

Te Atiawa claims settlement right of first refusal

Learn about the key aspects of the Te Atiawa claims settlement right of first refusal (RFR).

Publication Date: 9 Mar 2022

Note: this is a guide only and agencies must comply with the requirements of the Deed of Settlement, legislation and any relevant LINZ standards.

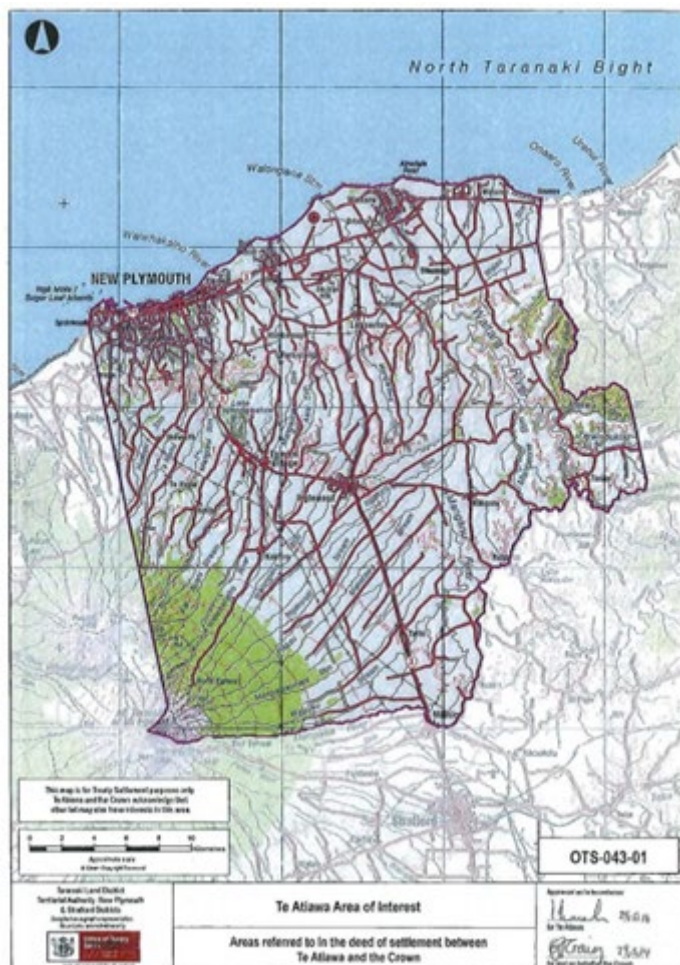
The following has been developed in collaboration with Te Arawhiti.

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

The Te Atiawa area of interest

Te Atiawa is one of the eight iwi in the Taranaki region. The rohe of Te Atiawa extends from Te Rau o Te Huia along the coast to the Herekawe Stream, inland to Tahuna Tutawa, east to Whakangerengere, northeast to Taramoukou, and north back to Te Rau o te Huia.

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



Map showing the area of interest referred to in the Deed of Settlement between Te Atiawa and the Crown.

Settlement summary

Te Atiawa received redress through its Treaty settlement with the Crown.

Iwi	Te Atiawa
Deed of Settlement signed	<p>9 August 2014</p> <p>The Deed was amending during the settlement process.</p> <p>Te Atiawa Deed of Settlement: https://www.govt.nz/assets/Documents/OTS/Te-Atiawa-Taranaki/Te-Atiawa-Taranaki-Deed-of-Settlement-9-Aug-2014.pdf </p>
Settlement Date	23 February 2017
Legislation	Te Atiawa Claims Settlement Act 2016 ("the Act")
RFR provisions	<p>The RFR provisions are covered by sections 86-116 and Schedule 4 of the Act.</p> <p>Sections 86-116 of the Act: http://legislation.govt.nz/act/public/2016/0094/latest/DLM6460284.html </p> <p>Schedule 4 of the Act: http://legislation.govt.nz/act/public/2016/0094/latest/DLM6460402.html </p>
Offer made to	The RFR offer is in favour of the trustees of one or both trusts (" offer trusts "), depending on the category of RFR land that applies to particular land
Categories of RFR land	Exclusive RFR land and non-exclusive RFR land
RFR period	172 years from the settlement date for both categories of RFR land (expires in 2189)
RFR memorials	Yes

Definition of RFR land

Section 87 of the Act defines RFR land included in the settlement and sets out the categories of RFR land. The RFR landowner will need to confirm which category of RFR land applies to particular land.

Section 87 of the Act:

<http://legislation.govt.nz/act/public/2016/0094/latest/DLM6460316.html>

Under the settlement there are two categories of RFR land applicable to Te Atiawa:

Exclusive RFR land to Te Atiawa (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).

Non-exclusive RFR land shared between Te Atiawa and Taranaki Iwi (the area shown on SO 477762 in Part 4 of the attachments to the Deed of Settlement that, on settlement date, was vested in or held in fee simple by the Crown, or was a Crown-derived reserve vested in an administering body that would revert to the Crown).

Section 86 of the Act:

<http://legislation.govt.nz/act/public/2016/0094/latest/DLM6460284.html>

Deed of Settlement – Attachments: <https://www.govt.nz/assets/Documents/OTS/Te-Atiawa-Taranaki/Te-Atiawa-Taranaki-Deed-of-Settlement-Attachments-9-Aug-2014.pdf>

RFR land also includes land obtained in exchange for a disposal of RFR land under specified sections. This is set out in section 87(1)(c) of the Act.

Section 87(1)(c) of the Act:

<http://legislation.govt.nz/act/public/2016/0094/latest/DLM6460316.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 a preliminary notice requirement only for non-exclusive RFR land. An RFR landowner is required to notify the relevant offer trusts of the potential disposal of such land where they may ultimately be required to make an RFR offer.

Section 109 of the Act specifies the timing for when in a disposal process this preliminary notice must be given.

Section 109 of the Act:

http://legislation.govt.nz/act/public/2016/0094/latest/DLM6460346.html?search=sw_096be8ed819f28c7_considered_25_se&p=1

Offering the land

The RFR offer to the trustees of one of both offer trusts 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
- which category of RFR land applies.

Section 90 of the Act:

<http://legislation.govt.nz/act/public/2016/0094/latest/DLM6460321.html>

Expiry date of offer

The RFR offer expires on or after 40 working days after the day the offer trust receives the offer. However, a shorter expiry date of on or after 20 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 91 of the Act:

<http://legislation.govt.nz/act/public/2016/0094/latest/DLM6460323.html>

Shared RFR offers

In the case of non-exclusive RFR land, an RFR landowner must offer the land to the trustees of more than one offer trust. Shared RFR offers are made simultaneously to each relevant offer trust. A contract for disposal can only be entered into with one of the offer trusts.

Section 91(3) of the Act:

<http://legislation.govt.nz/act/public/2016/0094/latest/DLM6460323.html>

If the trustees of both offer trusts seek to accept the offer, the RFR landowner has 10 working days to notify the trustees of those two offer trusts. This notice must identify the trusts which have sought to accept the offer and state that the offer may be accepted by only one offer trust before the end of the 20th working day after the day on which the RFR landowner's notice is received.

Section 93 of the Act:

<http://legislation.govt.nz/act/public/2016/0094/latest/DLM6460325.html>

The onus is on the offer trusts to resolve which of them will accept the offer before the additional 20 working day period expires.

Subsequent disposal process

If the offer trusts 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 offer trusts,
- the land is being disposed of within 2 years after expiry of the RFR offer and
- the offer trusts that were offered the land 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 89 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 89 of the Act:

<http://legislation.govt.nz/act/public/2016/0094/latest/DLM6460320.html#DLM6460320>

Section 107 of the Act:

<http://legislation.govt.nz/act/public/2016/0094/latest/DLM6460344.html>

Exempted disposals

Certain disposals can occur without making an RFR offer. These exempted disposals are set out in sections 95-104 of the Act.

Sections 95-104 of the Act:

<http://legislation.govt.nz/act/public/2016/0094/latest/DLM6460329.html>

The relevant offer trusts 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 107 of the Act:

<http://legislation.govt.nz/act/public/2016/0094/latest/DLM6460344.html>

RFR Memorials

All records of title for RFR land must be noted with a memorial protecting the offer 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 111 of the Act:

<http://legislation.govt.nz/act/public/2016/0094/latest/DLM6460350.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 112 of the Act:

<http://legislation.govt.nz/act/public/2016/0094/latest/DLM6460351.html>

Contact details

For more information about the Te Atiawa claims settlement contact:

Te Kotahitanga o Te Atiawa Trust

PO Box 1097

Taranaki Mail Centre

NEW PLYMOUTH 4340

Te Atiawa Trust website: <https://teatiawa.iwi.nz/>

Land Information New Zealand

PO Box 5501

WELLINGTON 6145

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

Te Arawhiti – The Office for Māori Crown Relations

SX10111

WELLINGTON 6011

Te Arawhiti website: <http://tearawhiti.govt.nz/>