

Tūhoe claims settlement right of first refusal

Learn about the key aspects of the Tūhoe 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.

Publication Date: 29 October 2020

The following has been developed in collaboration with Te Arawhiti.

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

The Tūhoe area of interest

The Tūhoe area of interest is based around Te Urewera. Tūhoe have approximately 9,300 registered members.

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



Settlement Summary

Tūhoe received redress through its Treaty settlement with the Crown.

Iwi:	Tūhoe
Deed of Settlement signed:	4 June 2013 Tūhoe Deed of Settlement: https://www.govt.nz/treaty-settlement-documents/ngai-tuhoe/
Settlement Date:	25 August 2014
Legislation:	Tūhoe Claims Settlement Act 2014 ("the Act")
RFR provisions:	The RFR provisions are covered by sections 58-87 and Schedule 3 of the Act. Sections 58-87 of the Act: http://www.legislation.govt.nz/act/public/2014/0050/latest/DLM5481441.html Schedule 3 of the Act: http://www.legislation.govt.nz/act/public/2014/0050/latest/DLM5481893.html
Offer made to:	The RFR offer is in favour of the trustees of Tūhoe Te Uru Taumatua ("the trustees").
RFR period:	172 years from the settlement date (expires in 2186)
RFR memorials:	Yes

Definition of RFR property

Section 59 of the Act defines RFR land included in the settlement. It includes all the land within the RFR area (shown on SO 464047 in Part 3.1 of the Attachments) that, on settlement date, was vested in or held in fee simple by the Crown, or was a Crown-derived reserved vested in an administering body that would revert to the Crown.

Section 59 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0050/latest/DLM5481468.html>

Deed of Settlement – Attachments: <https://www.govt.nz/assets/Documents/OTS/Ngai-Tuhoe/Ngai-Tuhoe-Deed-of-Settlement-Attachments-4-Jun-2013.pdf>

Land described in Part 3.2 of the Attachments that, on the settlement date, was vested in or held in fee simple by the New Zealand Railways Corporation is also RFR land.

RFR land also includes land obtained in exchange for a disposal of RFR land under specified sections. This is set out in section 59(1)(c) of the Act:

<http://www.legislation.govt.nz/act/public/2014/0050/latest/DLM5481468.html>

Disposals

The RFR obligation arises for any disposal that would transfer the estate in fee simple. Refer to the meaning of disposal under the heading “Definitions” of the relevant RFR deed.

Kāinga Ora-Homes and Communities (formerly, Housing New Zealand) may include more than one property in an RFR offer. The Crown Commercial Properties, Crown Residential Properties and ECNZ Residential Properties RFR deeds provide that any offer made under the RFR deed shall be in respect of only one property, and shall not be conditional upon the sale of any other property.

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
- the reference for any record of title for the land
- contact details for the trustees to respond to.

Section 61 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0050/latest/DLM5481473.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 62 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0050/latest/DLM5481474.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 60 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 60 of the Act: <http://www.legislation.govt.nz/act/public/2014/0050/latest/DLM5481471.html#DLM5481471>

Section 79 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0050/latest/DLM5481497.html>

Exempted disposals

Certain disposals can occur without making an RFR offer to the trustees. These exempted disposals are set out in sections 66-76 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0050/latest/DLM5481497.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 60 of the Act: <http://www.legislation.govt.nz/act/public/2014/0050/latest/DLM5481471.html#DLM5481471>

Section 79 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0050/latest/DLM5481497.html>

Section 76 of the Act provides that specific exemptions apply in relation to the disposal of land to Te Urewera in accordance with any provisions relating to that land in the Te Urewera Act 2014.

Section 76 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0050/latest/DLM5481492.html>

Te Urewera Act 2014:

<http://www.legislation.govt.nz/act/public/2014/0050/latest/link.aspx?id=DLM6183600#DLM6183600>

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 78 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0050/latest/DLM5481495.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 80 of the Act:

<http://www.legislation.govt.nz/act/public/2014/0050/latest/DLM5481498.html>

Contact details

For more information about the Tūhoe claims settlement contact:

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Tūhoe Trust website: <http://www.ngaituhoe.iwi.nz/>

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WELLINGTON 6145

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

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