



Ngāti Mākino Claims Settlement Act 2012 registration guideline

LINZG20731

14 August 2012

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1 Terms and definitions

General

- (a) For the purposes of this guideline, the terms and definitions in the Ngāti Mākino Claims Settlement Act 2012 (Act) apply, unless stated otherwise. Refer to ss 7, 8, 9, 10, 57, 91 and 97 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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Term/abbreviation

Definition

Act	Ngāti Mākino Claims Settlement Act 2012
authorised person	an authorised person as defined <ul style="list-style-type: none">• in respect of a cultural redress property, has the meaning given in s 69(7); and• in respect of the licensed land and the Ōtamarākau School site, has the meaning given in s 80(3) or s 94(4), as the case requires.
Chief Executive	Chief Executive of Land Information New Zealand
commercial redress property	Licensed land and Otamarakau site as outlined in s 79
cultural redress property	a property listed in s 57 and described in Schedule 2 of the Act
Deed of settlement	deed of settlement and deed— mean the deed of settlement for Ngāti Mākino dated 2 April 2012 and defined in s 8
Licensed land	Licensed land as defined in s 8
LINZ	Land Information New Zealand
RFR land	land defined as RFR land in s 95 (Right of first refusal)
RGL	Registrar-General of Land appointed under s 4 of the Land Transfer Act 1952
Trustees	Trustees of the Ngāti Mākino Iwi Authority as defined in s 8 of the Act.

2 Foreword

- Introduction**
- (a) The Act came into force on 1st August 2012.
 - (b) The land concerned is in the South Auckland Land Registration District.
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Purpose The Registrar-General of Land (RGL) has issued this guideline to ensure that applications received by 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 guidelines focus primarily on the provisions of the Act that impact on the registration process.
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Intended use of guideline The RGL has issued this guideline for employees of LINZ with delegated authority to exercise registration functions under the Land Transfer Act 1952.

Application where part computer register affected When this guideline refers to parcels of land or whole computer registers, but the incoming application affects only part, memorials and actions should be amended accordingly.

- References** The following documents are necessary for the application of this guideline:
- (a) Deed of Settlement for Ngāti Mākino dated 2nd April 2012¹.
 - (b) Ngāti Mākino Claims Settlement Act 2012.
-

¹ Refer to the Office of Treaty Settlements website for a copy of the Deed of Settlement and its amendments.

3 Removal of memorials

Trigger A certificate issued under s 14 for the removal of certain memorials from a computer register.

Legislation

(a) Section 13 refers to the following enactments which do not apply to:

- (i) Cultural Redress property,
- (ii) Licensed land,
- (iii) Moutoroi Pa site,
- (iv) Otamarakau School site (but note the restriction in section 13),
- (v) RFR land, and
- (vi) For the benefit of Ngāti Mākino or a representative entity.

(b) Those enactments are :

- (i) sections 8A to 8HJ of the Treaty of Waitangi Act 1975,
- (ii) sections 27A to 27C of the State-Owned Enterprises Act 1986,
- (iii) sections 211 to 213 of the Education Act 1989,
- (iv) Part 3 of the Crown Forest Assets Act 1989, and
- (v) Part 3 of the New Zealand Railways Corporation Restructuring Act 1990.

Certificate Section 14(4) requires the RGL to register a certificate against the affected registers, cancelling any relevant memorial referred to in s 13. The certificate must:

- (a) be issued by the Chief Executive (s 14(1)), as soon as reasonably practicable after the settlement date, or actual deferred settlement date,
- (b) identify each allotment, which is all, or part, of a settlement property, and computer register which contains such a memorial (s 14(1)), and
- (c) state that it is issued under s 14 (s 14(3)).

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Removal of memorials, continued

Action

- (a) any memorial on the current view of the computer register which relates to an enactment referred to in s 13(2) should be removed;
- (b) the following memorial should be recorded on the historic view of that register:
 - '[instrument number] Certificate under section 14 of the Ngāti Mākino Claims Settlement Act 2012 cancelling [memorial identifier] [date and time]'.
- (c) 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 13(2)) does not apply'.

4 Vesting of cultural redress properties

Cultural redress properties

Properties vested in the Trustees of the Ngāti Mākino Iwi Authority

Site	Legal description
Te Kōhanga site	<p>South Auckland Land District–Western Bay of Plenty District.</p> <p>202 hectares, approximately, being part section 1 SO 60652. Part Gazette 1940 page 2595, part Gazette 1920 and part Gazette 1937 page 1711.</p> <p>Subject to right of way easement in gross referred to in section 58(3).</p> <p>Together with the right of way easement referred to in section 58(4)</p>
Rākau ō Kauwae Hapa site	<p>South Auckland Land District–Whakatane District.</p> <p>274.8329 hectares, more or less, being section 2 SO 60650. Part Gazette 1981 page 2680.</p> <p>Subject to a right of way easement over part of section 2 SO 60650 marked A on SO 378784 in favour of Lot 2 DP 35012, Lots 3 and 4 DP 35014, Lot 1 DP 57549, Lots 1 and 2 DP 57553, and Lot 6 DP 35014.</p> <p>Subject to a right of way easement created by deed of easement 6405090.4 and held in Computer Interest Register (Provisional) 220529.</p> <p>Subject to the conservation covenant referred to in section 62(3) and (4).</p>
Ngā Pōrōtai-o-Waitaha-a-Hei site	<p>South Auckland Land District–Western Bay of Plenty District.</p> <p>23 hectares, approximately, being part section 1 SO 60652. Part Gazette 1940 page 2595. Subject to survey. As shown on OTS-275-08.</p> <p>Scenic reserve subject to section 19(1)(a) of the Reserves Act 1977.</p> <p>Together with the right of way easement referred to in section 65(5).</p>

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Vesting of cultural redress properties, continued

Table cont.

<p>Lake Rotoehu Scenic Reserve site</p>	<p>South Auckland Land District–Rotorua District.</p> <p>41.2779 hectares, more or less, being section 20 Block VI Rotoma Survey District. All Gazette 1973 page 1693.</p> <p>33.5000 hectares, more or less, being section 27 Rotoma Survey District. All Gazette 1977 page 2638.</p> <p>45.0260 hectares, more or less, being sections 28, 29, 30, and 31 Block VI Rotoma Survey District. All Gazette 1978 page 2532.</p> <p>11.2700 hectares, more or less, being sections 32 and 33 Block VI Rotoma Survey District. All Gazette 1979 page 1095.</p> <p>0.2800 hectares, more or less, being sections 1, 3, 5, 6, 7, and 8 SO 47354.</p> <p>0.6194 hectares, more or less, being sections 3 and 5 SO 47355.</p> <p>0.1077 hectares, more or less, being sections 1 and 2 SO 47356.</p> <p>Scenic reserve subject to section 19(1)(a) of the Reserves Act 1977.</p> <p>Subject to a water supply easement held in computer interest register SA 48C/94 (affecting section 20 Block VI Rotoma Survey District).</p>
<p>Balance of Matawhāura site</p>	<p>South Auckland Land District–Rotorua District.</p> <p>53 hectares, approximately, being part section 2 SO 382301. Part Proclamation 5125. Subject to survey. As shown on OTS-275-02.</p> <p>Scenic reserve subject to section 19(1)(a) of the Reserves Act 1977.</p>
<p>Rotoehu Forest Central Wānanga site</p>	<p>South Auckland Land District–Western Bay of Plenty District.</p> <p>3 hectares, approximately, being part Section 1 SO 60652. Part Gazette 1940 page 2595 and part Gazette 1920 page 2109. Subject to survey. As shown on OTS-275-07.</p> <p>Local purpose (conservation and education) reserve subject to section 23 of the Reserves Act 1977.</p> <p>Together with the right of way easement referred to in section 66(5).</p>

Vesting of cultural redress properties, continued

Trigger	Receipt of a written application under s 69(2) by an authorised person to register the trustees as proprietors of the fee simple estate.
Authorised persons	Section 69(7) identifies authorised persons as a person authorised by the Chief Executive of the landholding agency.
Statutory application	<ul style="list-style-type: none">(a) The subdivisional requirements of the Resource Management Act 1991 do not apply to cultural redress property (s 72).(b) Section 348 of the Local Government Act 1974 does not apply to cultural redress property (s 72(4)).
Action - registration of trustees. s 69(3) & (4)	<ul style="list-style-type: none">(a) If a cultural redress property is all of the land contained in a computer freehold register, the RGL must register the trustees as the proprietors of the fee simple;(b) Make any entries in the register necessary to give affect to subpart 6 of Part 2 of the Ngāti Māhino Claims settlement Act 2012;(c) To the extent that:<ul style="list-style-type: none">(i) a cultural redress property is not all of the land in a computer freehold register, or(ii) there is no computer freehold register for all or part of the property;(d) the RGL must create one or more computer freehold registers in the name of the trustees;(e) enter any encumbrances described in the application;(f) Creation of the above computer registers is subject to completion of any necessary survey;(g) The standard registration fee is payable.

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Vesting of cultural redress properties, continued

Action - vestings subject to encumbrances

Section 68

- (a) The cultural redress properties are vested subject to the encumbrances set out in Schedule 2 of the Act (s 68).
- (b) A number of the encumbrances are unregistered instruments.
- (c) Only the encumbrances referred to in the application are required to be entered on the computer register.

Action - vestings subject to trustees' encumbrances or covenants

- (a) The cultural redress properties set out below are vested subject to the trustees creating the encumbrances or covenants as stated.
- (b) The applications in respect of these sites must be accompanied by the instruments creating the encumbrances or covenants referred to.
- (c) For details of the easements or covenants see not only the instrument creating the easement or covenant, but also the relevant section of the Act.

Property	Encumbrance or covenant the trustees must create (register)	Refer to...
Rakau o Kauwae Hapa site	<ul style="list-style-type: none"> • A right of way easement in gross in favour of the Minister of Conservation. • Conservation covenants to the Crown to be treated as conservation covenants for the purposes of section 77 of the Reserves Act 1977 and section 27 of the Conservation Act 1987. 	s 62(3)
Te Kohanga Site	<ul style="list-style-type: none"> • A right of way easement in gross in favour of the Minister of Conservation. • Conservation covenants to the Crown to be treated as conservation covenants for the purposes of section 77 of the Reserves Act 1977 and section 27 of the Conservation Act 1987. 	s 58(3)

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Vesting of cultural redress properties, continued

Action - vesting with benefit of right of way

For details of the easements, encumbrance, or covenants see not only the instrument creating the easement or covenant, but also the relevant section of the Act.

Property	Encumbrance or covenant the trustees must create (register)	Refer to
Te Kohanga site	<ul style="list-style-type: none"> The Minister of Conservation must provide the trustees with a registrable right of way easement in gross as defined in section 58(3). The application in respect of this site must be accompanied by the instrument creating the right of way easement. The right of way easement is not subject to section 348 of the Local Government Act 1974 (section 72(4)). The creation of the right of way easement is subject to the completion of any necessary survey. 	s 58(4)
Nga Porotai – o- Waitaha – a – Hei site	<ul style="list-style-type: none"> The Minister of Conservation must provide the trustees with a registrable right of way easement in gross as defined in section 65(5). The application in respect of this site must be accompanied by the instrument creating the right of way easement. The right of way easement is not subject to section 348 of the Local Government Act 1974 (section 72(4)). The creation of the right of way easement in gross is subject to the completion of any necessary survey. 	s 65(5)

Action - Rotoehu Forest Central Wananga site

- The Minister of Conservation must provide the trustees with a registrable right of way easement in gross as defined in s 66(5).
- The application in respect of this site must be accompanied by the instrument creating the right of way easement.
- The right of way easement is not subject to s 348 of the Local Government Act 1974 (s 72(4)).
- The creation of the right of way easement is subject to the completion of any necessary survey.

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Vesting of cultural redress properties, continued

Action - memorials

- (a) The following are examples of suitable memorials to record the vesting on an existing computer freehold register.
- (b) Reserve sites being the Lake Rotoehu scenic reserve site, the Nga Porotai –o- Waitaha – a – Hei site and the Rotoehu Forest Central Wananga site but not the balance of Matawhaura site:
 - (i) '[registration number] Application under section 69 of the Ngāti Mākino Claims Settlement Act 2012 vesting the within land in [names of the trustees] [date and time]'.
 - (ii) 'Subject to Part 4A of the Conservation Act 1987 (but section 24 of that Act does not apply)'.
 - (iii) 'Subject to sections 70(3) and 74(1) to (7) of the the Ngāti Mākino Claims Settlement Act 2012'.
 - (iv) 'Subject to section 11 of the Crown Minerals Act 1991'.
- (c) Balance of the Matawhaura site:
 - (i) '[registration number] Application under section 69 of the Ngāti Mākino Claims Settlement Act 2012 vesting the within land in [names of the trustees] [date and time]'.
 - (ii) 'Subject to Part 4A of the Conservation Act 1987 (but section 24 of that Act does not apply)'.
 - (iii) 'Subject to sections 70(3) and 74 of the the Ngāti Mākino Claims Settlement Act 2012'.
 - (iv) 'Subject to section 11 of the Crown Minerals Act 1991'.
- (d) Te Kohanga site:
 - (i) '[registration number] Application under section 69 of the Ngāti Mākino Claims Settlement Act 2012 vesting the within land in [names of the trustees] [date and time]'.
 - (ii) 'Subject to Part 4A of the Conservation Act 1987'.
 - (iii) 'Subject to sections 59 and 61 of the the Ngāti Mākino Claims Settlement Act 2012'.
 - (iv) 'Subject to section 11 of the Crown Minerals Act 1991'.
- (e) Rakau o Kauwae Hapa site:
 - (i) '[registration number] Application under section 69 of the Ngāti Mākino Claims Settlement Act 2012 vesting the within land in [names of the trustees] [date and time]'.
 - (ii) 'Subject to Part 4A of the Conservation Act 1987'.
 - (iii) 'Subject to section 11 of the Crown Minerals Act 1991'.

Vesting of cultural redress properties, continued

Revocation and re-conferring of reserve status

The reserve status of the following sites is revoked and/or new reserve status or no reserve status conferred:

Property	Revoked Status	Section	Estate	New status/ purpose	Section
Te Kohanga site	Conservation area	58(1)	Fee Simple	No specified purpose	58(2)
Rakau o Kauwae Hapa site	Conservation area	62(1)	Fee Simple	No specified purpose	62(2)
Lake Rotoehu Scenic Reserve site	Scenic Reserve	63(1)	Fee Simple	Scenic Reserve	63(3)
Balance of Matawhaura site	Scenic Reserve	64(1)	Fee Simple	Scenic Reserve	64(3)
Nga Porotai o Waitaha a Hei Site	Conservation area	65(1)	Fee Simple	Scenic Reserve	65(3)
Rotoehu Forest Central Wananga site	Conservation area	66(1)	Fee Simple	Local purpose (conservation and education) Reserve	66(3)

Action - statutory actions

- (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) When the vesting in the trustees has been registered, the new reserve status (if any) must, where applicable, be noted on the current view of the relevant computer register as per the above table.

Trigger – S 71(3)

Application from the Director-General of Conservation, under s 71(3), to cancel memorials recording that s 24 of the Conservation Act 1987 does not apply, if the reservation of a reserve site over the balance of Matawhaura site is revoked, in whole or in part.

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Vesting of cultural redress properties, continued

**Action -
memorial**

The approved format for the memorial which must record the cancellation is:

'[application identifier] Application under section 71(3) of the Ngāti Mākino Claims Settlement Act 2012 revoking the reserve status of [part of] the within land [date and time]'.

**Action -
removal of
memorials**

The following notifications must be removed:

- (a) from the memorial 'Subject to Part 4A of the Conservation Act 1987 (but section 24 of that Act does not apply)' the words '(but section 24 of that Act does not apply)', and
 - (b) the memorial 'Subject to sections 70(3) and 74 of the Ngāti Mākino Claims Settlement Act 2012'.
-

Trigger S71(4)

Application from the Director-General of Conservation, under s 71(4), to cancel memorials recording that s 24 of the Conservation Act 1987 does not apply, if the reservation of a reserve site other than the balance of Matawhaura site is revoked, in whole or in part.

**Action -
Memorial**

The approved format for the memorial which must record the cancellation is:

'[application identifier] Application under section 71(4) of the Ngāti Mākino Claims Settlement Act 2012 revoking the reserve status of [part of] the within land [date and time]'.

**Action -
removal of
memorials**

The following notifications must be removed:

- (a) from the memorial 'Subject to Part 4A of the Conservation Act 1987 (but section 24 of that Act does not apply)' the words '(but section 24 of that Act does not apply)', and
 - (b) the memorial 'Subject to sections 70(3) and 74(1) to (7) of the Ngāti Mākino Claims Settlement Act 2012'.
-

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Vesting of cultural redress properties, continued

Trigger Transfer instrument transferring reserve land to new owners.

**Action -
Transfer of
reserve land -
section 74**

- (a) The fee simple estate in reserve land may be transferred to any other person only in accordance with s 74.
 - (b) The written consent of the Minister of Conservation must accompany the transfer instrument.
 - (c) If any other documents are required for registration they must be registered or lodged.
 - (d) Upon receipt of the transfer and consent the RGL must register the transfer.
 - (e) The transfer instrument must contain a statement that the new owners hold the land for the same purpose as the previous owners held it.
 - (f) The RGL must record on the computer freehold register the purpose that the new owners own the land.
 - (g) The above does not apply in certain circumstances where the land is held in a trust and the affect of the transfer is to change the trustees. A certificate accompanying a subsequent transfer is sufficient proof that ss 74(3) to (6) do not apply.
-

5 Commercial redress

Trigger A written application by an authorised person under s 80(2) to create a computer freehold register.

Authorised person

- (a) For the purposes of ss 80, 81, and 82, authorised person means a person authorised by the Chief Executive of the land holding agency for the licensed land or the Otamarakau School site (as applicable) (s 80(3)).
- (b) The subdivisional requirements of the Resource Management Act do not apply to cultural redress property (s 83(1)).
- (c) Section 348 of the Local Government Act 1974 does not apply to cultural redress property [section 83(6)].

Action - Otamarakau School site

- (a) Where there is no computer freehold register for all, or part of the property, or the Otamarakau School site is not all of the land contained in the register, the RGL must create a computer freehold register in the name of the Crown subject to and together with any encumbrances that are registered, or described in the application, but without any statement of purpose.
- (b) Standard registration fees apply.
- (c) Authorised person in defined in s 80(3).
- (d) Creation of the above computer freehold register is subject to the completion of any necessary survey.

Trigger A written application by an authorised person under s 81(2) to create a computer freehold register.

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Commercial redress, continued

Action - Licensed land

- (a) The RGL must create a computer freehold register in the name of the Crown subject to and together with any encumbrances that are registered, or described in the application, but without any statement of purpose.
- (b) Standard registration fees apply.
- (c) Authorised person defined in s 80(3).

Creation of the above computer freehold register is subject to the completion of any necessary survey.

Trigger

A written request by an authorised person under s 80(2) to register a covenant.

Action - Covenant for later creation of computer freehold register - s 80

- (a) If no computer freehold register exists and an authorised person requests the RGL to register a covenant in accordance with s 80, the RGL must register the covenant and create a computer interest register.
 - (b) Standard registration fees apply.
-

Trigger

Registration of a transfer of a commercial redress property from the Crown.

Action - Application of other enactments

Section 83 sets out how certain other enactments apply to commercial redress properties upon registration of a transfer from the Crown. In addition to the standard transfer memorial recording the details of the transferee, the following memorials must be added:

- (a) 'Subject to Part 4A of the Conservation Act 1987. But ss 24(2A), 24A, and 24AA do not apply', and
 - (b) 'Subject to s 11 of the Crown Minerals Act 1991'.
-

6 Licensed land

Licensed land - section 84

- (a) Licensed land ceases to be Crown forest land on the registration of the transfer of the fee simple estate to the trustees.
 - (b) Nothing can be registered or noted that would be consistent with the Crown Forests Assets Act 1989, but inconsistent with Part 3, Subpart 2 of the Act.
-

Trigger

Creation of a public right of way easement under s 8 of the Crown Forest Assets Act 1989 over any land that is licensed land which is held in a Crown forestry license [s 90].

Action

As well as the normal transfer memorial, the computer freehold register must contain a notation that the land is subject to a public right of entry for recreational purposes pursuant to s 90(1) of the Act.

Memorial

A suitable memorial would be:

'Subject to a public right of entry for recreational purposes pursuant to section 90(1) Ngāti Mākino Claims Settlement Act 2012'.

Removal of right of public entry memorial - section 89(2)

- (a) On the expiry of the crown forestry licence, the registered proprietor may apply to have the memorial noting a right of public entry removed.
 - (b) On receipt of a written application by the registered proprietor, the RGL must remove the memorial noting the right of public entry.
 - (c) The crown forestry licence must have expired.
-

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Licensed land, continued

Public right of way easement - section 90

If an easement in gross granting a public right of way easement is registered under s 8 of the Crown Forest Assets Act 1989:

- (a) section 348 of the Local Government Act 1974 does not apply, and
 - (b) sections 26 and 27 of the Crown Forest Assets Act 1989 apply to any variation, renewal, or cancellation under s 8(b) of that Act of the easement.
-

Trigger

Written application by an authorised person under s 93 to note a right of access.

Action

The RGL must make a notation on the computer freehold register that the land is subject to the right of access set out in s 94.

Authorised person

A person authorised by the Chief Executive of LINZ under s 94(4).

Memorial

A suitable memorial would be

'[part of] the within land is subject to a right of access under section 91 of the Ngāti Māhino Claims Settlement Act 2012 see application [registration number] [date and time]'.

7 Right of first refusal

Trigger - s 118 certificate Receipt of a certificate from the Chief Executive under s 118 that identifies a computer register for RFR land.

**Action -
memorials
record RFR
land**

(a) Add the following memorial to the current view of the computer register identified in the s 118 certificate:

'[certificate identifier] Certificate under section 118(2) of the Ngāti Māhino Claims Settlement Act 2012 that the within land is RFR land as defined in section 95 and is subject to Subpart 4 of Part 3 of the Act (which restricts disposal, including leasing, of the land) [date and time]'.

(b) The standard registration fee is payable.

Trigger - s 119 certificate Receipt of a certificate from the Chief Executive under s 119(1) for the removal of s 118 memorials from a computer register, on land ceasing to be RFR land.

**Action -
registration
requirements**

(a) The standard registration fee is payable.

(b) The transfer or vesting must be registered.

(c) When the certificate is received, the s 118 memorial should be removed and the following memorial should be recorded on the historic view of the register:

'[certificate identifier] Certificate under section 119(1) of the Ngāti Māhino Claims Settlement Act 2012 removing [memorial identifier] entered under section 118 [date and time]'.

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Right of first refusal, continued

Trigger - s 120 certificate

Receipt of a certificate from the Chief Executive under s 120(1) for the removal of s 118 memorials from a computer register at the end of the RFR period.

Action - registration requirements

- (a) The standard registration fee is payable.
- (b) When the certificate is received, the s 118 memorial should be removed and the following memorial must be recorded on the historic view of the register:

'[certificate identifier] Certificate under section 120(1) of the Ngāti Mākino Claims Settlement Act 2012 removing [memorial identifier] entered under section 118 [date and time]'.

Action - ongoing monitoring of RFR land

A transfer of 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 118(2), cannot be registered unless:

- (a) the dealing is in favour of the trustees, the Crown, or a Crown body (s 103), or
 - (b) a certificate from the Chief Executive has been received under s 119(1), or
 - (c) at the end of the RFR period, a certificate from the Chief Executive has been received under s 120(1) for the removal of the memorial under s 118.
-