

Ngā Mana Whenua o Tāmaki Makaurau Collective Redress right of first refusal

Learn about the key aspects of the Ngā Mana Whenua o Tāmaki Makaurau collective redress right of first refusal (RFR). Note: this is a guide only and agencies must comply with the requirements of the collective redress deed, 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/>

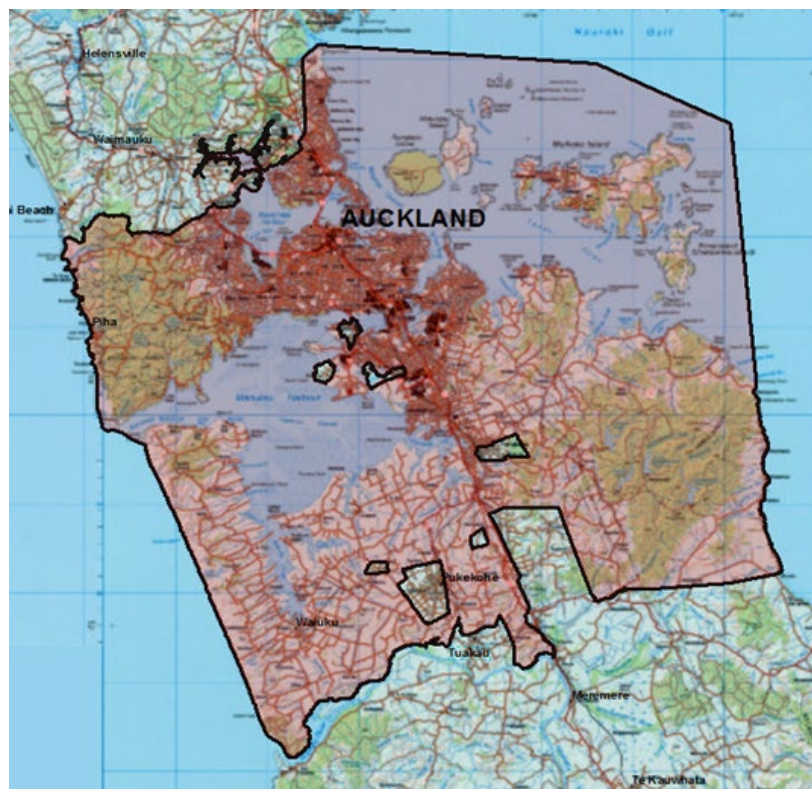
The Ngā Mana Whenua o Tāmaki Makaurau area of interest

There are 13 iwi/hapū with historical Treaty claims in Tāmaki Makaurau whose shared interests are being addressed through a collective redress deed. These 13 iwi/hapū have been in negotiations as the Tāmaki Collective/Ngā Mana Whenua o Tāmaki Makaurau.

Settlements of the specific claims of each of these iwi/hapū are progressing, and in some cases has been completed.

Note: that RFRs are established over different land in the Auckland area through other settlements.

The map to the left provides an indication of the area of interest for Tāmaki Makaurau, but is not a depiction of any RFR area.



Settlement Summary

Ngā Mana Whenua o Tāmaki Makaurau received redress from the Crown.

Iwi	Collective comprising Ngāi Tai ki Tāmaki, Ngāti Maru, Ngāti Pāoa, Ngāti Tamaoho, Ngāti Tamaterā, Ngāti Te Ata, Ngāti Whanaunga, Ngāti Whātua o Kaipara, Ngāti Whātua Ōrākei, Te Āitai Waiohua, Te Kawerau ā Maki, Te Patukirikiri, and Te Rūnanga o Ngāti Whātua
Collective Redress Deed signed	5 December 2012 The Deed was amended during the settlement process. Tāmaki Makaurau collective redress deed: https://www.govt.nz/treaty-settlement-documents/tamaki-makaurau/
Effective date	29 August 2014
Legislation	Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 ("the Act").
RFR provisions	The RFR provisions are covered sections 117-156 of the Act and Schedule 5 of the Act Sections 117-156 of the Act: http://www.legislation.govt.nz/act/public/2014/0052/latest/DLM5322651.html Schedule 5 of the Act: http://www.legislation.govt.nz/act/public/2014/0052/latest/DLM5322804.html
Offer made to	The RFR offer is in favour of the Whenua Haumi Roroa o Tamaki Makaurau Limited Partnership ("the Limited Partnership")
RFR period	172 years from the effective date (expires in 2186)
RFR memorials	Yes

Definition of RFR land

Section 118 of the Act defines RFR land. It includes land within the RFR area (shown in SO 443758 in Part 3 of the Attachments to the collective redress deed) that, on the effective date, was vested in or held in fee simple by the Crown but was not occupied by a tertiary institution, or was a Crown-derived reserve vested in an administering body that would revert to the Crown.

Section 118 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0052/latest/DLM5322680.html>

Collective Redress Deed Schedule – Attachments:

<https://www.govt.nz/assets/Documents/OTS/Tamaki-Makaurau/Tamaki-Makaurau-Collective-Deed-of-Settlement-Attachments-5-Dec-2012.pdf>

RFR land also includes former deferred selection RFR land as well as land obtained in exchange for a disposal of RFR land.

Land listed in Tables 1-3 of Part 4 of the Attachments to the deed that was owned by the Crown, a Crown body, or a specified institution on the effective date is also RFR land.

Section 118(1)(b)-(f) of the Act:

<http://www.legislation.govt.nz/act/public/2014/0052/latest/DLM5322680.html>

Under section 120 of the Act, the Minister for Treaty Negotiations may give notice to the Limited Partnership that RFR land is required for another Treaty settlement. If this occurs, the land ceases to be subject to this RFR.

Section 120 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0052/latest/DLM5322685.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 for RFR land. An RFR landowner is required to notify the Limited Partnership that the potential disposal of such land is being considered where they may ultimately be required to make an RFR offer.

Section 122 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0052/latest/DLM5322691.html>

Offering the land

An RFR landowner cannot make an RFR offer unless at least 40 working days have passed since a preliminary notice was given to the Limited Partnership.

The RFR offer to the Limited Partnership 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 Limited Partnership to respond to.

Section 123 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0052/latest/DLM5322692.html>

Expiry date of offer

The RFR offer expires on or after 40 working days after the day the Limited Partnership 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 124 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0052/latest/DLM5322694.html>

Acceptance of RFR offer

If the Limited Partnership accepts the RFR offer, it must advise whether it is accepting on its own behalf, or on behalf of a rūpu entity.

Section 126 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0052/latest/DLM5322696.html>

Subsequent disposal process

If the Limited Partnership does 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 Limited Partnership,
- the land is being disposed of within 12 months after expiry of the RFR offer and
- the Limited Partnership is 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 121 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 121 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0052/latest/DLM5322689.html#DLM5322689>

Section 144 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0052/latest/DLM5322720.html>

Exempted disposals

Certain disposals can occur without making an RFR offer to the Limited Partnership. These exempted disposals are set out in sections 128-141 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0052/latest/DLM5322700.html>

The Limited Partnership 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 144 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0052/latest/DLM5322720.html>

The settlement also includes specific exemptions in relation to disposal of RFR land in certain circumstances:

- disposal of land by a district health board if the Minister of Health considers the disposal will achieve, or assist in achieving, the district health board's objectives (set out in section 137 of the Act)
- disposal of specified land if Unitec considers that the disposal will further, or assist in furthering, the provision of tertiary education, including the funding of tertiary education, on other land owned or occupied by Unitec and the disposal is not merely because the land is no longer required by Unitec (set out in section 140 of the Act)
- disposal of specified land if the University of Auckland considers that the disposal will assist in giving effect to the institution's policies relating to the provision of tertiary education (set out in section 141 of the Act)

Section 137 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0052/latest/DLM5322711.html>

Section 140 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0052/latest/DLM5322715.html>

Section 141 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0052/latest/DLM5322716.html>

Section 136 of the Act provides that specific exemptions apply to disposals of certain RFR land for State housing purposes. However, section 20 of the Kāinga Ora-Homes and Communities Act 2019 provides that Kāinga Ora-Homes and Communities may not exercise the powers conferred upon Housing New Zealand Corporation or any of its subsidiaries by section 136 of the Act.

Section 136 of the Act:

<http://legislation.govt.nz/act/public/2014/0052/latest/DLM5322710.html#DLM5322710>

Section 20 of the Kāinga Ora-Homes and Communities Act 2019:

<http://legislation.govt.nz/act/public/2019/0050/latest/LMS196222.html>

RFR Memorials

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

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

Section 148 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0052/latest/DLM5322725.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 149 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0052/latest/DLM5322726.html>

Contact details

For more information about the Ngā Mana Whenua o Tāmaki Makaurau settlement contact:

Whenua Haumi Roroa o Tamaki Makaurau Limited Partnership

The Board of Directors
Whenua Haumi Roroa o Tamaki Makaurau Limited Partnership
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Barristers and Solicitors
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Auckland Central
AUCKLAND 1010

Toitū Te Whenua Land Information New Zealand

PO Box 5501
WELLINGTON 6145
Toitū Te Whenua 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/>
Email: postsettlement@tearawhiti.govt.nz