

# Te Aupouri Claims Settlement right of first refusal

Learn about the key aspects of the Te Aupouri 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 Te Aupouri area of interest

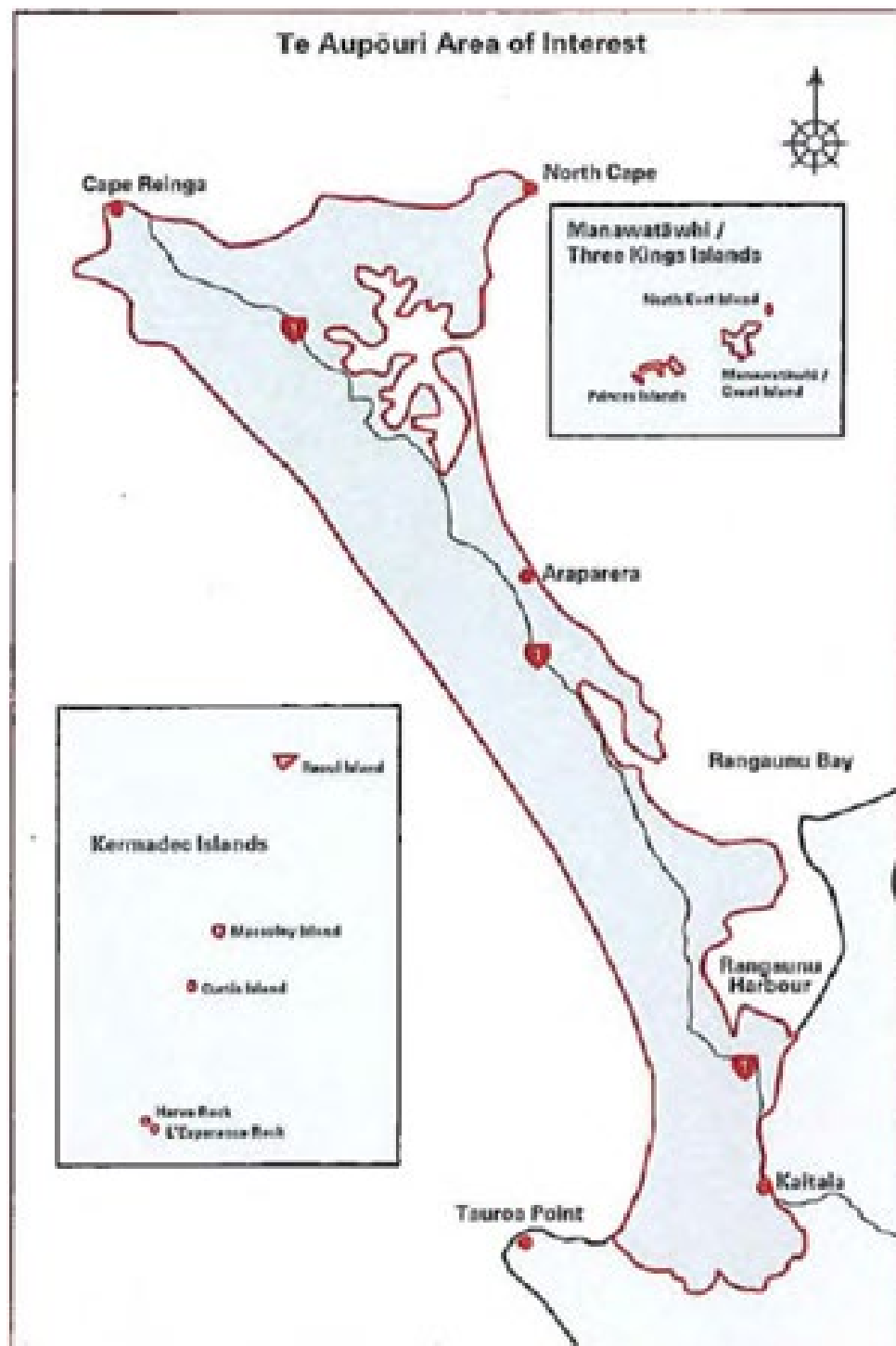
Te Aupouri is one of five iwi of Te Hiku o Te Ika a Maui in Northland.

As this settlement involves shared RFR redress with other iwi, this page must be read in conjunction with those for:

- Ngāi Takoto: <https://www.linz.govt.nz/crown-property/acquisition-and-disposal-land/crown-property-disposal-process/right-first-refusal-rfr/right-first-refusal-guides/ng%C4%81takoto-claims-settlement-right-first-refusal>
- Ngāti Kuri: <https://www.linz.govt.nz/crown-property/acquisition-and-disposal-land/crown-property-disposal-process/right-first-refusal-rfr/right-first-refusal-guides/ng%C4%81ti-kuri-claims-settlement-right-first-refusal>
- Te Rarawa: <https://www.linz.govt.nz/crown-property/acquisition-and-disposal-land/crown-property-disposal-process/right-first-refusal-rfr/right-first-refusal-guides/te-rarawa-claims-settlement-right-first-refusal>

The RFR provides for Ngāti Kahu to participate once they have settled.

The map on the next page provides an indication of the area of interest for Te Aupouri, but is not a depiction of any RFR area.



## Settlement Summary

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

|                                   |  |
|-----------------------------------|--|
| <b>Iwi:</b>                       | Te Aupouri   |
| <b>Deed of Settlement signed:</b> | <p>28 January 2012</p> <p>The Deed was amended during the settlement process.</p> <p>Te Aupōuri Deed of Settlement: <a href="https://www.govt.nz/treaty-settlement-documents/te-aupouri/">https://www.govt.nz/treaty-settlement-documents/te-aupouri/</a></p>  |
| <b>Settlement Date:</b>           | 17 December 2015   |
| <b>Legislation:</b>               | Te Aupouri Claims Settlement Act 2015 ("the Act")  |
| <b>RFR provisions:</b>            | <p>The RFR provisions are covered by sections 154-183 and Schedule 5 of the Act, and Part 3 of the Attachments as replaced by Appendix 6 of the Deed of Amend (dated 14 December 2013).</p> <p>Sections 154-183 of the Act: <a href="http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6576841.html">http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6576841.html</a></p> <p>Schedule 5 of the Act: <a href="http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6577073.html">http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6577073.html</a></p> <p>Deed to Amend the Deed of Settlement: <a href="https://www.govt.nz/assets/Documents/OTS/Te-Aupouri/Te-Aupouri-Deed-to-Amend-14-Dec-2013.pdf">https://www.govt.nz/assets/Documents/OTS/Te-Aupouri/Te-Aupouri-Deed-to-Amend-14-Dec-2013.pdf</a></p> |
| <b>Offer made to:</b>             | The RFR offer is in favour of the trustees of one or more of the offer trusts, depending on the category of RFR land that applies to particular land   |
| <b>Categories of RFR land:</b>    | Shared RFR land and balance RFR land   |
| <b>RFR period:</b>                | <p>Shared RFR land where the other relevant iwi includes Ngāti Kahu: 172 years from 17 December 2017 (expires in 2189)</p> <p>Shared RFR land where the other relevant iwi does not include Ngāti Kahu: 172 years from the settlement date (expires in 2187)</p> <p>Balance RFR land: 172 years from the settlement date (expires in 2187)</p>   |
| <b>Balance RFR land:</b>          | 172 years from the settlement date (expires in 2187)   |
| <b>RFR memorials:</b>             | Yes  |

## Definition of RFR land

Section 155 of the Act defines RFR land included in the settlement and sets out the categories of RFR land. Under the Act, two categories of RFR land apply to Te Aupouri. There is an additional category of exclusive RFR land in the Act which is not applicable to Te Aupouri (except in the context of balance RFR land). The RFR landowner will need to confirm which category of RFR land applies to particular land and who is entitled to receive an RFR offer.

**Shared RFR land** includes land listed in Part 3 of the Attachments to the Deed of Settlement (as replaced by Appendix 6 of the Deed to Amend dated 14 December 2013) that, on settlement date, was vested in the Crown or held in fee simple by the Crown or Kāinga Ora-Homes and Communities (formerly, Housing New Zealand Corporation). Section 154 sets out further detail. Shared RFR land also includes land obtained in exchange for a disposal of RFR land under specified sections. This is set out in section 155(1)(d) of the Act.

Section 154 of the Act:

<http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6576841.html>

Section 155 of the Act:

<http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6576886.html>

Deed to Amend the Deed of Settlement: <https://www.govt.nz/assets/Documents/OTS/Te-Aupouri/Te-Aupouri-Deed-to-Amend-14-Dec-2013.pdf>

**Balance RFR land** is land which has been offered to, but not accepted by another offer trust, but which is still available under this RFR. In effect, the land is to be offered to trustees of the offer trusts which did not receive an offer of the land as exclusive or shared RFR land, where that first offer was not accepted by any of the offer trusts. This is set out in section 156(2) of the Act.

Balance RFR land does not include land vested in, or held by, Kāinga Ora-Homes and Communities (formerly, Housing New Zealand Corporation).

Section 156 of the Act:

<http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6576888.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 of the 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 157 of the Act:

<http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6576891.html>

## Expiry date of offer

The RFR offer expires on or after 20 working days after the day one or more offer trust receives 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 158 of the Act:

<http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6576892.html>

## Shared RFR offers

In the case of shared 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 sale can only be entered into with one of the offer trusts.

If the trustees of two or more offer trusts seek to accept the offer, the RFR landowner has 10 working days to notify the trustees of those two or more 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 10th working day after the day on which the RFR landowner's notice is received.

The onus is on the offer trusts to resolve which of them will accept the offer before the additional 10 working day period expires.

Section 158 of the Act:

<http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6576892.html>

Section 160 of the Act:

<http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6576894.html>

## Balance RFR offers

An offer of balance RFR land occurs after the land has been offered to the relevant trustees of offer trust(s) as exclusive or shared RFR land. In effect, the land is to be offered to trustees of the offer trusts which did not receive an offer of the land as exclusive or shared RFR land, where that first offer was not accepted by any of the offer trusts. A balance offer must be made on the same terms (as far as practicable) as the first offer.

Only one trust can accept an offer of balance RFR land by the expiry date.

Section 160 of the Act:

<http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6576894.html>

## Subsequent disposal process

If the trustees of an offer trust 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 of 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 156 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 156 of the Act:

<http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6576889.html>

Section 175 of the Act:

<http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6576917.html>

## Exempted disposals

Certain disposals can occur without making an RFR offer. These exempted disposals are set out in sections 162-173 of the Act.

Sections 162-173 of the Act:

<http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6576898.html>

The trustees of the 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 175 of the Act:

<http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6576917.html>

Section 172 provides that specific exemptions apply to disposals of RFR land by Housing New Zealand Corporation or any of its subsidiaries. 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 172 of the Act.

Section 172 of the Act:

<http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6576909.html>

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 Trust's interests.

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 174 of the Act:

<http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6576916.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 176 of the Act:

<http://www.legislation.govt.nz/act/public/2015/0077/latest/DLM6576918.html>

Note that memorials here relate to **exclusive RFR land** and **shared RFR land**, but not **balance RFR land**. Attention must be given to the specific requirements within the Deed and Act to determine who is entitled to receive an RFR offer in each circumstance.

## Contact details

For more information about the Te Aupouri claims settlement contact:

### **Te Runanga Nui o Te Aupouri Trust**

Te Kai PDC

RD4

KAITAIA 0484

Te Aupouri Trust website: <http://www.teaupouri.iwi.nz/>

### **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](mailto:postsettlement@tearawhiti.govt.nz)