

# Te Roroa Claims Settlement Act 2008 registration guideline

**LINZG20715**

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# 1 TERMS AND DEFINITIONS

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- Introduction**
- (a) For the purposes of this guideline, the terms and definitions in the Te Roroa Claims Settlement Act 2008 (the Act) apply, unless stated otherwise below. Refer to ss 10, 26, 49, and 87 of the Act for interpretation.
  - (b) Terms and abbreviations used in this guideline that are not defined in the Act are defined below.
  - (c) Any reference to a section in this guideline is a reference to that section of the Act.
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<b>Term/Abbreviation</b>	<b>Definition</b>
the Act	Te Roroa Claims Settlement Act 2008
commercial redress property	as referred to in Schedules 5 and 6 of the Deed of Settlement
Deed of Settlement	Deed of Settlement of the historical claims of Te Roroa
Original Māori Land Block	as referred to in Schedule 12 of the Deed of Settlement
RGL	the Registrar-General of Land appointed under s 4 of the Land Transfer Act 1952

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## 2 FOREWORD

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### Introduction

- (a) The Act came into force on 30 September 2008. The final settlement date for the passing of title to the land involved is 29 October 2008.
  - (b) The Act is essentially an acknowledgement by the Crown that the cession of land at Te Kopuru in 1842, Crown land purchases from 1876, the operation and impact of the native land laws, and the Crown's failure to ensure that Te Roroa retained sufficient land for their present and future needs was not in accordance with Treaty of Waitangi and its principles. The Crown apologises formally for this and has settled with the hapu its claims as set out in a deed of settlement signed on 17 December 2005.
  - (c) The Act provides the legal and procedural framework for the return of land to the hapu. The settlement is final (see section 13) and the Waitangi Tribunal is not able to enquire into or make recommendations about the settled land. The Tribunal is not however excluded from interpreting or implementing the Deed of settlement, the ancillary claims deed or the Act.
  - (d) All the land concerned is in the North Auckland Land Registration District.
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### Purpose

This guideline has been issued by the RGL to ensure that applications received by LINZ under the Act are dealt with correctly.

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## Foreword, Continued

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- Scope**
- (a) This document contains guidelines for compliance with the Te Roroa Claims Settlement Act 2008. 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 guidelines focus primarily on the provisions of the Te Roroa Claims Settlement Act 2008 (the Act) that impact on the registration process.
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**Intended use of guideline** This guideline has been issued by the Registrar-General of Land (RGL) for employees of LINZ with delegated authority to exercise registration functions under the Land Transfer Act 1952.

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**References** The following documents are necessary for the application of this guideline:

- Deed of Settlement of the historical claims of Te Roroa<sup>1</sup>
  - Te Roroa Claims Settlement Act 2008
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<sup>1</sup> Refer to the Office of Treaty Settlements website for a copy of the Deed of Settlement.

### 3 RIGHT OF FIRST REFUSAL AND ORIGINAL MĀORI LAND BLOCKS

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<b>Legislation</b>	Section 15 provides that certain legislative provisions do not apply to RFR properties or Original Māori Land Blocks.
<b>RFR properties</b>	The RFR properties are defined in Schedule 1 of the RFR Deed, which is contained in Schedule 7 of the Deed of Settlement.
<b>Original Māori Land Blocks</b>	The Original Maori Land Blocks are set out in Schedule 12 of the Deed of Settlement (s 15).
<b>Enactments that don't apply</b>	<ul style="list-style-type: none"><li>(a) Section 15(2) specifies the enactments that do not apply to the RFR properties or land within the Original Māori Land Blocks.</li><li>(b) This links to section 16, which requires the removal of memorials entered under any of the enactments referred to in section 15.</li><li>(c) See guideline 4 below for more on the removal of memorials.</li></ul>

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## 4 REMOVAL OF MEMORIALS

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- Legislation**
- (a) Section 16 provides for removal of certain memorials from computer registers for RFR properties and land in the Original Māori Land Blocks and for a certificate to be registered on those computer registers.
  - (b) See guideline 3 above for more on the RFR properties and the Original Māori Land Blocks.
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- Format for certificate**
- Section 16 requires the Registrar-General, or their delegate, to register a certificate against the affected registers. The certificate must:
- (a) be issued by the Chief Executive of LINZ, or their delegate (s 16(1));
  - (b) state that it is issued under section 16 (s 16(2)); and
  - (c) identify the relevant registers (s 16(1)).
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- Registration requirements and memorial formats**
- When a certificate under section 16 is presented for registration:
- (a) the standard registration fee is payable;
  - (b) any memorial on the current view of the computer register for the relevant property which relates to an enactment referred to in section 15 should be removed, and
  - (c) the following memorial should be recorded on the historic view of that register:  
  

*“[Reference for or wording of memorial being removed] CANCELLED. See [Registration number of certificate under s 16 of the Te Roroa Claims Settlement Act 2008]”*
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## 5 VESTING OF CULTURAL REDRESS PROPERTIES

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### Legislation

- (a) Part 2, Subpart 2 of the Act authorises the Crown to vest 15 cultural redress properties in the trustees of the Manawhenua Trust on the settlement date, but does not cover all the cultural redress properties. Refer to (c) below.
  - (b) The 15 cultural redress properties are defined in Schedule 1 of the Act.
  - (c) Part 2 of the Act does not cover the transfer of the Waipoua Forest cultural redress properties, which are covered in Part 3 of the Act, along with the Waipoua Commercial Forest. For that reason, the Waipoua Forest cultural redress properties are dealt with separately in guideline 6 of this document.
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### Application of other enactments

Section 47 sets out how certain other enactments apply to cultural redress properties.

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### Authorised applicants

Section 44(3) states who may make an application to vest a cultural redress property in the Manawhenua Trust, namely:

- (a) a person authorised by the chief executive of the Ministry of Justice, in the case of Manuwhetai, Puketapu/Whangaiariki, and the Former Works Depot, Waimamaku, and
  - (b) in all other cases, a person authorised by the Director-General of Conservation.
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## Vesting of cultural redress properties, Continued

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### Registration of new owners

- (a) Section 44 authorises the RGL, in accordance with an application, to register the trustees of the Manawhenua Trust the proprietors of the fee simple estate in the land, and do all things necessary to comply with the Act.
  - (b) This includes, the creation of a register where there is not one, subject to completion of a survey, as soon as reasonably practical but no later than 24 months after the cultural redress property vests, or later if agreed.
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### Vestings subject to encumbrances

- (a) Nine of the cultural redress properties are vested subject to the encumbrances set out in Schedule 1 of the Act (s 43).
  - (b) This means that vesting cannot proceed until the trustees of the Manawhenua Trust provide the Crown with registrable covenants in respect of those properties.
  - (c) The cultural redress properties subject to encumbrances are:
    - (i) Kawerua (s 29),
    - (ii) Waingata (s 32),
    - (iii) Te Riu (s 33),
    - (iv) Muriwai (s 34),
    - (v) Papatia and Te Kopae (s 35),
    - (vi) Te Taiawa (s 36),
    - (vii) Puketurehu (s 37),
    - (viii) Maunganui Bluff (s 38), and
    - (ix) Ureti (s 41).
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## Vesting of cultural redress properties, Continued

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### Change of status

- (a) The reserve status of the following two sites are revoked upon enactment:
  - (i) Kaiparaheka (s 27), and
  - (ii) Maunganui Bluff (s 38) – see also (c) below.
- (b) The following 10 sites are conservation areas, conservation parks, and sanctuary areas that cease upon enactment:
  - (i) Wairau (s 28),
  - (ii) Kawerua (s 29) – see also (c) below, and the guideline on page 11,
  - (iii) Haohaonui (s 31),
  - (iv) Waingata (s 32),
  - (v) Te Riu (s 33),
  - (vi) Muriwai (s 34),
  - (vii) Papatia and Te Kopae (s 35),
  - (viii) Te Taiawa (s 36),
  - (ix) Puketurehu (s 37), and
  - (x) Ureti site (s 41).
- (c) Maunganui Bluff and Kawerua contain road which must first be stopped, before the property vests in the interim in the Crown as a scenic reserve and then vests in the trustees of the Manawhenua Trust.

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## Vesting of cultural redress properties, Continued

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### Registration requirements and memorial formats

- (a) When an application is presented for registration under section 44 the standard registration fee is payable.
  - (b) Examples of suitable memorials to the record the vesting are as follows:
    - (i) “[*Registration number*] Application vesting the within land in the trustees of the Manawhenua Trust under section [*section number*] of the Te Roroa Claims Settlement Act 2008 [*date and time*]”
    - (ii) “Subject to Part IVA of the Conservation Act 1987”
    - (iii) “Subject to Section 11 Crown Minerals Act 1991”
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### Kawerua – additional memorial required

- (a) Vesting of the Kawerua property includes “the right of access referred to in s 30” (Schedule 1 of the Act). Section 45 specifically refers to this encumbrance and states that:

“The Registrar-General must note a memorial on the computer freehold register for Kawerua that it is subject to section 30 (which relates to the right of access across Kawerua to the landlocked land)”.
  - (b) An appropriate format for this memorial is as follows:

“Subject to section 30 of the Te Roroa Claims Settlement Act 2008”
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## 6 TRANSFER OF COMMERCIAL REDRESS PROPERTIES

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- Legislation**
- (a) Part 3 of the Act provides for commercial redress and authorises the Crown to transfer the fee simple in the commercial redress properties on the settlement date.
  - (b) The commercial redress properties are referred to in Schedules 5, 6, and 8 of the Deed of Settlement.
  - (c) Note that the definition of “Waipoua Forest” in section 87 includes both the Waipoua cultural redress and commercial properties, so this guideline applies equally to those properties wherever the term “Waipoua Forest” is used. See also guideline 7 which relates to other provisions that relate to the Waipoua Forest properties.
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**Commercial redress properties and administration** There are 16 commercial redress properties in total:

- (a) Waipoua Commercial Forest,
  - (b) eleven other commercial redress properties, and
  - (c) four deferred selection properties.
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- Transfer to Whatu Ora Trust or Matawhenua Trust**
- (a) Section 4 states that all commercial redress properties other than the Waikara Farm 4, 5 and 6 are to be transferred to the trustees of the Whatu Ora Trust.
  - (b) Waikara Farm 4, 5 and 6 is to be transferred to the trustees of the Matawhenua Trust, in accordance with the Deed of Settlement.
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**Delay for Waipoua Forest** As at printing, the Office of Treaty Settlements have advised that although the Waipoua Forest properties are to be transferred to the trustees of the Whatu Ora Trust on the settlement date, separate registers will not be applied for immediately.

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## Transfer of commercial redress properties, Continued

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### Application of other enactments

- (a) Section 105 sets out how certain other enactments apply to commercial redress properties.
  - (b) Section 105(4) states that, in exercising the powers in sections 88 and 97, which relate to the transfer of Waipoua Forest and other commercial redress properties, the Crown is exempt from any enactments that would otherwise regulate such a transfer.
  - (c) Section 88 clarifies that despite anything in the Crown Forest Assets Act 1989, the Crown is authorised, through the responsible Ministers, ie the Minister of State-Owned Enterprises and the Minister of Finance, to transfer the fee simple of the Waipoua Forest to the trustees of the Whatu Ora Trust and sign a transfer or do any other thing to effect the transfer.
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### Authorised applicants

Only the following persons are authorised under the Act to apply for transfers and the creation of computer freehold registers in relation to commercial redress properties:

- (a) the responsible ministers, ie the Minister of State-Owned Enterprises and the Minister of Finance, in relation to a transfer of the Waipoua Forest to the trustees of the Whatu Ora Trust (s 88),
  - (b) a person authorised by the Director-General of the Ministry of Agriculture and Forestry, in relation to an application for the creation of a computer freehold register for the Waipoua Forest (s 89),
  - (c) the Commissioner of Crown Lands, in relation to transfer of all other Commercial Redress Properties (s 97),
  - (d) a person authorised by the Chief Executive of the land holding agency, as specified in Part 1 of Schedule 6 or Part 1 of Schedule 8 of the Deed of Settlement, in relation to an application for the creation of a register in all other cases (except Aranga Beach properties) (s 98), and
  - (e) a person authorised by the Chief Executive of the Ministry of Justice, in relation to an application for the creation of a register for Aranga Beach properties (s 99).
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## Transfer of commercial redress properties, Continued

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### Registration of new owners

The Act authorises the RGL, in accordance with an application from the appropriate person, to:

- (a) create a computer freehold register, subject to completion of any necessary survey, in the name of the Crown without any statement of purpose, in the case of the Waipoua Forest (s 89),
  - (b) where there is a computer freehold register for the property, transfer the fee simple to the appropriate trustees and sign a transfer or other document or do any other thing to effect the transfer (s 97),
  - (c) except in relation to Aranga Beach properties, where not all of the land is contained in a computer freehold register, create a computer freehold register, subject to completion of any necessary survey, in the name of the Crown without any statement of purpose (ss 98),
  - (d) in relation to Aranga Beach properties, where not all of the land is contained in a computer freehold register, create a computer freehold register, subject to completion of any necessary survey, in the name of the Crown without any statement of purpose for Aranga Beach Farm coastal selection, together with either or both of the following if acquired under the Deed of Settlement: (a) Aranga Beach Farm Pt Lot 15 DP 1457; and (b) Aranga Beach Farm.
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### Encumbrances

The creation of a computer freehold register in accordance with ss 89, 97, 98, and 99 is subject to any encumbrances that are registered, notified or notifiable, and that are described in the application.

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### Change of status

- (a) Waipoua Forest: Former Department of Conservation Headquarters is defined in Part 1 of Schedule 6 of the Deed of settlement (s 87).
  - (b) Section 103 states that the parts of the Waipoua Forest: Former Department of Conservation Headquarters which are conservation park, sanctuary area or conservation area, under ss 61(2), 61(1) and 62(1) of the Conservation Act 1987 respectively, cease to have such status upon enactment.
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## Transfer of commercial redress properties, Continued

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### Registration requirements and memorial formats

- (a) When an application is presented for registration under section 89, 98, or 99 the standard registration fee is payable.
  - (b) Examples of suitable memorials to the record the vesting are as follows:
    - (i) “[*Registration number*] Transfer to the trustees of the [*Manawhenua or Whatu Ora Trust*] under section [*section number*] of the Te Roroa Claims Settlement Act 2008. [*date/time*]”
    - (ii) “Subject to Part 4A of the Conservation Act 1987”[Note: Under s 100 this provision does not apply to Shag Lake Bed]
    - (iii) “Subject to section 11 of the Crown Minerals Act 1991”
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### Coastal strips: north and south of Omamari

- Sections 101(2) and 102(3) provide, in relation to the coastal strips north and south of Omamari, that:
- (a) the marginal strip reserved by 24 of the Conservation Act 1987 from the transfer is increased to 100m wide, and the RGL must register record this on the computer freehold registers for these properties, and
  - (b) the conservation covenant provided by the trustees of the Whata Ora Trust in respect of the properties, under clauses 11.7.3 and 11.7.4 of the Deed of Settlement, are to be treated as conservation covenants for the purposes of s 77 of the Reserves Act 1977, which means the covenant must be registered against the servient land.
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## 7 WAIPOUA FOREST – OTHER PROVISIONS

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**Legislation** The main provisions relating to the transfer of the Waipoua Forest properties (cultural redress and commercial) are in Part 3 of the Act, and clause 11 of the Deed of settlement (the Deed).

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**Encumbrances** The Waipoua Forest will be transferred with and subject to (clause 11.3 of the Deed):

- (a) an easement over conservation land in favour of Waipoua Forest (clause 11.4.1 of the Deed);
  - (b) an easement in gross to the Minister of Conservation (clause 11.4.2 of the Deed);
  - (c) an easement in gross to the Minister of Fisheries (clause 11.4.3 of the Deed);
  - (d) a Forestry Right (Part 3 of Schedule 5 of the Deed);
  - (e) conservation covenants to the Minister of Conservation (refer to clauses 11.3.1, 9.3.2, and Part 2 of Schedule 5 of the Deed). Section 93 clarifies that these are to be treated as conservations covenants for the purposes of section 77 of the Reserves Act 1977, which means they must be registered against the servient land; and
  - (f) right of access to the landlocked land, as defined in section 94. This right will be in favour of a permitted person as defined in that section. This right will also be noted on the computer freehold register, under s 95. Section 96 gives the Registrar of the Māori Land Court the right to apply in writing to the RGL to have the notification entered under section 95 removed, in certain situations.
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