

Hineuru claims settlement right of first refusal

Learn about the key aspects of the Hineuru 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 Hineuru area of interest

Hineuru is an iwi based north-west of Napier whose area of interest extends into the Hawke's Bay region. The map below provides an indication of the area of interest for Hineuru, but is not a depiction of any RFR area.



Settlement Summary

Hineuru received redress through its Treaty settlement with the Crown.

Iwi	Hineuru
	2 April 2015
Deed of Settlement signed	The Deed was amended during the settlement process. Hineuru Deed of Settlement: https://www.govt.nz/treaty-settlement-documents/ngati-hineuru/
Settlement date	2 August 2016
Legislation	Hineuru Claims Settlement Act 2016 ("the Act") The RFR provisions are covered by sections 107-135 of the Act and Schedule 4 of the Act
RFR provisions	Sections 107-135 of the Act: http://www.legislation.govt.nz/act/public/2016/0033/latest/DLM6491958.html Schedule 4 of the Act: http://www.legislation.govt.nz/act/public/2016/0033/latest/DLM6492037.html
Offer made to	The RFR offer is in favour of the trustees of the Te Kōpere o te iwi o Hineuru Trust ("the trustees")
RFR period	174 years from the settlement date (expires in 2190)
RFR memorials	Yes

Definition of RFR land

Section 108 of the Act defines RFR land included in the settlement. It includes all the land listed in Part 4 of the attachments to the Deed that was vested in or held in fee simple by the Crown on the settlement date.

A property at Waitara Road, Waimahanga may also be RFR land. The property is described in Subpart 4 of Part 3 of the Property Redress Schedule. When this land would be included in RFR land is set out in section 108(1)(b) of the Act.

RFR land also includes land obtained in exchange for a disposal of RFR land under specified sections. This is set out in section 108(1)(c) of the Act.

Section 108 of the Act:

<http://www.legislation.govt.nz/act/public/2016/0033/latest/DLM6491981.html>

Attachments to the Deed of Settlement:

<https://www.govt.nz/assets/Documents/OTS/Ngati-Hineuru/Ngati-Hineuru-Attachments-2-Apr-2015.pdf>

Deed of Settlement Schedule - General Matters and Property Redress:

<https://www.govt.nz/assets/Documents/OTS/Ngati-Hineuru/Ngati-Hineuru-General-Matters-and-Property-Redress-2-Apr-2015.pdf>

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.

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 111 of the Act:

<http://www.legislation.govt.nz/act/public/2016/0033/latest/DLM6491987.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 109 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 109 of the Act:

<https://www.legislation.govt.nz/act/public/2016/0033/latest/DLM6491984.html>

Section 127 of the Act:

<http://www.legislation.govt.nz/act/public/2016/0033/latest/DLM6492008.html>

Exempted disposals

Certain disposals can occur without making an RFR offer to the trustees. These exempted disposals are set out in sections 115-124 of the Act:

<http://legislation.govt.nz/act/public/2016/0033/latest/DLM6491993.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 127 of the Act:

<https://www.legislation.govt.nz/act/public/2016/0033/latest/DLM6492008.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 after settlement date, the landowner must advise LINZ as soon as possible so LINZ can place a memorial noting the RFR on the title.

Section 126 of the Act:

<http://www.legislation.govt.nz/act/public/2016/0033/latest/DLM6492007.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 131 of the Act:

<http://www.legislation.govt.nz/act/public/2016/0033/latest/DLM6492013.html>

Contact details

For more information about the Hineuru claims settlement contact:

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