

Heretaunga Tamatea claims settlement right of first refusal

Learn about the key aspects of the Heretaunga Tamatea claims settlement right of first refusal (RFR). Note: this is a guide only and agencies must comply with the requirements of the Deed of Settlement, legislation and any relevant LINZ standards.

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The following has been developed in collaboration with Te Arawhiti.

Te Arawhiti website: <https://www.tearawhiti.govt.nz/>

The Heretaunga Tamatea area of interest

Heretaunga Tamatea and its hapū is one of six large natural groupings negotiating the settlement of the historical Treaty of Waitangi claims of Ngāti Kahungunu. The Heretaunga Tamatea area of interest extends from the Tūtaekurī River in the north following the ridge of the Ruahine Range south to Takapau and turns seawards to Pōrangahau in the south. The rohe includes five major river systems –the Tūtaekurī River, the Ngaruroro, the Tukituki River, the Maraetōtara and the Pōrangahau River / Taurekaitai Stream – and comprises an alluvial plains system powered by the Heretaunga and the Ruataniwha aquifers.

The map below provides an indication of the area of interest for Heretaunga Tamatea, but is not a depiction of any RFR area.



Map showing the area of interest referred to in the Deed of Settlement between Heretaunga Tamatea and the Crown.

Settlement Summary

Heretaunga Tamatea received redress through its Treaty settlement with the Crown.

Iwi	Heretaunga Tamatea
Deed of Settlement signed	<p>26 September 2015</p> <p>The Deed was amended during the settlement process.</p> <p>Heretaunga Tamatea Deed of Settlement: https://www.govt.nz/browse/history-culture-and-heritage/treaty-settlements/find-a-treaty-settlement/heretaunga-tamatea/heretaunga-tamatea-documents/</p>
Settlement date	22 August 2018
Legislation	Heretaunga Tamatea Claims Settlement Act 2018 (“the Act”)
RFR provisions	<p>The RFR provisions are covered by sections 97-125 and Schedule 6 of the Act.</p> <p>Sections 97-125 of the Act: https://legislation.govt.nz/act/public/2018/0014/latest/DLM7317933.html</p> <p>Schedule 6 of the Act: https://legislation.govt.nz/act/public/2018/0014/latest/DLM7318014.html</p>
Offer made to	The RFR offer is in favour of the trustees of the Heretaunga Tamatea Settlement Trust (“the trustees ”)
RFR period	174 years on and from the settlement date (expires in 2191)
RFR memorials	Yes

Definition of RFR land

Section 98 of the Act defines RFR land included in the settlement. It includes all the land listed in Part 3 of the Attachments to the Deed of Settlement that, on settlement date, was vested in or held in fee simple by the Crown.

Section 98 of the Act:

<https://legislation.govt.nz/act/public/2018/0014/latest/DLM7317956.html>

Deed of Settlement – Attachments:

<https://www.govt.nz/assets/Documents/OTS/Heretaunga-Tamatea/Heretaunga-Tamatea-Deed-of-Settlement-Schedule-Attachments.pdf>

RFR land also includes land obtained in exchange for a disposal of RFR land under specified sections. This is set out in section 98(1)(b) of the Act.

Section 98(1)(b) of the Act:

<https://legislation.govt.nz/act/public/2018/0014/latest/DLM7317956.html>

Disposals

The RFR obligation arises for any disposal that:

- transfers or vests the fee simple estate in the land, or
- grants a lease of the land for a term that is, or will be (if any rights of renewal or extension are exercised under the lease), 50 years or longer.

Preliminary notice

There is no requirement to give preliminary notice of a disposal in this settlement.

Offering the land

The RFR offer to the trustees needs to include:

- the terms of the offer, including the expiry date
- the legal description and street address of the land
- any interests affecting the land
- contact details for the trustees to respond to.

Section 100 of the Act:

<https://legislation.govt.nz/act/public/2018/0014/latest/DLM7317961.html>

Expiry date of offer

The RFR offer expires on or after 20 working days after the day the trustees receive the offer. However, a shorter expiry date of on or after 10 working days after the day on which an offer is received applies for any subsequent offers where the expiry date of the earlier offer was not more than 6 months before the expiry date of the later offer.

Section 101 of the Act:

<https://legislation.govt.nz/act/public/2018/0014/latest/DLM7317962.html>

Subsequent disposal process

If the trustees do not accept an offer, or the offer period expires, the RFR landowner can dispose of the land provided that:

- the subsequent disposal is not on more favourable terms than those offered to the trustees,
- the land is being disposed of within 2 years after expiry of the RFR offer and
- the trustees are notified of the proposed disposal at least 20 working days before the disposal occurs.

This notification must provide details of the disposal, including the name of the person to whom the land is being disposed of and an explanation of how the disposal complies with section 99 of the Act, and a copy of the written contract to demonstrate that the subsequent disposal is not on more favourable terms than the RFR offer.

Section 99 of the Act:

<https://legislation.govt.nz/act/public/2018/0014/latest/DLM7317959.html#DLM7317959>

Section 117 of the Act:

<https://legislation.govt.nz/act/public/2018/0014/latest/DLM7317983.html>

Exempted disposals

Certain disposals can occur without making an RFR offer to the trustees. These exempted disposals are set out in sections 105-115 of the Act.

Sections 105-115 of the Act:

<https://legislation.govt.nz/act/public/2018/0014/latest/DLM7317968.html>

The trustees must be notified of the proposed exempted disposal at least 20 working days before the disposal occurs, including an explanation of why the disposal is exempted under the settlement.

Section 117 of the Act:

<https://legislation.govt.nz/act/public/2018/0014/latest/DLM7317983.html>

RFR Memorials

All records of title for RFR land must be noted with a memorial protecting the Trust's interest.

If an RFR landowner creates a new record of title for an RFR property, the landowner must advise LINZ as soon as possible so LINZ can place a memorial noting the RFR on the title.

Section 116 of the Act:

<https://legislation.govt.nz/act/public/2018/0014/latest/DLM7317982.html>

In certain cases, the RFR landowner must seek a certificate from LINZ requesting the removal of the RFR memorial, before a transfer can occur.

Section 118 of the Act:

<https://legislation.govt.nz/act/public/2018/0014/latest/DLM7317984.html>

Contact details

For more information about the Heretaunga Tamatea claims settlement contact:

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PO Box 5501

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Toitū Te Whenua Land Information New Zealand website: <https://www.linz.govt.nz/>

Te Arawhiti – The Office for Māori Crown Relations

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