

Ngāi Tāmanuhiri claims settlement right of first refusal

Learn about the key aspects of the Ngāi Tāmanuhiri 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 Ngāi Tāmanuhiri area of interest

Ngāi Tāmanuhiri is an iwi based in the Tūranga (Gisborne) region. The Ngāi Tāmanuhiri area of interest extends from Kopututea (south of Gisborne City) and down the coastline over Wharerata Forest to Paritū. From Paritū the area extends inland towards Lake Waikaremoana.

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



Settlement Summary

Ngāi Tāmanuhiri received redress through its Treaty settlement with the Crown.

Iwi:	Ngāi Tāmanuhiri
Deed of Settlement signed:	<p>5 March 2011. The Deed was amended during the settlement process.</p> <p>Ngai Tāmanuhiri Deed of Settlement: https://www.govt.nz/treaty-settlement-documents/ngai-tamanuhiri/</p>
Settlement Date:	29 August 2012
Legislation:	Ngai Tāmanuhiri Claims Settlement Act 2012 ("the Act")
RFR provisions:	<p>The RFR provisions are covered by sections 86-113 and Schedule 3 of the Act.</p> <p>Sections 86-113 of the Act: http://www.legislation.govt.nz/act/public/2012/0055/latest/DLM3947353.html</p> <p>Schedule 3 of the Act: http://legislation.govt.nz/act/public/2012/0055/latest/DLM3947449.html</p>
Offer made to:	The RFR offer is in favour of the trustees of Tāmanuhiri Tutu Poroporo Trust ("the trustees")
Categories of RFR land:	Pakowhai Scenic Reserve, Muriwai School House site RFR land and deferred Muriwai School RFR land
RFR period:	<p>Pakowhai Scenic Reserve: 100 years from the settlement date (expires in 2112)</p> <p>Muriwai School House site RFR land: 169 years from the settlement date (expires in 2181)</p> <p>Deferred Muriwai School RFR land: 169 years from the settlement date (expires in 2181)</p>
RFR memorials:	Yes

Definition of RFR land

Section 87 of the Act defines RFR land included in the settlement. This includes:

- **Pakowhai Scenic Reserve** (described in Part 3 of the Attachments to the Deed of Settlement)
- **Muriwai School House site** RFR land (the Muriwai School House site, if its does not form part of the Muriwai School DSP site described in Part 4 of the Property Redress Schedule)
- **Deferred Muriwai School RFR land** (the Muriwai School DSP site described in Part 4 of the Property Redress Schedule that has not been transferred and is no longer able to be transferred in accordance with Part 5 of that schedule)

RFR land also includes land obtained in exchange for a disposal of RFR land under specified sections. This is set out in section 87(1)(d) of the Act.

Section 86 of the Act:

<http://legislation.govt.nz/act/public/2012/0055/latest/DLM3947354.html>

Section 87 of the Act:

<http://legislation.govt.nz/act/public/2012/0055/latest/DLM3947379.html>

Deed of Settlement Schedule – Attachments:

<https://www.govt.nz/assets/Documents/OTS/Ngai-Tamanuhiri/Ngai-Tamanuhiri-Deed-of-Settlement-Attachments-5-Mar-2011.pdf>

Deed of Settlement Schedule - Property Redress:

<https://www.govt.nz/assets/Documents/OTS/Ngai-Tamanuhiri/Ngai-Tamanuhiri-Deed-of-Settlement-Schedule-Property-redress-5-Mar-2011.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 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 encumbrances affecting the land
- contact details for the trustees to respond to

Section 89 of the Act:

<http://legislation.govt.nz/act/public/2012/0055/latest/DLM3947383.html>

Expiry date of offer

The RFR offer expires on or after 40 business days after the day the trustees receive the offer. However, a shorter expiry date of on or after 20 business 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 90 of the Act:

<http://www.legislation.govt.nz/act/public/2012/0055/latest/DLM3947385.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 that were offered the land are notified of the proposed disposal at least 20 business 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 88 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 88 of the Act:

<http://www.legislation.govt.nz/act/public/2012/0055/latest/DLM3947382.html>

Section 106 of the Act:

<http://www.legislation.govt.nz/act/public/2012/0055/latest/DLM3947406.html>

Exempted disposals

Certain disposals can occur without making an RFR offer to the trustees. These exempted disposals are set out in sections 94-103 of the Act.

Sections 94-103 of the Act:

<http://www.legislation.govt.nz/act/public/2012/0055/latest/DLM3947391.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 106 of the Act:

<http://www.legislation.govt.nz/act/public/2012/0055/latest/DLM3947406.html>

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 after settlement date, the landowner must advise LINZ as soon as possible so LINZ can place a memorial noting the RFR on the title.

Section 109 of the Act:

<http://www.legislation.govt.nz/act/public/2012/0055/latest/DLM3947410.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 110 of the Act:

<http://www.legislation.govt.nz/act/public/2012/0055/latest/DLM3947411.html>

Contact details

For more information about the Ngāi Tāmanuhiri claims settlement contact:

Tāmanuhiri Tutu Poroporo Trust

PO Box 746

GISBORNE 4040

Ngāi Tāmanuhiri Trust website: <http://tamanuhiri.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/>