
| <p><u>For the reserve property Te Kawerau Pā</u></p> <p>Note the s 93 memorial is an additional memorial to the requirements of s 86 that applies to Reserve Land. See s 93.</p> | <p>'Subject to Part 4A of the Conservation Act 1987 but section 24 of that Act does not apply'</p> <p>'Subject to section 11 of the Crown Minerals Act 1991'</p> <p>'Subject to sections 66(5) to (7) , 67(3) and 90 of the Te Kawerau ā Maki Claims Settlement Act 2015' Ensure the "prevents registration" flag is set.</p> <p>'Subject to section 93 of the Te Kawerau ā Maki Claims Settlement Act 2015 (which prohibits reserve land from being mortgaged or charged for security)'. Ensure the "prevents registration" flag is set.</p> |
| <p><u>For all other cultural redress properties</u></p> | <p>'Subject to Part 4A of the Conservation Act 1987'</p> <p>'Subject to section 11 of the Crown Minerals Act 1991'</p> |

Vesting of cultural redress properties, continued

RMA /LGA Statutory exemptions under s 87

- (a) The vesting of the fee simple in Cultural redress properties or the creation of rights of way under subpart 5 of part 2 of the Act are not subject to subdivision approval because they are not subject to s 11 and Part 10 of the Resource Management Act 1991,
 - (b) Creation of rights of way to fulfil the terms of the deed of settlement in relation to a cultural redress property do not require Council consent under s 348 of the Local Government Act 1974.
-

Action - vestings subject to interests

- (a) Cultural redress properties are vested subject to the interests set out in the third column of the table in Schedule 3 of the Act [s 81]. Refer to Table 1 for details of the relevant registered interests.
 - (b) In addition, Te Kawerau Pa and Kopironui have later vesting dates (s 66 and 71) and will be subject to any other interests affecting them on their respective vesting dates (s 67(1)(b) and s 81(3)(b))
 - (c) The interests in Schedule 3 of the Act may include unregistered instruments. Only existing registered interests which are referred to in the application are required to be entered on the CFR.
-

Action - revocation and re - conferring of reserve status under ss 61 to 70

The reserve status of the vesting of cultural redress properties is either *revoked* and/or a *new reserve status* or a *no reserve status* is conferred. Refer to **Error! Reference source not found.** details.

Registration action revoking and creating reserves

- (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) If the statutory action requires updating the cadastre survey system in any way, survey staff should be notified and requested to update the cadastre.
 - (c) 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 Table 1.
-

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Vesting of cultural redress properties, continued

Trigger –
subsequent
revocation of
reserve status for
a reserve site
under s 86(3)

If the reserve status for a property that is declared a reserve under subpart 5 of Part 2 of the Act (except Te Kawerau Pā) is subsequently revoked, in whole or in part, the Director-General of Conservation will apply under s 86(3) to remove notifications (for all or part of the property, as relevant) recording:

- (a) section 24 of the Conservation Act 1987 does not apply, and
- (b) that the site is subject to ss 85(3) and 90 of the Act.

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

Note: See s 66(7)(b) regarding the prohibition on revoking Te Kawerau Pā, and the authority for reclassifying it.

Action -
Memorials

- (a) The approved format for the memorial on the historic view of the CFR which must record the cancellation is:

'[application identifier] Application under section 86(3) of the Te Kawerau ā Maki Claims Settlement Act 2015 revoking the reserve status of [part of] the within land [date and time]'

- (b) The following notifications must be modified accordingly:
 - (i) From the memorial 'Subject to Part 4A of the Conservation Act 1977 but section 24 of that Act does not apply' delete the words "but section 24 of that act does not apply", and
 - (ii) Delete the memorial 'Subject to sections 85(3) and 90 of the Te Kawerau ā Maki Claims Settlement Act 2015'
 - (iii) Delete the memorial 'Subject to section 93 of the Te Kawerau ā Maki Claims Settlement Act 2015 (which prohibits reserve land from being mortgaged or charged for security)'
 - (iv) Remove the "prevents registration" flag for ss 90 and 93.
-

Action –
Landonline
"prevents
registration" flag
for revocation of
all or part of a site
s 86(3)

- (a) If the reservation is revoked for all of the property the relevant memorials and the "prevents registration" flag should be removed from the CFR.
 - (b) If the reservation of the property is revoked for part, the relevant memorials and the "prevents registration" flag remain only on the CFR for the part of the property that remains a reserve.
-

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Vesting of cultural redress properties, continued

Restrictions on transferring reserve land under s 90

- (a) The fee simple in reserve land in Te Kawerau Pā may only be transferred in accordance with s 92 [s 90(2)].
 - (b) The fee simple in reserve land of any other property may only be transferred in accordance with ss 91 or 92 [s 90(3)].
 - (c) If there is any doubt whether ss 91 or 92 apply the matter should be escalated to a Titles Advisor for resolution.
-

Transfer of reserve land when trustees change under s 92

- (a) The registered proprietors of the reserve land may only transfer the fee simple estate in the reserve land (s 92) if:
 - (i) the transferors are or were the trustees of the trust, and
 - (ii) 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
 - (b) The instrument to transfer the reserve land is accompanied by a certificate given by the transferees, or the transferees' solicitor, verifying that s 92(a) and (b) apply.
-

Transfer of reserve land to new owners as administering body

Under s 91(1), the registered proprietors of the reserve land may apply in writing to the Minister of Conservation for consent to transfer the fee simple estate in the reserve land to one or more persons (the new owners).

Note: The fee simple estate in the reserve land for Te Kawerau Pā cannot be transferred under s 91 [s 90(2)].

Trigger – receipt of documents for transfer of reserve land to new owners as administering body under s 91

Receipt by the RGL (s91(3) and (4)) of:

- (a) 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
 - (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.
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Vesting of cultural redress properties, continued

Action –
registration of new
owners (s 91)

- (a) Upon receipt of the documents required by s 91 the RGL must register the new owners as the proprietors of the fee simple estate in the reserve land (s 91(3)).
 - (b) From the time of their registration under s 91, 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, and have the same rights and obligations as the registered proprietors had immediately before the transfer.
 - (c) A transfer that complies with s 91 need not comply with any other requirements.
-

**Prohibition
against
mortgage of
reserve land
under s 93**

The registered proprietors are prohibited from registering a mortgage or any other security interest (charge) in any land or part of the land so long as it remains a reserve under the Reserves Act 1977.

Action - memorial

- (a) The following memorial should be added to the computer register:

'Subject to section 93 of the Te Kawerau ā Maki Claims Settlement Act 2015 (which prohibits reserve land from being mortgaged)'
 - (b) **Ensure the "prevents registration" flag has been set.**
-

4 Commercial redress

Types of properties and other relevant mechanisms in commercial redress

Commercial redress property, deferred selection property, Housing Block and licensed land are included in the Act's commercial redress and defined in s 95 and parts 3 to 5 of the deed of settlement's property redress schedule see web link:

<http://nz01.terabyte.co.nz/ots/DocumentLibrary/TKaM-PropertyDocumentsSchedules.pdf>.

Access to protected sites and rights of first refusal as also included in the Act's commercial redress and defined in sections 109-144 and subparts 3 and 4 of Part 3 of the Act.

Authorised Person

For the purposes of cultural redress s 99(6) defines it as the chief executive of the relevant land holding agency.

Crown may transfer commercial redress s 96

To give effect to part 6 of the deed of settlement the Crown acting by and through the authorised person is authorised to transfer the fee simple estate in commercial redress or a deferred selection property to the trustees and in the case of Housing Block to one or more governance entities that give an effective Housing Block purchase notice, or to a Housing Block nominee.

Transfer of commercial redress properties

Trigger - application for CFR for deferred selection properties and Housing Block – s 99

A written application by an authorised person under s 99(3) to create a CFR for a deferred selection property or the Housing Block.

continued on next page

Commercial redress, continued

Action – create CFR for deferred selection properties and Housing Block under s 99

- (a) Upon receipt of a written application by an authorised person to create a CFR for deferred selection properties or Housing Block under s 99(3), the RGL must, subject to completion of any necessary survey:
- (i) create one CFR and in the case of the Housing Block if required by the application, create two CFRs each for the undivided specified share of the fee simple estate in the Housing Block, in the name of the Crown subject to and together with any interests that are registered or described in the application but without any statement of purpose.
- (ii) record the following memorials:
- 'Subject to Part 4A of the Conservation Act 1987 (but section 24(2A), 24A and 24AA of that Act does not apply)'
- 'Subject to section 11 of the Crown Minerals Act 1991' (s 102)
- (b) Standard registration fees apply.

Note: The resumptive memorials must be brought down onto the CFRs created for the relevant governance entity or trustees. They cannot be noted as 'cancelled' until a certificate under s 17(1) by the Chief Executive authorising the removal of the memorials is lodged for registration. (s 96(3))

RMA/LGA Statutory exemptions under s 102

- (a) The transfer of deferred selection properties and Housing Block or the creation of rights of way are not subject to subdivision approval because they are not subject to s 11 and Part 10 of the Resource Management Act 1991,
- (b) Creation of rights of way to fulfil the terms of the deed of settlement in relation to deferred selection properties and Housing Block do not require Council consent under s 348 of the Local Government Act 1974.
-

Trigger – application for CFR for Licenced land under s 100

- (a) A written application under s 100(2) by an authorised person to create a CFR for land that is to be transferred to the trustees under s 96.
-

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Commercial redress, continued

Action – create a CFR for Licensed land under s 100(2)

- (a) Upon receipt of an application under s 100(2) by an authorised person to create a CFR for licensed land that is to be transferred to the trustees under s 96, the RGL must, subject to completion of any necessary survey:
- (i) create a CFR, in the name of the Crown subject to and together with any interests that are registered or described in the application but without any statement of purpose.
 - (ii) record the following memorials:

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

'Subject to section 11 of the Crown Minerals Act 1991' s102)
- (b) Standard registration fees apply.

Note: See below for guidance on transfers of Licensed land which contain rights of access

Note: The resumptive memorials must be brought down onto the CFRs created for the trustees. They cannot be noted as 'cancelled' until a certificate by the Chief Executive under s 17 (1) authorising the removal of the memorials is lodged for registration (s 96(3)).

**RMA /LGA
Statutory
exemptions
under s 102**

- (c) The transfer of Licensed land or the creation of rights of way are not subject to subdivision approval because they are not subject to s 11 and Part 10 of the Resource Management Act 1991,
- (a) Creation of rights of way to fulfil the terms of the deed of settlement in relation to Licensed land do not require Council consent under s 348 of the Local Government Act 1974.
-

**Licensed land
ceases to be
Crown forest
land after
Transfer of
Licensed land to
trustees under
s 103(a)**

Licensed land ceases to be Crown forest land on the registration of the transfer of the fee simple estate to the trustees s 103(1).

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Commercial redress, continued

Prohibited Actions between settlement date and registration s 103(b)

The Crown, courts, and tribunals must not do or omit to do anything if that act or omission would, between the settlement date and the date of registration, be permitted by the Crown Forest Assets Act 1989 but be inconsistent with subpart 2 of Part 3 of the Act, part 6 of the deed of settlement, or part 8 of the property redress schedule.

Covenant for later creation of CFR under s 101

An authorised person may grant a covenant for the later creation of a CFR for a commercial redress property or a deferred selection property for the purpose of ss 99 and 100 (s 101).

Trigger – receipt of a covenant

Receipt of a covenant by an authorised person for the later creation of a CFR under s 101(2) for any commercial redress property, or deferred selection property.

Action – Statutory directive

Notwithstanding anything to the contrary in the Land Transfer Act 1952, the covenant for the later creation of a CFR must be registered and a computer interest register created for the covenant.

Access to protected sites within Licensed land

Right of access to protected sites under s 106 situated within Licensed land (s95)

Section 106 allows a right of access to protected sites which are situated within Licensed land (as defined in s96) for Maori for whom the protected site has the special significance described in s 106(1).

Trigger - Transfer to the trustees of Licenced land with right of access statement under s 108

A transfer instrument for Licensed land is lodged for registration, and contains a statement that the land is subject to a right of access to any protected sites on the land.

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Action - recording
right of access to
protected sites on
CFR

(a) Upon presentation of a transfer instrument under s 108, the RGL must make a notation on the CFR that the land is subject to the right of access set out in ss 106 and 107.

(b) A suitable memorial would be:

'[*part of*] the within land is subject to a right of access under sections 106 and 107 of the Te Kawerau ā Maki Claims Settlement Act 2015. See application [*registration number*] [*date and time*].'

5 Right of first refusal

| | |
|---|--|
| Effective Date for RFR provisions | <p>The provisions of this subpart come into effect as follows:</p> <ul style="list-style-type: none">(a) for Auckland Prison, on the settlement date; and(b) for the exclusive RFR land, on the settlement date; and(c) for the non-exclusive RFR land, on the earlier of—<ul style="list-style-type: none">(i) the date that is 36 months after the settlement date under this Act; and(ii) the later of the settlement dates under the relevant approving legislation. |
| Trigger - receipt of RFR certificate under s 138 | <ul style="list-style-type: none">(a) Receipt of one or more certificates from the Chief Executive under s 138(1) that identifies one or more computer registers for:(b) RFR land for which there is a computer register on the RFR date for that land; and(c) RFR land for which a computer register is first created after the RFR date for that land; and(d) land for which there is a computer register and that becomes RFR land after the settlement date. |
| Action - memorials recording RFR land | <ul style="list-style-type: none">(a) As soon as reasonably practicable after receiving a s 138 certificate the RGL must add the following memorial to the current view of the computer register identified in the s 138 certificate: '[<i>certificate identifier</i>] Certificate under section 138(1) of the Te Kawerau ā Maki Claims Settlement Act 2015 that the within land is RFR land as defined in section 110 and is subject to Subpart 4 of Part 3 of the Act (which restricts disposal, including leasing, of the land) [<i>date and time</i>]'(b) The standard registration fee is payable.(c) Ensure the "prevents registration" flag is set. |
| Restrictions on disposal of RFR Land | <p>Section 114 contains restrictions on the disposal of RFR land – refer s 110 for definition of "dispose" and memorial under s 138(5)(b) (referred to above).</p> |

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Right of first refusal *continued*

Action -
ongoing
monitoring of
disposals 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 138, cannot be registered unless:

- (a) a certificate from the Chief Executive has been received under ss 139 or 140, or
- (b) at the end of the RFR period, a certificate from the Chief Executive has been received under s 141 for the removal of the memorial under s 138, or
- (c) the dealing is allowed by s 120 in favour of the Crown or a Crown Body as defined in s 109.

Note: Transfers of RFR land without a preceding s 139, 140 or 141 certificate should only be accepted if it is absolutely clear that the transferee is the Crown or a Crown Body (as defined in s 109). If there is any doubt, these matters should be escalated to a Titles Advisor for resolution.

Note: Where land is disposed of to the Crown or a Crown body as defined in s 109, the RFR will remain on the title and must continue to be monitored and enforced by LINZ until it is removed under ss 139 140 or 141.

Trigger -
certificate to
remove RFR
memorial
under s 139
when land
being
transferred or
vested under
this Act

Receipt of a certificate (together with the relevant transfer or vesting application) from the Chief Executive under s 139(1) for the removal of a s 138 memorial from a computer register upon land ceasing to be RFR land prior to RFR land being transferred or vested.

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Right of first refusal, continued

Action – registration requirements

- (a) Before registering a relevant transfer or vesting, and as soon as reasonably practicable after receiving a s 139 certificate specifying land which will become RFR land, the RGL must record the following memorial on the historic view of the register:

'[*certificate identifier*] Certificate under section 139(1) of the Te Kawerau ā Maki Claims Settlement Act 2015 removing [*memorial identifier*] entered under section 138 [*date and time*]'

- (b) The transfer or vesting (in the same, or later dealing) can then be registered.
 - (c) The "prevents registration" flag should be removed in relation to the s 139 memorial.
 - (d) The standard registration fee is payable.
-

Trigger – certificate to remove RFR memorial when land required for another Treaty Settlement under s 140

- (a) Receipt of a certificate from the Chief Executive under s 140(1) for the removal of s 138 memorials from a computer register because the land is required for another treaty settlement in accordance with s 112.
 - (b) The certificate must contain or be accompanied by a copy of the notice given under s 112
-

Action – registration requirements

- (a) As soon as reasonably practicable after receiving a certificate under s 140, the RGL must record the following memorial on the historic view of the register:

'[*certificate identifier*] Certificate under section 140(1) of the Te Kawerau ā Maki Claims Settlement Act 2015 removing [*memorial identifier*] entered under section 138 [*date and time*]'.

- (b) The standard registration fee is payable.
 - (c) The "prevents registration" flag should be removed in relation to the s 139 memorial.
-

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Right of first refusal, continued

Trigger -
certificate to
remove RFR
memorial under
s 141 when RFR
period ends

Receipt of a certificate from the Chief Executive under s 141(2) for the removal of s 138 memorials from a computer register at the end of the RFR period.

Action -
registration
requirements

(a) As soon as reasonably practicable after receiving of a s 141 certificate, the RGL must record the following memorial on the historic view of the register:

'[certificate identifier] Certificate under section 141(2) of the Te Kawerau ā Maki Claims Settlement Act 2015 removing [memorial identifier] entered under section 138 [*date and time*]'

(b) The standard registration fee is payable.

(c) The "prevents registration" flag should be removed in relation to the s 139 memorial.

6 Table 1 - Cultural Redress – actions re: status, and memorials (existing (brought down) and new (created by Act))

| Property Name & Description (Refer schedule 3 of Act) | Status: actions re: status, before and after vesting under Act (refer Part 1, Subpart 5 of Act) – and required notifications on title (where applicable) | Existing Interests and Covenants that must be brought down (refer Schedule 3 of Act) | Spatial statutory action | Memorials to be recorded (as specified in the Act and application to vest) |
|--|--|---|--|--|
| <p>Te Henga site A</p> <p>North Auckland Land District—</p> <p>0.9930 hectares, more or less, being Section 4 SO 477158. Part CFR NA57A/1118.</p> | <p>Reserve status revoked (s61).</p> <p>Vests in the trustees in fee simple.</p> | <p>None</p> | <p>Revoke reserve status.</p> | <p>'Subject to Part 4A of the Conservation Act 1987'</p> <p>'Subject to section 11 of the Crown Minerals Act 1991'</p> |
| <p>Wai Whauwhaupaku</p> <p>North Auckland Land District—</p> <p>0.9975 hectares, more or less, being Section 1 SO 477436. Part CFR 48133.</p> | <p>Ceases to be a conservation area (62).</p> <p>Vests in the trustees in fee simple</p> | <p>Subject to a pipeline easement created by grant of easement B369908.1.</p> <p>Subject to a gas pipeline easement in gross in favour of the Natural Gas Corporation of New Zealand Limited (now Vector Gas Limited) created by grant of easement B369908.1.</p> | <p>Ceases to be conservation area.</p> | <p>'Subject to Part 4A of the Conservation Act 1987'</p> <p>'Subject to section 11 of the Crown Minerals Act 1991'</p> |
| <p>Te Onekiritea Point property</p> <p>North Auckland Land District—</p> <p>0.2975 hectares, more or less, being Section 1 SO 476963. Part CFR 612355.</p> | <p>Vests in the trustees in fee simple.</p> <p>Set apart as a Maori reservation (s 63) (<u>which CFR must show</u>)</p> <p>CFR must show that the</p> | <p>Subject to being a Māori reservation, as referred to in s 63(2).</p> | <p>Set apart as Maori reservation.</p> | <p>'Subject to Part 4A of the Conservation Act 1987'</p> <p>'Subject to section 11 of the Crown Minerals Act 1991'</p> <p>'Subject to being a Māori reservation, as referred to in section 63(2)</p> |

| | land is held as a Maori reservation | | | |
|--|---|--|---|---|
| <p>Parihoa site B</p> <p>North Auckland Land District—</p> <p>0.9665 hectares, more or less, being Section 2 SO 477158.</p> | <p>Ceases to be a conservation area.</p> <p>Vests in the trustees in fee simple.</p> <p>Declared a reserve and classified as a historic reserve subject to s 18 of the Reserves Act 1977 (s63).</p> <p>CFR must show that the land is a historic reserve subject to s 18 of the Reserves Act 1977.</p> | <p>Subject to being a historic reserve, as referred to in s 64(3).</p> | <p>Ceases to be conservation area.</p> <p>Declared reserve.</p> | <p>'Subject to Part 4A of the Conservation Act 1987 but section 24 of that Act does not apply'</p> <p>'Subject to section 11 of the Crown Minerals Act 1991'</p> <p>Subject to being a historic reserve, as referred to in section 64(3).</p> <p>'Subject to sections 85(3) and 90 of the Te Kawerua ā Maki Claims Settlement Act 2015'</p> <p>'Subject to section 93 of the Te Kawerua ā Maki Claims Settlement Act 2015 (which prohibits reserve land from being mortgaged or charged for security)'</p> <p>NOTE</p> <p>The memorials relating to ss 90 and 93 of the Te Kawerua ā Maki Claims Settlement Act 2015' require the "prevents registration" flag to be set.</p> |
| <p>Te Henga site B</p> <p>North Auckland Land District—</p> <p>11.0065 hectares, more or less, being Section 3 SO 477158. Part</p> | <p>The reservation of Te Henga site B (being part of Te Hanga Recreation Reserve) subject to the Reserves Act 1977 is revoked.</p> | <p>Subject to being a historic reserve, as referred to in s 65(3).</p> <p>Subject to the right of way easement in gross referred</p> | <p>Revoke reserve status</p> <p>Declared reserve</p> | <p>'Subject to Part 4A of the Conservation Act 1987 but section 24 of that Act does not apply'</p> <p>'Subject to section 11 of the Crown</p> |

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|---|---|---|--|--|
| <p>CFR NA57A/1128.</p> | <p>Vests in the trustees in fee simple.</p> <p>Te Henga site B is then declared a reserve and classified as a historic reserve subject to s 18 of the Reserves Act 1977 (s 65).</p> <p>CFR must show that the land is a historic reserve subject to s 18 of the Reserves Act 1977.</p> | <p>to in s 65(5)(a).</p> <p>Subject to the right of way easement referred to in section 65(5)(b).</p> <p>Subject to a registered easement for rights to convey water and convey electricity in favour of the land contained in CFR NA651/232.</p> <p>Subject to a registered easement for a right to convey water in favour of the land contained in CFR NA885/207.</p> <p>Subject to a registered easement for a right to convey water in favour of the land contained in CFR NA885/206.</p> <p>Subject to a registered easement in gross for a right to convey telecommunications and computer media in favour of Chorus New Zealand Limited.</p> | | <p>Minerals Act 1991'</p> <p>'Subject to being a historic reserve, as referred to in section 65(3)'Subject to sections 85(3) and 90 of the Te Kawerua ā Maki Claims Settlement Act 2015'</p> <p>'Subject to section 93 of the Te Kawerua ā Maki Claims Settlement Act 2015 (which prohibits reserve land from being mortgaged or charged for security)'</p> <p>NOTE</p> <p>The memorials relating to ss 90 and 93 of the Te Kawerua ā Maki Claims Settlement Act 2015' require the "prevents registration" flag to be set.</p> |
| <p>Te Kawerau Pā North Auckland Land District—</p> <p>1.4490 hectares, more or less, being Section 1 SO 477390. Part <i>Gazette</i> 1980, p 2343.</p> | <p>The reservation of Te Kawerau Pā (being part of Tiritiri Matangi Island Scientific Reserve) as a scientific reserve subject to the Reserves Act 1977 is revoked.</p> <p>Te Kawerau Pā is declared a</p> | <p>Subject to being a scientific reserve, as referred to in s 66(4).</p> | <p>Revoke reserve status.</p> <p>Declared reserve.</p> | <p>'Subject to Part 4A of the Conservation Act 1987 but section 24 of that Act does not apply'</p> <p>'Subject to section 11 of the Crown Minerals Act 1991'</p> |

| | | | | |
|--|---|------|------------------------|---|
| | <p>reserve and classified as a scientific reserve subject to s 21 of the Reserves Act. 1977 (s 66).</p> <p>Vests in the trustees in fee simple subject to s 67.</p> <p>CFR must show that the land is held as a scientific reserve subject to s 21 of the Reserves Act 1977.</p> | | | <p>Subject to being a scientific reserve, as referred to in section 66(4)</p> <p>'Subject to sections 66(5) to (7) , 67(3) and 90 of the Te Kawerua ā Maki Claims Settlement Act 2015'</p> <p>'Subject to section 93 of the Te Kawerua Maki Claims Settlement Act 2015 (which prohibits reserve land from being mortgaged or charged for security)'</p> <p>NOTE</p> <p>The memorials relating to ss 66, 90, and 93 of the Te Kawerua ā Maki Claims Settlement Act 2015' require the "prevents registration" flag to be set.</p> |
| <p>Muriwai North Auckland Land District—</p> <p>1.0129 hectares, more or less, being Section 1 SO 477271. Part <i>Gazette</i> 1941, p 747.</p> | <p>The reservation of Muriwai (being part of Motutara Settlement Scenic Reserve) as a scenic reserve subject to the Reserves Act 1977 is revoked.</p> <p>Vests in the trustees in fee simple.</p> <p>Subject to s 68(3) [(s 68)]</p> | None | Revoke reserve status. | <p>'Subject to Part 4A of the Conservation Act 1987'</p> <p>'Subject to section 11 of the Crown Minerals Act 1991'</p> <p>'Subject to the conservation covenant referred to in section 68(3)'</p> |
| <p>Opareira North Auckland Land District—</p> | <p>Vests in the trustees in fee simple.</p> | None | Revoke reserve status. | <p>'Subject to Part 4A of the Conservation Act 1987'</p> |

| | | | | |
|---|--|-------------|--|--|
| <p>1.0305 hectares, more or less, being Section 1 SO 477559. Part <i>Gazette</i> notice 587951.1.</p> | <p>The reservation of Opareira (being part of Henderson Valley Scenic Reserve) as a scenic reserve subject to the Reserves Act 1977 is revoked.</p> <p>Subject to s 69(3).</p> <p>[(s 68)]</p> | | | <p>'Subject to section 11 of the Crown Minerals Act 1991'</p> <p>'Subject to the conservation covenant referred to in section 69(3)'</p> |
| <p>Parihoa site A <i>North Auckland Land District—</i></p> <p>2.2230 hectares, more or less, being Section 1 SO 477158.</p> | <p>Parihoa site A ceases to be a conservation area under the Conservation Act 1987.</p> <p>Vests in the trustees in fee simple.</p> <p>Subject to s 70(3).</p> <p>[(s 70)]</p> | <p>None</p> | <p>Ceases to be conservation area.</p> | <p>'Subject to Part 4A of the Conservation Act 1987'</p> <p>'Subject to section 11 of the Crown Minerals Act 1991'</p> <p>'Subject to the conservation covenant referred to in section 70(3)(a)'</p> <p>'Subject to the right of way easement in gross referred to in section 70(3)(b)'</p> |
| <p>Kopironui property <i>North Auckland Land District—</i></p> <p>39.7 hectares, approximately, being Parts Lot 1 DP 138527. Part <i>Gazette</i> notice 15421. Subject to survey. As shown on OTS-106-15.</p> | <p>The Kopironui property ceases to be Crown forest land but subject to s 72(2).</p> <p>[(s 72)]</p> <p>The fee simple estate in the Kopironui property vests in the relevant Trustees specified by order of the Māori Land Court in accordance with s 77.</p> | | <p>Ceases to be Crown forest land.</p> | <p>'Subject to Part 4A of the Conservation Act 1987'</p> <p>'Subject to section 11 of the Crown Minerals Act 1991'</p> <p>'Subject to a Crown forestry licence issued in replacement for the Crown forestry licence created by C509747.1 and held in computer interest register NA100/7 and subject to a sub-licence held in</p> |

| | | | | |
|--|--|--|--|---|
| | | | | computer interest register 365586' 'Subject to protective covenants created by C509747.6' |
|--|--|--|--|---|