

Waitara Lands Act – Frequently Asked Questions for leaseholders

Do I have the right to freehold my leased land?

If you have a perpetually renewable lease with NPDC, you have the right to freehold your leased land. Perpetually renewable means you have the right to keep renewing your lease on expiry, so long as you abide by the terms of that lease. You must have a current lease to freehold.

Do I have to freehold?

No. You can choose to freehold or to continue to lease on the same terms and conditions that you already have.

If I don't want to freehold, do I lose that right?

No. It is the intent of the Act that the lessee will always have the right to freehold. If you sell or transfer your lease to someone else, then that right will pass to the new lessee.

What will I have to pay to freehold?

You will need to pay the unimproved value of the land. You will also have to pay some costs associated with the process.

Do I have to continue paying my lease rental after I have purchased the land?

No, your lease will cease when you buy the land. Rent will be due until settlement date.

Has NPDC already valued my land?

No. NPDC will only arrange for a valuation when you apply to purchase your leased property.

How will the land be valued?

NPDC will appoint a valuer to assess the unimproved value of the land. The valuer will try to imagine what the land was like at the start of the lease, assuming access to formed roads and services, but with no improvements by the lessee. The valuer will contact you to discuss what improvements might have been carried out and will then compare the land with other sales of vacant sections in the Waitara area.

Who picks the valuer and how are they chosen?

NPDC will appoint a registered valuer from a panel of valuers who know the Waitara property market. Having a panel of valuers will spread the workload and help NPDC respond in a timely manner.

What sales evidence will be used?

Where available, recent sales of comparable properties will be used. If there is not enough data, the valuer will look for the next best evidence. Such data could include older information or similar locations. The valuation date will be the date NPDC receives the application and all relevant sales data will be used to help value the land.

What will the unimproved land be valued at?

NPDC will not play any part in setting the values, but will rely on a registered valuer to provide a professional and impartial assessment on individual sections. Valuations will vary and valuers will consider factors such as the location, section size, contour, corner influence, potential for subdivision, the presence of easements, and adjustments for any work on the land.

Can I use the rating value of the land as the purchase price?

No, the land must be independently valued by a registered valuer and all improvements to the land excluded.

Other points to note about the rating values:

- The land is valued for the purposes of setting rates rather than a property transaction.
- The land is valued on a differed basis (it is not unimproved value).
- Valuations are completed on a three yearly cycle.
- They are mass appraisal valuations and the properties have not been individually inspected.

What about the land value as indicated on my last rent renewal?

No, a historic rent renewal cannot be used. While the land is valued on the same basis for a rent renewal, it is valued as of the day of your rent renewal rather than the valuation date for freeholding.

If I start an application to buy, do I have to see it through?

No. It's only binding once you sign the sale and purchase agreement. You can choose to continue to lease at any point before then.

What if I disagree with the valuation supplied by NPDC?

You should get your own valuation from a registered valuer and then tell NPDC on what grounds you disagree. The matter must then go to a qualified valuation arbitrator.

Who pays the costs of freeholding?

You will need to pay for all of the costs associated with the process, including the initial valuation, NPDC's legal cost of preparing the sale and purchase agreement, your own legal fees and for any valuation that you personally commission (for example, if you want to contest the value or require a valuation for finance purposes). During this time you must still pay any rent owing and for any subdivision or building consents that are necessary to enable freeholding.

Will the sale come with terms and conditions?

NPDC can require the sale to be on additional terms and conditions. These might include paying rent arrears. Another common condition will be registering easements on the freehold property to protect existing infrastructure such as sewer pipes or water supply lines. One of the conditions of purchase is that you must have a current registered lease.

Do I have to wait until my lease expires before I can freehold?

No, you can apply at any time.

If I say I want to freehold my property, do I still have to pay rent?

If you apply to freehold, you still have to pay rent according to your lease until the sale is complete.

What if my lease renews while I'm waiting to freehold and my rent increases?

If your lease expires while the freeholding is underway, NPDC will still start the renewal process because you might still decide not to purchase. Until you sign an unconditional sale and purchase agreement, you are not obliged to complete the freeholding.

If I pay my rent in advance, will I receive a refund if I freehold?

You only have to pay rent up to the transfer or settlement date. Any rent paid after that will be subtracted from the freehold price.

Will purchasing the land affect the rates payable or rating value the property?

No, the rating land value is assessed under the Rating Valuations Act 1998 and excludes any improvements on the land and requires the land to be valued as if freehold.

How will NPDC help lessees?

NPDC has developed a support package of independent financial and budgeting advice for lessees who occupy their leased properties. Terms and conditions apply.

If you're not sure if you can afford to freehold, you can get free financial advice from the New Plymouth Budget Advisory Service. You can call them on 06 758 5996 or 0800 114 911.

My mother can't afford to freehold her property. Can another family member buy it for her?

No. Under the Act, only the lessee has the right to apply to freehold. If another person wants to help, they will need to do so in another way, such as a gift or a loan, or buying the leasehold. NPDC cannot advise on this and recommends you obtain independent legal advice.

Will I be able to access my KiwiSaver if I choose to freehold?

NPDC cannot advise on this. You should talk to your KiwiSaver provider directly.

How can I apply to freehold my property?

You will have been contacted with details in 2019 but if you have questions on how to apply please [contact us](#).

My property is a bit different, what will that mean?

NPDC will have to work more closely with some lessees who might have cross-lease properties, properties with joined buildings without party wall agreements, properties with rights of way and properties encroaching on others (including other NPDC land). In these cases, we will need to meet with you and any affected neighbours to assess the best way forward.

If I decide to sell my leasehold property do I need to freehold first?

No, you can either sell as a leasehold property and the right to freehold transfers with the property to the new owner, or you can purchase the land first and then sell as a freehold property. You may wish to talk to your real estate agent about the pros and cons of each approach.

Who do I contact for more information?

If you have further questions or require additional clarification concerning the Waitara Lands Act please do not hesitate to give us a call on 06 759 6060 or email us at enquiries@npdc.govt.nz.

The above answers are a guide only. We advise you to get advice from an appropriately qualified person if you're considering freeholding.