

# Ngāruahine claims settlement right of first refusal

Learn about the key aspects of the Ngāruahine claims settlement right of first refusal (RFR).

**Publication Date:** 9 Mar 2022

Note: this is a guide only and agencies must comply with the requirements of the Deed of Settlement, legislation and any relevant LINZ standards.

The following has been developed in collaboration with Te Arawhiti.

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

## The Ngāruahine area of interest

Ngāruahine is one of the eight iwi in the Taranaki region. The Ngāruahine area of interest extends from the Taungatara Stream at the northern-most boundary to the Waihi Stream at the southern-most boundary. The area also encompasses Egmont National Park.

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



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

## Settlement summary

Ngāruahine received redress through its Treaty settlement with the Crown.

<b>Iwi</b>	Ngāruahine
<b>Deed of Settlement signed</b>	<p>1 August 2014</p> <p>The Deed was amending during the settlement process.</p> <p>Ngāruahine Deed of Settlement:  <a href="https://www.govt.nz/assets/Documents/OTS/Ngaruahine/Ngaruahine-Deed-of-Settlement-1-Aug-2014.pdf">https://www.govt.nz/assets/Documents/OTS/Ngaruahine/Ngaruahine-Deed-of-Settlement-1-Aug-2014.pdf</a></p>
<b>Settlement Date</b>	23 February 2017
<b>Legislation</b>	Ngāruahine Claims Settlement Act 2016 (“the Act”)
<b>RFR provisions</b>	<p>The RFR provisions are covered by sections 97-127 and Schedule 4 of the Act.</p> <p>Sections 97-127 of the Act:  <a href="http://legislation.govt.nz/act/public/2016/0093/latest/DLM6537023.html">http://legislation.govt.nz/act/public/2016/0093/latest/DLM6537023.html</a></p> <p>Schedule 4 of the Act:  <a href="http://legislation.govt.nz/act/public/2016/0093/latest/DLM6537118.html">http://legislation.govt.nz/act/public/2016/0093/latest/DLM6537118.html</a></p>
<b>Offer made to</b>	The RFR offer is in favour of the trustees of one or both trusts (“ <b>offer trusts</b> ”), depending on the category of RFR land that applies to particular land
<b>Categories of RFR land</b>	Exclusive RFR land and shared RFR land
<b>RFR period</b>	172 years from the settlement date for both categories of RFR land (expires in 2189)
<b>RFR memorials</b>	Yes

## Definition of RFR land

Section 98 of the Act defines RFR land included in the settlement and sets out the categories of RFR land. The RFR landowner will need to confirm which category of RFR land applies to particular land. In both cases, RFR land is land within the relevant RFR area 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 land also includes land obtained in exchange for a disposal of RFR land under specified conditions.

Section 98 of the Act:

<http://legislation.govt.nz/act/public/2016/0093/latest/DLM6537061.html>

Under the settlement there are two categories of RFR land applicable to Ngāruahine:

**Exclusive RFR land** to Ngāruahine. (the area shown on SO 477764 in Part 3 of the Attachments to the Deed of Settlement and the meaning given in section 97 of the Act)

**Shared RFR land** between Ngāruahine and Taranaki Iwi (area shown on SO 477763 in Part 4 of the Attachments to the Deed of Settlement and the meaning given in section 97 of the Act)

Section 97 of the Act:

<http://legislation.govt.nz/act/public/2016/0093/latest/DLM6537023.html>

Deed of Settlement – Attachments:

<https://www.govt.nz/assets/Documents/OTS/Ngaruahine/Ngaruahine-Deed-of-Settlement-Attachments-1-Aug-2014.pdf>

## 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 a preliminary notice requirement only for shared RFR land. An RFR landowner is required to notify the relevant offer trusts of the potential disposal of such land where they may ultimately be required to make an RFR offer.

Section 120 of the Act specifies the timing for when in a disposal process this preliminary notice must be given.

Section 120 of the Act:

<http://legislation.govt.nz/act/public/2016/0093/latest/DLM6537091.html#DLM6537091>

## Offering the land

The RFR offer to the trustees of one or both 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 101 of the Act:

<http://legislation.govt.nz/act/public/2016/0093/latest/DLM6537067.html>

## Expiry date of offer

The RFR offer expires on or after 40 working days after the day the offer trust receives the offer. However, a shorter expiry date of on or after 20 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 102 of the Act:

<http://legislation.govt.nz/act/public/2016/0093/latest/DLM6537068.html>

## Shared RFR offers

In the case of shared RFR land, an RFR landowner must offer the land to the trustees of one or both offer trusts. Shared RFR offers are made simultaneously to each relevant offer trust. A contract for disposal can only be entered into with one of the offer trusts.

Section 102(3) of the Act:

<http://legislation.govt.nz/act/public/2016/0093/latest/DLM6537068.html>

If the trustees of both offer trusts seek to accept the offer, the RFR landowner has 10 working days to notify the trustees of those two 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 20th working day after the day on which the RFR landowner's notice is received.

Section 104 of the Act:

<http://legislation.govt.nz/act/public/2016/0093/latest/DLM6537070.html>

The onus is on the offer trusts to resolve which of them will accept the offer before the additional 20 working day period expires.

## Subsequent disposal process

If the offer trusts 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 offer trusts,
- the land is being disposed of within 2 years after expiry of the RFR offer and
- 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 100 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 100 of the Act:

<http://legislation.govt.nz/act/public/2016/0093/latest/DLM6537065.html#DLM6537065>

Section 118 of the Act:

<http://legislation.govt.nz/act/public/2016/0093/latest/DLM6537089.html>

## Exempted disposals

Certain disposals can occur without making an RFR offer. These exempted disposals are set out in sections 106-115 of the Act.

Sections 106-115 of the Act:

<http://legislation.govt.nz/act/public/2016/0093/latest/DLM6537074.html>

The relevant 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 118 of the Act:

<http://legislation.govt.nz/act/public/2016/0093/latest/DLM6537089.html>

## RFR Memorials

All records of title for RFR land must be noted with a memorial protecting the offer 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 122 of the Act:

<http://legislation.govt.nz/act/public/2016/0093/latest/DLM6537095.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 123 of the Act:

<http://legislation.govt.nz/act/public/2016/0093/latest/DLM6537096.html>

## Contact details

For more information about the Ngāruahine claims settlement contact:

### **Te Korowai o Ngāruahine Trust**

PO Box 474

Hawera

TARANAKI 4640

Ngāruahine Trust website: <https://ngaruahine.iwi.nz/>

### **Land Information New Zealand**

PO Box 5501

WELLINGTON 6145

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/>