

OC200370

21 May 2020

By email only: [REDACTED]

Dear [REDACTED],

I refer to your request to the NZ Police dated 7 April 2020, pursuant to the Official Information Act 1982, asking:

Do the NZ Police have any information on who owns the public roads? As my research indicates the public own the roads and they are vested in trust in fee simple to local councils.

The NZ Police transferred your request to the Ministry of Transport on 7 May 2020.

Roads as defined in section 315 of the Local Government Act 1974 (public roads, as distinct from private roads or private ways) that are located in a district are owned by the territorial authority of the district. As section 316 of the Local Government Act 1974 states: "...all roads and the soil thereof, and all materials of which they are composed, shall by force of this section vest in fee simple in the council of the district in which they are situated."

In the provision above, a "council" means a territorial authority. A "territorial authority" means a city council or a district council and includes Auckland Council.

Other public roads include Government roads and State highways. These roads are generally owned by the Crown – this is set out in section 44 of the Government Roading Powers Act 1989. This provision states that all State highways outside of urban areas are vested in the Crown. However I note that where a State highway or part of a State highway is located in the district of a territorial authority, the New Zealand Transport Agency may request the council to accept or relinquish its property in the State highway. Where the council relinquishes its property in a State highway, it vests in the Crown. This is set out in section 316(2) and (3) of the Local Government Act 1974.

Thank you for your request. I note that the Ministry publishes our Official Information Act responses and the information contained in our reply to you will be published on the Ministry website. Before publishing we will remove any personal or identifiable information.

Yours sincerely



Brendan Booth
Chief Legal Adviser