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Treaty Claims Settlement Acts General Guideline

Guideline 2018

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Contents

1	Background	3
1.1	Introduction.....	3
1.2	Purpose, scope and use.....	3
2	Landonline settings to prevent auto-registration	4
3	Removing Resumptive Memorials	4
3.1	What they mean and the effect of their removal	4
3.2	Certificate – form and signing	4
3.2.1	Affected properties	5
3.3	Registration process to remove a resumptive memorial.....	5
3.3.1	Trigger.....	5
3.3.2	Action	5
3.3.3	Fees	5
4	Cultural Redress Properties – initial vesting.....	6
4.1	Background	6
4.1.1	List of properties	6
4.1.2	Application of Statutory Preconditions	6
4.1.3	Note existing <i>RT</i> or create new <i>RT</i>	6
4.1.4	Estate, purpose, and other statuses – revoking existing and memorialising new ones	6
4.1.5	Joint ownership	6
4.1.6	Existing interests.....	7
4.2	Registration of ownership	7
4.2.1	Trigger.....	7
4.2.2	Action – where affected property is all land in a <i>RT</i>	7
4.2.3	Action – where affected property is not all the land in <i>RT</i>	7
4.2.4	Fees	7
4.3	Application of enactments.....	8
4.3.1	Conservation Act 1987	8
4.3.2	Crown Minerals Act 1997	8
4.3.3	Local Government Act 1974.....	9
4.3.4	Reserves Act 1977.....	9
4.3.5	Resource Management Act 1991.....	9
5	Cultural Redress Properties – Ongoing Restrictions	9
5.1	Transfer Cultural Redress Reserve Property	9
5.2	Jointly vested Cultural Redress Reserve Property with administering bodies.....	10
5.3	No mortgage or security of Cultural Redress Reserve Property	10
6	Cultural Redress Properties – Subsequent Dealings	10
6.1	Revoking Cultural Redress Reserve Property status.....	10
6.1.1	Revocation for all of a property	10
6.1.2	Revocation for part of a property.....	11

6.1.3	Fees	11
6.2	Transfer of Cultural Redress Properties.....	11
6.2.1	Restrictions on transfer of Cultural Redress Properties	11
6.3	Transfer of Cultural Redress Reserve Property to Administering Body...	12
6.3.1	Preconditions	12
6.3.2	Trigger.....	12
6.3.3	Action	12
6.3.4	Fees	12
6.4	Transfer of Cultural Redress Reserve Property – change in trustees of an existing trust	12
6.4.1	Preconditions	12
6.4.2	Trigger.....	13
6.4.3	Action	13
6.4.4	Fees	13
7	Commercial Redress – initial transfer.....	13
7.1	Background	13
7.2	List of properties	14
7.3	Conditions	14
7.4	Note of existing <i>RT</i> or create new <i>RT</i>	14
7.5	Estate, purpose, and other status – revoking existing and memorializing new ones	15
7.6	Joint ownership	15
7.7	Existing and new interests	15
7.8	Registration of ownership	15
7.8.1	Trigger.....	15
7.8.2	Action	16
7.8.3	Fees	16
7.9	Application of enactments.....	16
7.9.1	Conservation Act 1987	16
7.9.2	Crown Minerals Act 1991	16
7.9.3	Local Government Act 1974.....	16
7.9.4	Resource Management Act 1991.....	17
7.9.5	Other enactments.....	17
8	Commercial Redress – Other property-related rights	17
8.1	Rights of first refusal.....	17
8.1.1	Trigger: certificate to note <i>RFRs</i>	17
8.1.2	Action: RGL obligation.....	18
8.1.3	Ongoing restrictions.....	18
8.1.4	Removing <i>RFRs</i>	18
8.1.5	Trigger: Application to remove <i>RFR</i> before starting a transfer/vesting	18
8.1.6	Application to remove <i>RFR</i> at the end of the <i>RFR</i> period	18
8.2	Right of Access.....	19
8.2.1	Right of Access	19
8.2.2	Trigger.....	19
8.2.3	Action	19
	Glossary	19

1 Background

1.1 Introduction

A Treaty settlement is an agreement between the Crown and a Maori 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 result in an Act for each settlement (*Specific Act*).

Further information can be found on the OTS website, <https://www.govt.nz/organisations/office-of-treaty-settlements/> under the tab "Find out about the treaty settlement process".

1.2 Purpose, scope and use

Treaty settlements have a range of common elements. This General Guideline has been produced to ensure applications received by Land Information New Zealand (LINZ) under *Specific Acts* are dealt with correctly.

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 Act 2017.

This General Guideline must be used in conjunction with the *Specific Guideline* relating to the *Specific Act*.

A *Specific Guideline* is developed for each *Specific Act* and contains detailed guidance on a *Specific Act*.

Tables 1 and 2 of each *Specific Guideline* lists all properties for the *Specific Act*, along with other relevant information (for example, the person authorised to lodge the application, pre-conditions and existing interests).

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

A glossary of terms used in this guideline is attached. When used, a glossary term appears in italics.

The following documents should also be referred to:

- The *Deed* (including Schedules) relating to the *Specified Act* - see <https://www.govt.nz/organisations/office-of-treaty-settlements/>
- The *Specific Act*
- The *Specific Guideline*

The restrictions in *Specific Acts* relating to registration processes can be divided into those relating to:

- (i) the initial vesting or transfer process of the property to the *Representative Entity*;

- (ii) ongoing ones; and
- (iii) restrictions affecting dealings after the initial vesting or transfer.

In this guideline (and the *Specific Guidelines*) these are separately described under the headings: Initial vesting, Ongoing Restrictions and Subsequent Dealings (for Cultural Redress), plus Initial Transfer and Ongoing Restrictions (for *Commercial Redress*).

2 Landonline settings to prevent auto-registration

Specific Acts prohibit certain dealings with land unless they follow prescribed processes; this is a stop on registration in relation to the matters outlined in the *specific Act* (usually a transfer or a mortgage). It requires a memorial relating to stop to be recorded on the computer register (*RT*, includes computer freehold register and computer interest register).

It is critical that the Landonline setting which prevents registration is set against each memorial so the RGL can monitor compliance with the prescribed processes.

Typically, restrictions relate to transfers or mortgages of *Cultural Redress Reserve Property*, and transfers of properties with *right of first refusal (RFR)* memorials.

This stop can only be removed in accordance with the legislation (refer also to the '*Caveats Guideline 2018*').

3 Removing Resumptive Memorials

3.1 What they mean and the effect of their removal

Resumptive Memorials are recorded on *RTs* for crown land within areas of interest to iwi, and give notice that the land may be returned to iwi as part of a treaty settlement.

Once a claim is settled (and properties selected as redress), the *Resumptive Memorials* no longer apply to that iwi's claim.

Resumptive Memorials are not encumbrances, so the requirement in *Specific Acts* to bring down encumbrances onto *RTs* that issue does not apply to them. However, if an application is received to create a *RT* before a certificate complying with [3.2](#) is presented, the *Resumptive Memorials* must be brought down.

3.2 Certificate – form and signing

A *certificate* will be issued under the *Specific Act* to remove RFR land memorials. The certificate must specify the legal description, the *RT*, and the section of the *Specific Act* it is issued under.

A statement in the certificate that the signatory is acting on delegation or authority of the Chief Executive (CE) must be taken as evidence of the authority of the person to execute the certificate on behalf of the CE.

3.2.1 Affected properties

The *Specific Guideline* specifies the properties affected by a *Resumptive Memorial* for the relevant *Specific Act*.

3.3 Registration process to remove a resumptive memorial

3.3.1 Trigger

Receipt of a certificate requesting removal (refer to paragraph 3.2).

3.3.2 Action

As soon as reasonably practicable following receipt of a certificate that complies with the requirements (refer 3.2), the RGL must:

- a) remove each existing memorial on the current view of the *RT* identified in the certificate that relates to an existing memorial; and
- b) record the following memorial on the historic view of that *RT*:

"[instrument number] Certificate under section X(x) of the [name of] Settlement Act 20XX cancelling [memorial identifier] [date and time]";

Note: If the existing memorial refers to other sections of the *Specific Act* or other legislation beyond those relating to return of land to Maori ownership, the following memorial must be added to the original memorial:

"but part [insert Part of the Specific Act] of [the Specific Act mentioned in s17(2)] does not apply".

The Landonline registration code is RRSM.

3.3.3 Fees

Standard registration fees apply.

4 Cultural Redress Properties – initial vesting

4.1 Background

Cultural Redress Property has cultural and/or spiritual meaning to iwi. *Specific Acts* vest them in iwi on the *Settlement Date* by operation of law so they do not need to be transferred. However, an application is required to effect that vesting on the *RT*.

4.1.1 List of properties

The relevant properties are typically described and listed in a Schedule to the *Specific Act*, as well as being defined within the *Specific Act*. They are also subject to survey (where applicable).

4.1.2 Application of Statutory Preconditions

Specific Acts may contain preconditions, such as requiring the *Representative Entity* to grant the Crown a right of way, which must be met before the vesting takes effect. Sometimes, the *Specific Act* may require the RGL to monitor the precondition.

If documentation to satisfy a precondition is not lodged with the vesting application, this should be queried with the lodging party. If it is still not provided, or there is no reply, refer the issue to a *Property Rights Solicitor* for advice about whether or not the RGL is required to monitor compliance with the precondition and is authorised to refuse registration.

4.1.3 Note existing *RT* or create new *RT*

If the property is all the land in a *RT* the vesting will be recorded against it.

If the property is part of the land in a *RT* or there is no *RT* for the land, a *RT* must be created.

4.1.4 Estate, purpose, and other statuses – revoking existing and memorialising new ones

The *Specific Act* will specify the estate, purpose and other status of the property when it initially vests, and will note where existing purposes or statuses are revoked and new ones declared.

This should not be confused with provisions in the *Specific Act* on similar matters such as changes of status which relate to subsequent dealings (for example, transfers after the initial vesting).

4.1.5 Joint ownership

Cultural Redress Property may be significant to more than one iwi. This may be reflected in the *Specific Act* for each of those iwi, by providing that an equal (or unequal) share vests in each *Representative Entity*, typically as joint tenants.

4.1.6 Existing interests

All existing interests that continue to affect the properties after vesting are typically set out in a Schedule of each *Specific Act*. Some of them may be unregistered interests; only those that are registerable and referred to in the application are required to be entered onto the *RT*.

4.2 Registration of ownership

4.2.1 Trigger

Receipt of an application to vest the property from an *Authorised Person*.

4.2.2 Action – where affected property is all land in a *RT*

On receipt of an application to vest a property, the RGL must:

- a) register the *Representative Entity* as the proprietors of the fee simple estate in the property, by recording the following memorial on the historic view of the *RT*:

"[registration number] Application under section ([insert sub/section]) of the [Name of Act] Claims Settlement Act 20XX vesting the within land in [names of trustees or Representative Entity] [date and time]'.

- b) record any entry on the *RT* and do anything else necessary to give effect to the subpart of the *Specific Act* and the Part of the *Deed* dealing with the vesting of Cultural Redress Properties (refer below and Table 1 of a *Specific Guideline* for further details).

4.2.3 Action – where affected property is not all the land in *RT*

On written application by an *Authorised Person*, the RGL must:

- a) subject to survey, create a *RT* for the fee simple estate in the property in the name of the *Representative Entity*; and
- b) record on the *RT* any interests that are registered, notified, or notifiable and that are described in the application.

4.2.4 Fees

Standard registration fees apply.

4.3 Application of enactments

This paragraph describes the usual application of these enactments. You must always check the *Specific Guideline* relating to any dealing, as any changes to this usual practice will be explained in it.

4.3.1 Conservation Act 1987

The vesting of the fee simple estate in a *Cultural Redress Property* in the *Representative Entity* is a disposition for the purposes of Part 4A Conservation Act 1987. However, in most instances ss 24(2A), 24A, and 24AA of that Act do not apply.

Section 24 Conservation Act 1987 (which deems a marginal strip reserved from the disposition of land of the Crown) does not apply to the vesting of *Cultural Redress Reserve Properties*. Section 24 does apply to other *Cultural Redress Property*, and a *Specific Act* may specify a reduced width.

Suitable memorials:

- a) Where land is not a *Cultural Redress Reserve Property*:

"Subject to Part 4A of the Conservation Act 1987"

And, if the marginal strip width is reduced:

"Subject to Part 4A of the Conservation Act 1987 but the marginal strip is reduced to a width of [X] metres"

- b) Where land is a *Cultural Redress Reserve Property*:

"Subject to Part 4A of the Conservation Act 1987 but section 24 of that Act does not apply"

The legislation typically provides that if a reserve is revoked for all or part of a property before vesting, the vesting of the property will no longer be exempt from s24 (except subsection (2A)) Conservation Act 1987. The exemption in s24(2A) avoids the need to notify the Director General of Conservation (DG) prior to the vesting, thus the suitable memorial is:

- *"Subject to Part 4A of the Conservation Act 1987"*

4.3.2 Crown Minerals Act 1997

The vesting of the fee simple estate in a *Cultural Redress Property* under this subpart does not:

- a) limit section 10 or 11 of the Crown Minerals Act 1991; or
b) affect other rights to subsurface minerals.

Suitable memorials:

- *"Subject to section 11 of the Crown Minerals Act 1991"*

4.3.3 Local Government Act 1974

Council permission for rights of way (under s348 Local Government Act 1974) is not required for laying out, forming, granting, or reserving a private road, private way, or right of way required to fulfil the terms of the *Deed* relating to a *Cultural Redress Property*.

4.3.4 Reserves Act 1977

Sections 24 and 25 Reserves Act 1977 do not apply to the revocation of an existing reserve status of a *Cultural Redress Property* as part of the initial vesting¹.

If the reserve status is revoked for all or part of a *Cultural Redress Property*, the vesting of the property is no longer exempt from section 24 (except subsection (2A)) Conservation Act 1987 for all or that part of the property.

4.3.5 Resource Management Act 1991

Subdivision approval is not required for vesting (or any matter incidental to, or required for the purpose of, vesting) the fee simple of *Cultural Redress Property* in the *Representative Entity*. This is because s11 and Part 10 Resource Management Act 1991 do not apply.

5 Cultural Redress Properties – Ongoing Restrictions

Following the initial vesting, the RGL's obligation is to ensure subsequent dealings comply with any ongoing restrictions, which generally relate to *Cultural Redress Reserve Property*.

5.1 Transfer Cultural Redress Reserve Property

The fee simple of a *Cultural Redress Reserve Property* may only be transferred in the manner set out in a *Specific Act*. The legislation will typically require a memorial relating to this restriction on transfer to be recorded on the *RT* for the property.

Suitable memorial:

"Subject to sections [], [] and [] (which prevents reserve land being transferred except in accordance with s[] of the [name of settlement] Claims Settlement Act 20XX."

The 'prevents registration' setting in Landonline must be set against the memorial for this restriction.

¹ Refer cl 85 of the Clauses for Standard Elements for Treaty Settlement Bills (<http://www.pco.govt.nz/assets/Uploads/pdf/Clauses-for-standard-elements-of-Treaty-settlement-Bills-2015-11-24.pdf>)

5.2 Jointly vested Cultural Redress Reserve Property with administering bodies

Where a *Cultural Redress Reserve Property* is jointly vested among several iwi under several *Specific Acts*, the iwi may establish a joint management body, and deem it the administering body defined in s2(1) of the Reserves Act 1977. Typically, the Reserves Act 1977 will then apply as if the *Cultural Redress Reserve Property* were vested in that body as trustees under s26 of the Reserves Act 1977, even despite any subsequent transfer.

Each *Specific Act* will typically state the registered proprietor for the purposes of registering any interest affecting *Cultural Redress Reserve Property*. It may also differ depending on whether the land is subject to a Crown forestry license.

5.3 No mortgage or security of Cultural Redress Reserve Property

Typically, the owners of *Cultural Redress Reserve Property* are prohibited from giving a mortgage, or security interest in, the land.

Suitable memorials:

"Subject to section [] of the [name of settlement] Settlement Act 20XX (which prohibits reserve land from being mortgaged or charged for security)".

The 'prevents registration' setting in Landonline must be set against the memorial for this restriction.

6 Cultural Redress Properties – Subsequent Dealings

6.1 Revoking Cultural Redress Reserve Property status

Specific Acts prescribe processes for amending or removing certain memorials on *Cultural Redress Reserve Properties* if the reserve status is revoked after the initial vesting as reserve.

6.1.1 Revocation for all of a property

Typically, if the reserve status is revoked for all of the property:

- a) The DG must apply in writing for the RGL to remove from the *RT* the notification that s24 Conservation Act 1987 does not apply to all or part of the property; and
- b) Before the application proceeds, the normal documentation under the Reserves Act 1977 must be completed.

Suitable memorial for the historical view:

"[application identifier] Application under section [XX(X)] of [] Claims Settlement Act 20XX revoking the reserve status of the within land [date and time]"

Delete the following memorial:

"Subject to Part 4A of the Conservation Act 1987 but section 24 of that Act does not apply"

and substitute it with:

"Subject to Part 4A of the Conservation Act 1987".

Delete the following memorials

"Subject to sections [], [] and [] (which prevents reserve land being transferred except in accordance with s[] of the [name of settlement] Claims Settlement Act 20XX."

"Subject to section [] of the [name of settlement] Settlement Act 20XX (which prohibits reserve land from being mortgaged or charged for security)".

Deleting these memorials should also remove the related 'prevents registration setting'.

6.1.2 Revocation for part of a property

Typically, if the reserve status is revoked for part of a *Cultural Redress Property* the application process referred to in [6.1.1](#) applies.

Suitable memorial for the historical view:

"[application identifier] Application under section [XX(X)] of [] Claims Settlement Act 20XX revoking the reserve status as to [relevant legal description] [date and time]"

The following phrase should also be added to the memorial referred to above:

"[relevant legal description] is..."

The 'prevents registration' setting must **not** be removed. This is because revocation only relates to part of the property and the prohibition affects the balance of the property which remains reserve.

6.1.3 Fees

Standard registration fees apply.

6.2 Transfer of Cultural Redress Properties

6.2.1 Restrictions on transfer of Cultural Redress Properties

A *Cultural Redress Property* must only be transferred in accordance with the processes set out in the *Specific Act*. Typically this prohibits transfers of all *Cultural Redress Properties*, except in two types of transfers of *Cultural Redress Reserve Properties*:

- a) to an administering body; or
- b) to reflect a change in trustees of an existing trust.

6.3 Transfer of Cultural Redress Reserve Property to Administering Body

6.3.1 Preconditions

The registered owners must apply in writing to the Minister of Conservation for consent to a transfer to an Administering Body.

6.3.2 Trigger

Receipt of an application, in one of three ways:

- a) Transfer instrument containing notice that new owners are to hold the *Cultural Redress Reserve Property* for the same purposes as those for which it was held by the administering body immediately before the transfer.
- b) The written consent of the Minister of Conservation.
- c) Any other document required for the registration of the transfer instrument.

6.3.3 Action

On receipt of the documents referred to in [6.4.1](#) the RGL must register the new owners as the registered owners of the fee simple estate in the *Cultural Redress Reserve Property*. The registered owners then become the administering body.

The memorials that prevent registration continue to apply.

6.3.4 Fees

Standard registration fees apply.

6.4 Transfer of Cultural Redress Reserve Property – change in trustees of an existing trust

6.4.1 Preconditions

The registered owners may register a transfer of the fee simple estate to reflect a change in trustees if:

- a) the transferors of the *Cultural Redress Reserve Property* are or were the trustees of any trust; and
- b) 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
- c) the instrument to transfer the *Cultural Redress Reserve Property* is accompanied by a certificate given by the transferees, or the transferees' solicitor, verifying that paragraphs (i) and (ii) apply.

6.4.2 Trigger

Receipt by the RGL of the following:

- a) a Transfer instrument; and
- b) a certificate given by the transferees, or the transferees' solicitor, verifying that paragraphs 6.4.1(i) and (ii) apply; and
- c) any other document required for the registration of the transfer instrument.

6.4.3 Action

On receipt of the documents referred to in [6.4.2](#), the RGL must register the new owners as the registered owners of the fee simple estate in the *Cultural Redress Reserve Property*. The registered owners then become the administering body of the *Cultural Redress Reserve Property*.

The memorials that prevent registration continue to apply.

6.4.4 Fees

Standard registration fees apply.

7 Commercial Redress – initial transfer

7.1 Background

Financial and *Commercial Redress* in a treaty settlement is made up of an overall amount (in dollar terms) agreed between the Crown and the claimant group.

The claimant group usually receives this in the form of cash and/or Crown-owned property and other rights including:

- a) *Right of First Refusal* (RFR)
- b) deferred selection rights to acquire properties

- c) *Right of Access*.

7.2 List of properties

Commercial Redress Properties are defined and described in one of the Deed's Schedules (usually referred to as 'Property Redress') and are subject to survey (where applicable).

7.3 Conditions

Specific Acts can contain pre-conditions affecting whether a *Commercial Redress Property* is included.

Usually, the RGL will not be obliged to check compliance with preconditions before registering a transfer, and staff can rely on the description of the land in the applications.

However, if a document required to satisfy a precondition is not included with the dealing, it may assist the customer to raise the issue with the lodging party (in conjunction with advice from the *Property Rights Solicitors* if required). Table 2 of the *Specific Guideline* details preconditions (if any) and whether the RGL is obliged to monitor compliance with them.

Sometimes, *Commercial Redress Properties* are subject to ongoing conditions such as a leaseback or a *Right of Access*. Typically, *Specific Acts* require:

- a) the initial transfer to the *Representative Entity* to state that the land is subject to statutory provisions if the lease terminates/expires; and
- b) a *Right of Access*; and
- c) the RGL to record this in a memorial on the *RT*.

Usually, the RGL must monitor these requirements in the *Specific Act*, and if a transfer omits the restriction, it must be queried with the lodging party (in conjunction with advice from the *Property Rights Solicitor* where necessary).

Table 2 of the *Specific Guideline* details the ongoing conditions and whether the RGL is required to monitor compliance with them.

7.4 Note of existing *RT* or create new *RT*

Typically the properties being transferred are Crown Land and there is no existing *RT*. However, if the property is contained in an existing *RT* the transfer must be recorded against it.

However, if the property is only part of the land in an existing *RT*, or there is no *RT* for the land, a *RT* must first be created (subject to survey where necessary):

- a) in the name of the Crown;
- b) with any interests that are registered, notified, or notifiable and that are described in the application; and
- c) without any statement of purpose.

7.5 Estate, purpose, and other status – revoking existing and memorializing new ones

Typically the properties being transferred are Crown Land and there is no existing *RT*. However, if the property is contained in an existing *RT* the transfer must be recorded against it.

However, if the property is only part of the land in an existing *RT*, or there is no *RT* for the land, a *RT* must first be created (subject to survey where necessary):

- a) in the name of the Crown;
- b) with any interests that are registered, notified, or notifiable and that are described in the application; and
- c) without any statement of purpose.

7.6 Joint ownership

Specific Acts may provide that an equal or unequal share in a *Commercial Redress Property* transfers to various *Representative Entities*, typically as joint tenants.

7.7 Existing and new interests

The RGL is required to act in accordance with the application. However, Table 2 in the *Specific Guideline* should be used to check requirements relating to any property.

7.8 Registration of ownership

7.8.1 Trigger

Receipt of a written application by an *Authorised Person* in relation to a *Commercial Redress Property* or *Deferred Selection Property*, which includes the following:

- a) An application to create a *RT* in the name of the Crown which states the section of the *Specific Act* that authorises it.
- b) A transfer to the *Representative Entity* that states the section of the *Specific Act* that authorises it.
- c) Any other document required for the registration of the transfer instrument, and any other documents required to satisfy preconditions in relation to the particular property.

Typically, there will not be an existing *RT* for all of the relevant land. If there is, an application to create one will not be needed.

Note that the trigger could also be an Order for a Record of Title for a covenant. This could be if the *Specific Act* empowers an *Authorised Person* to grant a covenant for the later creation of a *RT*.

7.8.2 Action

On receipt of the documents in [7.8.1](#), the RGL must:

- a) subject to survey, create a *RT* (where applicable) in the name of the Crown without any purpose or reserve status;
- b) record any interests described in the application;
- c) register the transfer to the Trustees;
- d) record memorials for statutory provisions referred to in the *Specific Act* in relation to the particular property, by recording the following memorial:

"Subject to section XXX of the [Settlement] Claims Settlement Act 20XX."

If an Order for a Record of Title for a covenant is received, the RGL must create a *RT* for the covenant.

7.8.3 Fees

Standard registration fees apply.

7.9 Application of enactments

7.9.1 Conservation Act 1987

The transfer to the *Representative Entity* of the fee simple estate in a *Commercial Redress Property* or a *Deferred Selection Property* is a disposition for the purposes of Part 4A of the Conservation Act 1987. Note that sections 24(2A), 24A, and 24AA of that Act do not apply to the disposition.

Suitable memorial:

"Subject to Part 4A of the Conservation Act 1987 (but sections 24(2A), 24A and 24AA of that Act do not apply)".

7.9.2 Crown Minerals Act 1991

The transfer does not—

- a) limit s10 or 11 of the Crown Minerals Act 1991; or
- b) affect other rights to subsurface minerals.

Suitable memorial:

"Subject to section 11 of the Crown Minerals Act 1991".

7.9.3 Local Government Act 1974

The permission of a Territorial Authority under section 348 of the Local Government Act 1974 is not required for laying out, forming, granting, or reserving a private road, private way, or right of way required to fulfil the terms *Deed* in relation to a transfer.

7.9.4 Resource Management Act 1991

Subdivision approval is not required for the transfer (or any matter incidental to, or required for the purpose of, the transfer) of the fee simple of a *Commercial Redress Property*. Section 11 and Part 10 of the Resource Management Act 1991 do not apply.

7.9.5 Other enactments

Subject to the enactments noted above ([7.9](#)), when transferring a *Commercial Redress Property*, the Crown is not required to comply with any other enactment that would otherwise regulate or apply to the transfer.

8 Commercial Redress – Other property-related rights

8.1 Rights of first refusal

The land over which the right is given will be defined in the *Specific Act*.

Where rights are given jointly with other iwi, various definitions such as exclusive *RFR Land* or shared *RFR Land* may be used to define them.

The *CE* must lodge a certificate with RGL (which identifies affected properties) to have the right recorded on a *RT*.

Affected properties may only be transferred, and memorials may only be removed, in the manner set out in the *Specific Act*.

8.1.1 Trigger: certificate to note *RFRs*

A Certificate from the *CE* is required to trigger the initial noting of *RFR* memorials on *RTs*.

That certificate must specify the legal descriptions of, and *RT* numbers for, the relevant *RFR Land*. It must also explicitly state that it is issued under the particular section of the *Specific Act* that authorises it.

The certificate will relate to either:

- a) *RFR Land* for which there is a *RT* on the *Settlement Date*;
- b) *RFR Land* for which a *RT* is first created after the *Settlement Date*; or
- c) Land for which there is a *RT*, and which becomes *RFR Land* after the *Settlement Date*.

8.1.2 Action: RGL obligation

As soon as reasonably practicable after receiving a certificate, the RGL must record on the *RT* that the land is:

- a) *RFR Land*, as defined in the relevant section of the *Specific Act*; and
- b) subject to the relevant subpart of the *Specific Act* dealing with *RFRs* and which restricts disposal, including leasing, of the land.

Suitable memorial format:

"[certificate identifier] Certificate under section [] of the [] Claims Settlement Act 20XX that the within land is *RFR land* as defined in section [] and is subject to Subpart [] of Part [] of the Act (which restricts disposal, including leasing, of the land) [date and time]".

The 'prevents registration' setting must be set against this memorial.

8.1.3 Ongoing restrictions

An *RFR* memorial prevents the registration of any subsequent disposal (*dispose of* in relation to *RFR Land* being defined in the *Specific Act*) such as a transfer, unless there is an exemption in the *Specific Act*, or the *RFR* memorial has been removed.

8.1.4 Removing *RFRs*

RFRs are removed either before a transfer or vesting (arising from the *iwi* exercising their *RFR* to acquire the land) or at the end of the *RFR* period.

The *RFR* memorials can only be removed in the manner set out in the *Specific Act* relating to these scenarios.

8.1.5 Trigger: Application to remove *RFR* before starting a transfer/vesting

The *CE* must send a notice to the RGL to trigger a removal before transfer or vesting. The notice must include:

- a) the legal description of the land;
- b) the reference for the computer register for the land;
- c) the details of the transfer or vesting of the land; and
- d) a statement that the certificate is issued under the relevant section of the *Specific Act* dealing with these notices;

On receipt of the notice from the *CE*, the RGL must remove the *RFR* notification before the transfer or vesting.

8.1.6 Application to remove *RFR* at the end of the *RFR* period

The CE must send a notice to the RGL to trigger a removal when the RFR period ends. The notice must include:

- a) the reference for the *RT* for the land; and
- b) a statement that the certificate is issued under the relevant section of the *Specific Act* dealing with these notices.

The RGL must remove the *RFR* notification from any identified *RT* in line with the notice.

8.2 Right of Access

8.2.1 Right of Access

Where relevant, *Specific Acts* require owners (and other interest holders) of land on which a protected site is situated, to allow a *Right of Access* to Maori for whom the site is of significance.

Usually, a *Right of Access* affects *Commercial Redress Property* that is *Licensed Land*.

A *Specific Acts* may require that the *Right of Access* is recorded as a statement in the transfer instrument relating to the initial transfer for the relevant land.

8.2.2 Trigger

An application to transfer land accompanied by a transfer instrument which contains a statement that the land is subject to a *Right of Access* to any *Protected Sites* on the land.

8.2.3 Action

The RGL must note the *Right of Access* on the *RT* on registration of the transfer.

Suitable memorial:

"Subject to right of access conferred by section [] of [] Act [XXXX]".

Glossary

Use of this Glossary – *Specific Acts* generally have several “interpretation” sections, and terms used in this guideline and *Specific Guidelines*, have the same meaning as those *Specific Acts*.

Defined terms: terms used in this guideline which are explained below, are indicated by italics. *Specific Guidelines* may also contain more detailed explanations in relation to the same terms eg list the *Cultural Redress Properties*.

Authorised Person – used in determining who may make some applications, and defined in the *Specific Act*.

CE – Chief Executive of Land Information New Zealand.

Certificate – is a certificate issued under a *Specific Act* for the removal of RFR memorials.

Commercial Redress – Various compensation mechanisms, including transfer of property, but excluding Cultural Redress. Property that is to be transferred is typically *Commercial Redress Property* (which can include *Licensed Land*). Other property related *Commercial Redress* may be *Deferred Selection Properties*, *Rights of First Refusal* and *Rights of Access*.

Cultural Redress Property – Property or properties typically described in a Schedule of a *Specific Act*.

Cultural Redress Reserve Property – *Cultural Redress Property* that is declared reserve after vesting.

Deed – Deed of Settlement defined in the *Specific Act*

Deferred Selection Property or DSP – *Commercial Redress*, being a right for the *Representative Entity* to decide whether to purchase certain Crown properties during a fixed period after settlement

Existing memorials – Memorials under the following Acts relating to the return of land to Maori ownership:

- Part 3 Crown Forest Assets Act 1989;
- ss211-213 Education Act 1989;
- Part 3 New Zealand Railways Corporation Restructuring Act 1990;
- ss 27A-C State Owned Enterprises Act 1986; and
- ss 8A-8HJ Treaty of Waitangi Act 1985.

General Guideline – An RGL guideline on Treaty settlements which complements information in *Specific Guidelines*.

Licensed Land – Relating to *Commercial Redress*, is Crown forest land under the Crown Forest Assets Act 1989 subject to a Crown forestry licence (whose licensee owns the trees). If included in a settlement, the mechanism is typically a transfer by the Crown of the land subject to the licence, and a termination noticed issued by the Crown to the licensee for the required period (say, 35 years). The *Representative Entity* steps in as licensor from settlement.

LINZ – Land Information New Zealand.

OTS – Office of Treaty Settlements.

Protected Sites – see *Specific Act* and also refer *Right of Access*.

Record of Title or RT – as defined in section 5 of the Land Transfer Act 2017.

Representative Entity – defined in the *Specific Act*, and the body that represents the iwi (whose claims are settled by the *Specific Act*) post-settlement, into which properties vest/are transferred; usually a trust.

Resumptive Memorials – *Existing Memorials* relating to the return of land to Maori ownership.

RGL – Registrar-General of Land.

Right of Access – Relating to *Commercial Redress*, is a right over land on which a protected site is situated, in favour of Māori for whom that site is of special cultural, historical or spiritual significance. Usually the right allows access (on reasonably notice) across the land to the site, by vehicle or foot, over any reasonably convenient routes specified by the owner.

Right of First Refusal or RFR – Relating to *Commercial Redress*, is a right given to a settlement iwi to have to have first opportunity to acquire (or refuse) a Crown property within a defined area (the iwi's rohe/territory) when it becomes available.

RFR Land – land defined in the *Specific Act* subject to an RFR

Specific Act – a statute relating to an iwi's settlement of their Treaty of Waitangi Claim.

Specific Guideline – An RGL guideline for a *Specific Act* which is to be read in conjunction with this guideline.

Settlement Date – Defined in the *Specific Act*, often 20 working days after it commences.

Solicitor Property Rights – Solicitor in the Property Right Group.

Trustees - the trustees of a *Representative Entity*.