

Ngāti Mutunga claims settlement right of first refusal

Learn about the key aspects of the Ngāti Mutunga 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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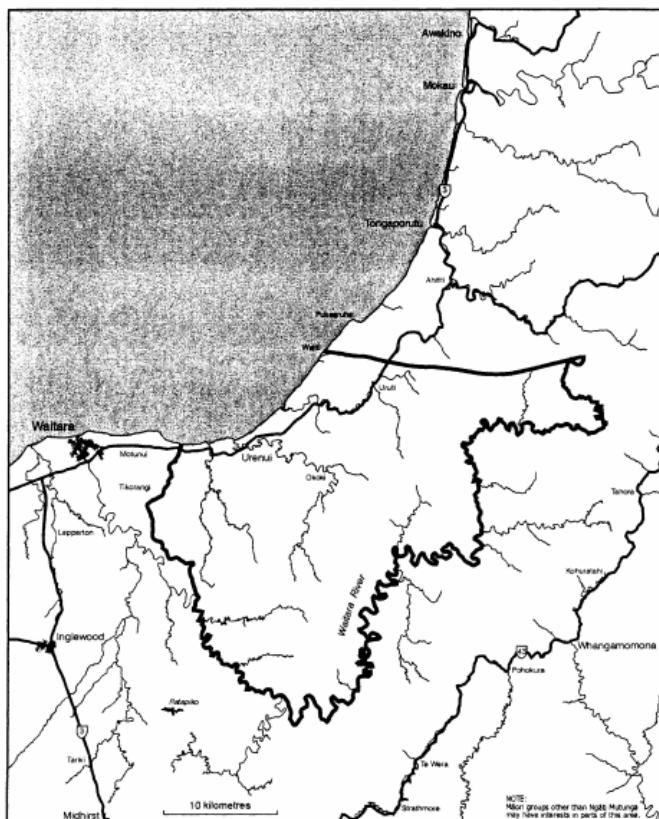
The following has been developed in collaboration with Te Arawhiti.

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

The Ngāti Mutunga RFR area

Ngāti Mutunga is one of eight generally recognised iwi of Taranaki. Mutunga is acknowledged by Ngāti Mutunga as the paramount and principal identifying ancestor from which ngā uri o ngā tūpuna o Ngāti Mutunga can trace descent. Ngāti Mutunga is located in northern Taranaki.

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



Map showing the area of interest referred to in the Deed of Settlement between Ngāti Mutunga and the Crown.

Settlement Summary

Ngāti Mutunga received redress through its Treaty settlement with the Crown.

Iwi	Ngāti Mutunga
	31 July 2005
Deed of Settlement signed	Ngāti Mutunga Deed of Settlement: https://www.govt.nz/browse/history-culture-and-heritage/treaty-settlements/find-a-treaty-settlement/ngati-mutunga-taranaki/
Settlement date	20 December 2006
Legislation	Ngāti Mutunga Claims Settlement Act 2006 ("the Act")
	The RFR provisions are set out in the Deed Granting a Right of First Refusal ("RFR deed"). There are no RFR provisions in the legislation.
RFR provisions	Deed Granting A Right of First Refusal: https://www.govt.nz/assets/Documents/OTS/Ngati-Mutunga-Taranaki/Ngati-Mutunga-Deed-Granting-a-Right-of-First-Refusal-over-property-13-Dec-2006.pdf
Offer made to	The RFR offer is in favour of the trustees of Te Rūnanga o Ngāti Mutunga (" the governance entity ")
RFR period	50 years from the effective date (expires in 2056)
RFR memorials	No

Definition of RFR property

Clause 14.1 of the RFR deed defines RFR property included in the settlement. It includes every parcel of land within the RFR area (shown on SO 324322 in Schedule 3 of the RFR) that, on settlement date, was vested in or held in fee simple by the Crown, or was a Crown-derived reserve vested in an administering body that would revert to the Crown.

RFR property also includes land obtained in exchange for a disposal of RFR property under clause 6.1.13(a), (b) or (e).

Any land or roads vested in the Crown by section 44 of the Transit New Zealand Act 1989 (now the Government Rounding Powers Act 1989) or any 'railway assets' of the Crown within the meaning of paragraph (c) of the meaning of 'railways assets' in section 2 of the New Zealand Railways Corporation Restructuring Act 1990 are not included in the settlement as RFR property.

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

Before disposing of an RFR property, the Crown must give notice to the governance entity. This RFR notice offers to dispose of the property to the governance entity at the price and on the terms and conditions set out in the notice.

The Crown may withdraw an RFR notice at any time before the governance entity accept an offer. If the Crown withdraws an RFR notice, the RFR deed will still apply to the property. The Crown will be required to give another RFR notice before it disposes of the RFR property.

Expiry date of offer

The RFR offer expires one calendar month after it is received by the governance entity.

Subsequent disposal process

Clause 3 of the RFR deed sets out that if the governance entity does not accept an offer, or the offer period expires, the Crown can dispose of the property provided that:

- the subsequent disposal is not on more favourable terms than those offered to the governance entity
- the land is being disposed of within 2 years after expiry of the RFR offer

The Crown must, promptly after entering into an agreement to dispose of the RFR property to a purchaser or lessee, give notice to the governance entity of that fact and disclose the terms of that agreement. The Crown must not dispose of the RFR property after the end of that 2-year period without first giving notice under clause 1.1 of the RFR deed.

Clause 4 of the RFR deed provides that should the Crown propose to dispose of the RFR property on more favourable terms it may do so only if it first gives another RFR notice to the governance entity.

Exempted disposals

Certain disposals can occur without making an RFR offer to the governance entity. These exempted disposals are set out in clauses 5 and 6 of the RFR deed. The Crown must notify the trustees of a disposal exempted from an RFR offer under clauses 5 or 6 in accordance with the RFR deed.

The RFR deed includes specific exemptions in relation to disposal of land that was held for a public work. This land may be disposed of to a local authority under section 50 of the Public Works Act 1981 or any other person where the land will be held or used for the purpose which, immediately before the disposal, constituted the public work.

Where RFR properties are to be disposed of to certain new owners, a deed of covenant may be required to bind new owners to the RFR. The new owner takes on the obligations under the RFR deed. Clause 6 and Schedules 1 and 2 of the RFR deed set out when this is required.

Delivery of notices

Clause 11 of the RFR deed provides for offer notices to be delivered by hand, registered mail or facsimile. There is no provision in the RFR deed for electronic service of an offer.

Contact details

For more information about the Ngāti Mutunga claims settlement contact:

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