

Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018 registration guideline

LINZ OP G 01223

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Revision History

Date	Version	Revision	Author	Description

NOTE:

This Specific Guideline should be read in conjunction with the *Treaty Claims Settlement Acts general guideline – LINZG20786*

1. Background

1.1 Introduction

A Treaty Settlement is an agreement between the Crown and a Māori claimant group to settle that claimant group's historical claims against the Crown. The process of settling claims is led by the Office of Treaty Settlements (OTS), and results in an Act for each settlement.

Summary of this settlement can be found in the Deed of Settlement Summary:

<https://www.govt.nz/treaty-settlement-documents/te-wairoa-iwi-and-hapu/te-wairoa-iwi-and-hapu/>

The iwi and hapū of Te Rohe o Te Wairoa comprise approximately 25,500 members (2013 census). The iwi and hapū of Te Rohe o Te Wairoa are included as one of six large natural groups negotiating the settlement of the historical Treaty of Waitangi claims of Ngāti Kahungunu (and in this case, Ngāti Rongomaiwahine). Ngāti Kahungunu is the third largest tribal group in New Zealand. The area of interest of the iwi and hapū of Te Rohe o Te Wairoa covers the northern Hawke's Bay and the southern Gisborne areas.

The Iwi and Hapū of Te Rohe o Te Wairoa and the Crown signed a Deed of Settlement on 26 November 2016

Further information can be found on the OTS website:

<https://www.govt.nz/organisations/office-of-treaty-settlements/>

(search 'Wairoa').

1.2 Purpose, scope and use

Treaty settlements have a range of common elements. A *Treaty Claims Settlement Acts General Guideline (General Guideline)* is available to ensure that applications received by Land Information New Zealand (LINZ) under the *Specific Acts* are dealt with correctly (see LINZG20786)¹.

A *Specific Guideline* is developed for each *Specific Act*.

This *Specific Guideline* covers the Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018 (the Act). It contains detailed information about that settlement and is designed to be read in conjunction with the *General Guideline*. A summary of the provisions that relate to the transfer of *Commercial Redress Properties* are set out in [Table 2](#).

A glossary of terms used in this guideline is attached. When used, a glossary term appears in *italics*. In some cases, the *Specific Guidelines* may also contain more detailed explanations in relation to the same terms (for example *Cultural Redress Properties*).

References to *the Specific Act* are in **bold text**.

¹ The new Guideline, LINZG20786, comes into effect on 12 November 2018.

You will need to refer to the following resources:

- Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018:
<http://www.legislation.govt.nz/act/public/2018/0028/latest/DLM7072320.html?src=qs>
- the *Deed* (including Schedules) relating to *the Specific Act*:
<https://www.govt.nz/dmsdocument/6712-te-wairoa-iwi-and-hapu-deed-of-settlement>
- *Treaty Claims Settlement Acts General Guideline LINZG20786*:
<https://www.linz.govt.nz/regulatory/20786>
- Customer Services Technical Circular 2013.T06 – Registration of Treaty Claims Settlement Dealings

The *General Guideline* applies to a *Specific Act*, unless a *Specific Guideline* states otherwise.

The Registrar-General of Land (*RGL*) has issued this guideline for employees of *LINZ* with delegated authority to exercise registration functions under the Land Transfer Acts 1952 and 2017².

The *Settlement Date* of *the Specific Act* is 9 November 2018.

² The Land Transfer Act 2017 also comes into effect on 12 November 2018.

1.3 Map of area of interest



(Sourced from the [Iwi and Hapū of Te Rohe o Te Wairoa Deed of Settlement Attachments Schedule](#))

2. Landonline settings to prevent auto-registration

The *General Guideline* applies.

Where a *Specific Act* prohibits certain transactions with land, memorials of the prohibitions will be put on the RT for the land as outlined in this guideline.

It is important to ensure the Landonline setting that prohibits these transactions is set against those memorials. This mitigates the risk of auto-registration of the prohibited transaction.

At the end of processing any application relating to the Act, you must check whether it includes a memorial of the following restriction:

[Section 121\(5\)](#) Right of first refusal to be recorded on computer registers for RFR land

If this section applies, make sure the Landonline setting prohibiting registration is set.

Note:

There are no *cultural redress properties* that vest as reserve³, thus the common restrictions on such properties which vest as reserve (e.g. restrictions on subsequent transfers or mortgages/charges) do not apply

3. Removing resumptive memorials

The *General Guideline* applies.

[Section 17\(1\)](#) describes the types of property, which may be subject to a *resumptive memorial* that can be cancelled on registration of a certificate issued under [s18](#).

4. Cultural Redress Properties - initial vesting

There are no *cultural redress properties* that vest in the **representative entity** in the manner outlined in 4.1 – 4.3 of the *General Guideline*.

4.1. Sale and Gift Back

There are however provisions for the *Gift back site* properties described in [s69](#) to vest in the *trustees* and then to be gifted back to the Crown. However, as the properties are not held in Records of Title, there are no registration actions.

³ Subpart 5 of Part 2 Cultural Redress does deal with the Te Role o Te Wairoa reserves, but deals with the management of those properties by a joint board and does not vest them in the iwi's **representative entity**.

4.2. Change of reserve classification – Mangaone Caves Historic Reserve

The classification of the reserve (defined in [s70](#)) is changed from a scenic reserve to a historic reserve subject to section 18 of the Reserves Act 1977 (but sections 24 and 25 of the Reserves Act do not apply) [[s71\(1\) and \(3\)](#)].

5. Cultural Redress Properties – ongoing restrictions

Not applicable.

6. Cultural Redress Properties – subsequent dealings

Not applicable

7. Commercial Redress – initial transfer

The *General Guideline* applies, and suitable memorials are set out in [Table 2](#).

Licensed land is included in the settlement – refer to [s78](#), [ss85-87](#)

Deferred selection property is defined in [s78](#), and cross references [part 3](#) (pages 8-11) of the Property Redress Schedule

Covenants for the later creation of *RsT* are provided for – refer [s83](#)

Application of other enactments – refer [s84](#)

8. Commercial Redress – other property-related rights

8.1. Rights of first refusal

The General Guideline applies.

Subject to the conditions in [s98\(1\)](#), there are potentially numerous properties within the definition of RFR land in [s98](#). They include the land in Part 3 of the [Attachments Schedule](#) – that alone is 18 pages.

8.2. Ongoing restrictions

An RFR memorial prevents the registration of any subsequent disposal such as a transfer, unless there is an exemption in the *Act*, or the RFR memorial has been removed.

Note:

- [s97](#) defines dispose of, in relation to *RFR Land*
- [s98](#) defines *RFR Land*, used in RFR Memorial
- [s99](#) restrictions on disposal of *RFR Land*
- [s121](#) *CE* certificates for recording RFR, used in RFR memorial
- [s122](#) *CE* certificate that *RFR Land* to be transferred or vested, triggering *RGL* to remove RFR memorial
- [s123](#) *CE* certificate RFR period ends, triggers *RGL* to remove RFR memorial

Right of access

The provisions of the *General Guideline* apply.

Section [96\(2\)](#) requires the transfer of the **licensed land** to include a statement as to a right of access and [s96\(3\)](#) requires the *RGL* to record that access on the *RT*.

DD to monitor

If there is no title for the **licensed land**, and *LINZ* receives an application for title to issue without a following transfer from the Crown, a DD should be created against the title to enable any subsequent transfer to be checked for the [s96\(2\)](#) statement (and prevent auto-registration of a non-compliant transfer).

Glossary

Use of this glossary – For terms that are not defined in the *General Guideline* or this guideline, refer to the *Specific Act*. Please note, the *Specific Act* may have several "interpretation sections", these are referenced below.

Defined terms: terms used in this guideline which are explained in either this guideline and/or the *General Guideline*, are indicated by italics. They may repeat terms used in the glossary to the *General Guideline*, to provide a more detailed explanation e.g. *Cultural Redress Properties* below lists the relevant properties in relation to the Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018.

Deferred selection property means a property described in [part 3 of the property redress schedule](#) for which the requirements for transfer under the *deed of settlement* have been satisfied

Defined terms – in interpretation sections [11](#), [12](#), [13](#), [21](#), [69\(7\)](#), [70](#), [78](#), [79\(4\)](#), [81\(5\)](#), [88\(2\)](#), [97](#) and [98](#).

Gift back site means Kumi Pakarae Conservation Area; Mahia Peninsula Scenic Reserve; Morere Springs Scenic Reserve; Otoki Government Purpose (Wildlife Management) Reserve; and Te Reinga Scenic Reserve Property A.

Identifier means the unique identifier being a combination of letters or numbers, or both, by which a RT or an instrument is identified.

Licensed land means

- (a) Patunamu Forest described in part 2 [pages 4-6] of the [property redress schedule](#); but
- (b) excluding—
 - (i) trees growing, standing, or lying on the land; and
 - (ii) improvements that have been—
 - (A) acquired by a purchaser of the trees on the land; or
 - (B) made by the purchaser or the licensee after the purchaser has acquired the trees on the land.

Licensed land entity means the company incorporated as Patunamu Forest Limited under the company number 6312707, acting as trustee of the Patunamu Forest Trust.

RT: a Record of Title created under [s12](#) of the Land Transfer Act 2017 for an estate or interest in land.

Representative Entity means:

- (a) the *trustees*; and
- (b) any person, including any *trustee*, acting for or on behalf of—
 - (i) the collective group referred to in [s13\(1\)\(a\)](#); or

(ii) 1 or more members of the iwi and hapū of Te Rohe o Te Wairoa;
or

(iii) 1 or more of the whānau, hapū, or groups referred to in section
13(1)(c)

Specific Act – Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018.

Table 1: Summary of provisions - Cultural Redress

Trigger	Type of Property	Authority	Conditions	Existing Interests	Status changes, Estate that vests, owner, and statutory restrictions	Application of other Statutory Provisions - initial vesting
<p>Change of reserve classification -</p> <p>Memorialize change on GN</p> <p>Update cadastre</p>	<p>Cultural Redress</p> <p>Mangaone Caves</p> <p>1.3563 hectares, more or less, being Section 3 Block XVIII Nuhaka North Survey District. All Gazette notice 349888.2 (SO 7232) [s70].</p>	<p>s71</p>			<p>The classification of the reserve is changed from a scenic reserve to a historic reserve subject to section 18 of the Reserves Act 1977, but sections 24 and 25 of the Reserves Act do not apply [s71(1) and (3)].</p> <p>Memorial</p> <p>[number] Section 71 of the Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018 changing the classification of the reserve from a scenic reserve to a historic reserve subject to section 18 of the Reserves Act 1977 (but Sections 24 and 25 of the Reserves Act 1977 do not apply to the change) [date and time]</p>	

Table 2: Summary of registration provisions - Commercial Redress

Trigger	Property	Redress Type	Authorised Person	Conditions	Application of other Statutory Provisions
<p>Transfer of Deferred Selection properties</p> <p>Transfer: where existing CR</p> <p>or</p> <p>Application: to create CR where:</p> <p>(a) property not all of land contained in a <i>RT</i>; or</p> <p>(b) property is all of the land contained in a <i>RT</i> that is limited as to parcels; or</p> <p>(c) there is no <i>RT</i> for all or part of the property [s81(2) and (3)]</p> <p>or</p> <p>Application to register a covenant as a <i>RT</i> for the later creation of <i>RT</i> [s83].</p>	<p>24 properties, as set out in Part 3 [pages 7-11] of the Property Redress Schedule.</p>	<p>Commercial Redress Property</p>	<p>Person authorised by CE of Ministry of Justice (Office of Treaty Settlements) or, in the case of Mangapahi Road, Mangapoike, the <i>CE</i>.</p>	<p>Crown may transfer fee simple estate in:</p> <p>(a) a deferred selection property (other than Mangapahi Road, Mangapoike) to the <i>trustees</i>; and</p> <p>(b) Mangapahi Road, Mangapoike (11306) to—</p> <p style="padding-left: 40px;">(i) the <i>trustees</i>; or</p> <p style="padding-left: 40px;">(ii) the entity nominated by the <i>trustees</i> to take title under paragraph 4.2 [page 12] of the Property Redress Schedule.</p> <p>On transfer, the <i>authorised person</i> must give written notice of that date to the <i>CE</i> for the <i>RGL</i> to cancel resumptive memorials [s79].</p> <p>To the extent that the land falls within s81(2) and subject to the completion of any survey necessary to create a record of title, <i>RGL</i> must:</p> <p style="padding-left: 40px;">(a) create a <i>RT</i> for the fee simple estate in the property in the name of the Crown; and</p> <p style="padding-left: 40px;">(b) (record on the <i>RT</i> any interests registered, notified, or notifiable and described in the application; but</p> <p style="padding-left: 40px;">(c) omit any statement of purpose from the <i>RT</i> [s81(3) and (4)].</p>	<p>Sections 24(2A), 24A, and 24AA of the Conservation Act 1987 do not apply;</p> <p>Sections 10 and 11 of the Crown Minerals Act 1991 and other rights to subsurface minerals apply;</p> <p>Section 348 of the Local Government Act 1974 does not apply;</p> <p>Section 11 and Part 10 of the Resource Management Act 1991 do not apply.</p> <p>The Crown is not required to comply with any other enactment that would otherwise regulate or apply to the transfer [s84].</p>

<p>Transfer of Licensed Land</p> <p>Application to:</p> <p>(a) subject to survey, create a <i>RT</i> in the name of the Crown for the fee simple estate in the property; and</p> <p>(b) record on the <i>RT</i> any interests registered, notified, or notifiable and described in the application; but</p> <p>(c) omit any statement of purpose from the <i>RT</i> [s82]</p> <p>or</p> <p>Application to register a covenant as a <i>RT</i> for the later creation of <i>RT</i> [s83].</p>	<p>Patunamu Forest</p> <p>3316.3030 hectares, more or less, being Lots 1, 2 and 3 DP 8027, Part Lot 1 DP 8028, Lots 1 and 2 DP 8029, Lot 1 DP 7868 and Lots 1, 2 and 3 DP 5333.</p> <p>766.9270 hectares, more or less, being Lots 1,6, 7 and 9 DP 22114.</p> <p>Subject to the encumbrances listed in column 3 of Part 2 of the Property Redress Schedule.</p>	<p>Commercial Redress Property described in part 2 [pages 4-6] of the Property Redress Schedule.</p>	<p>Person authorised by the <i>CE</i></p>	<p>(i) trees growing, standing, or lying on the land; and</p> <p>(ii) improvements that have been—</p> <p>(A) acquired by a purchaser of the trees on the land; or</p> <p>(B) made by the purchaser or the licensee after the purchaser has acquired the trees on the land</p> <p>are excluded.</p> <p>Ceases to be Crown forest land upon the registration of the transfer of the fee simple estate in the land to the licensed land entity [s85].</p> <p>The Minister of Conservation may grant any easement over a conservation area or reserve that is required to fulfil the terms of the Deed of Settlement in relation to the <i>licensed land</i> registrable under section 17ZA(2) of the Conservation Act 1987⁴ [s80].</p> <p>Any transfer to the Patunamu Forest Trust for the transfer of any part of Patunamu Forest must include a statement that the land is subject to a right of access to any protected sites on the licensed land [s96(2)]. If this is omitted from a transfer, <u>the transfer must be rejected</u>.</p> <p>If there is no title for the <i>licensed land</i>, and LINZ receives an application for title to issue without a following transfer from the Crown, <u>a DD should be created against the title</u> to enable any subsequent transfer to be checked for the s96(2) statement (and prevent auto-registration of a non-compliant transfer).</p> <p>If the <i>licensed land entity</i> transfers a specified part of the licensed land under clause 8 of Schedule 1 of the shareholders' agreement and trust deed (as certified by a director) at any time up to 9 November 2027.</p>	<p>Sections 24(2A), 24A, and 24AA of the Conservation Act 1987 do not apply;</p> <p>Sections 10 and 11 of the Crown Minerals Act 1991 and other rights to subsurface minerals apply;</p> <p>Section 348 of the Local Government Act 1974 does not apply;</p> <p>Section 11 and Part 10 of the Resource Management Act 1991 do not apply [All s84].</p> <p>Section 11 and Part 10 of the Resource Management Act 1991; and</p> <p>Section 348 of the Local Government Act 1974 do not apply (s88)</p>
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⁴ Section 17ZA(2) repealed by s250 and Schedule 2 Part 1 of the Land Transfer Act 2017

<p>RFR land</p> <p><i>CE</i> certificate under s121 issued as soon as reasonably practicable after the settlement date for</p> <p>(a) land in an existing <i>RT</i>; or</p> <p>(b) after receiving notice under s117 for land in a <i>RT</i> to be created after 9 November 2018; or</p> <p>(c) if land for which there is already a <i>RT</i> becomes <i>RFR land</i> after 9 November 2018 [s121(1)].</p> <p>Removal of RFR Memorial</p> <p>(a) land transferred or vested (s122);</p> <p>(b) end of RFR period (9 November 2192) (s123).</p>	<p>Properties set out in Part 3 (pages 31 to 48) of the Attachments Schedule to the Deed of Settlement.</p>	<p>RFR land as defined in s98.</p>		<p>Memorial for noting RFR:</p> <p>[Identifier] Certificate under section 121 of the Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018 that the within land is RFR land as defined in section 98 and is subject to Subpart 4 of Part 3 of the Act (which restricts disposal, including leasing, of the land) [date and time]</p> <p><u>Ensure the prevents registration flag is set against this memorial</u></p>	
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