

Moriori claims settlement right of first refusal

Learn about the key aspects of the Moriori 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.

This settlement involves properties that are also subject to another settlement. This page must be read in conjunction with any information for the Ngāti Mutunga o Wharekauri settlement (as referenced in section 92 of the Moriori Claims Settlement Act 2021) once that settlement has concluded. The RFR provides for Ngāti Mutunga o Wharekauri to participate once they have settled.

Publication Date: 30 July 2024

The following has been developed in collaboration with Te Arawhiti.

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

The Moriori area of interest

The Moriori imi (tribe) area of interest is centred in and around Chatham Island and Pitt Island (Rangiauria), also known as Rēkohu and Rangihaute.

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



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

Settlement Summary

Moriōri received redress through its Treaty settlement with the Crown.

Imi	Moriōri
Deed of Settlement signed	14 February 2020 Moriōri Deed of Settlement: https://www.tearawhiti.govt.nz/te-kahui-whakatau-treaty-settlements/find-a-treaty-settlement/moriōri/
Settlement date	16 February 2022
Legislation	Moriōri Claims Settlement Act 2021: ("the Act") https://www.legislation.govt.nz/act/public/2021/0049/latest/whole.html#whole
RFR provisions	The RFR provisions are covered by sections 89 to 122 and Schedule 4 of the Act. Sections 89 to 122 of the Act: https://www.legislation.govt.nz/act/public/2021/0049/latest/LMS290463.html Schedule 4 of the Act: https://www.legislation.govt.nz/act/public/2021/0049/latest/LMS238418.html
Offer made to	The RFR offer is in favour of the trustees of the Moriōri Imi Settlement Trust and to a governance entity established by Ngāti Mutunga o Wharekauri if they may participate under section 92 ("offer trusts").
RFR period	179 years commencing from the earlier of the date that is 36 months after the settlement date under the Act, and the settlement date under approving legislation for Ngāti Mutunga o Wharekauri.
RFR memorials	Yes

Definition of RFR land

Section 90 of the Act defines shared RFR land included in the settlement. It includes all the land listed in Part 4 of the Attachments to the Deed that, on the RFR date (as defined in section 89 of the Act), is held in fee simple by Te Whatu Ora - Health New Zealand (formerly the Canterbury District Health Board). Shared RFR land also includes all the land within the RFR area that is vested or held in fee simple by the Crown on the RFR date.

Section 90 of the Act:

<https://www.legislation.govt.nz/act/public/2021/0049/latest/LMS238352.html>

Deed of Settlement – Attachments:

<https://www.govt.nz/assets/Documents/OTS/Moriori/4.-Moriori-Deed-of-Settlement-Attachments-schedule.pdf>

Land obtained in exchange for a disposal of shared RFR land under specified sections is also shared RFR land. This is set out in section 90(1)(c) of the Act.

Section 90(1)(c) of the Act:

<https://www.legislation.govt.nz/act/public/2021/0049/latest/LMS238352.html>

Section 91 of the Act provides that the Minister for Treaty of Waitangi Negotiations may give notice to the 1 or more offer trusts and RFR landowners that shared RFR land is required for the Ngāti Mutunga o Wharekauri settlement or as a property to be shared by Moriori and Ngāti Mutunga o Wharekauri. If this occurs, the land ceases to be subject to this RFR.

Section 91 of the Act:

<https://www.legislation.govt.nz/act/public/2021/0049/latest/LMS238354.html>

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 for shared RFR land included in this settlement. An RFR landowner is required to notify the 1 or more offer trusts of the potential disposal of such land where they may ultimately be required to make an RFR offer.

Section 112 of the Act specifies the timing for when in a disposal process this preliminary notice must be given.

Section 112 of the Act:

<https://www.legislation.govt.nz/act/public/2021/0049/latest/LMS238384.html>

Offering the land

The RFR offer to the trustees needs to include the terms of the offer, including:

- the terms of the offer, including the expiry date
- the legal description and street address of the land
- the reference for any record of title for the land
- any interests affecting the land
- contact details for the trustees to respond to.

Section 94 of the Act:

<https://www.legislation.govt.nz/act/public/2021/0049/latest/LMS238359.html>

Expiry date of offer

The RFR offer expires on or after 40 working days after the day the trustees of one or more offer trusts receive 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 95 of the Act:

<https://www.legislation.govt.nz/act/public/2021/0049/latest/LMS238360.html>

Shared RFR offers

Section 92 of the Act provides that a governance entity established by Ngāti Mutunga o Wharekauri may participate as an offer trust under the Act, on and from the settlement date under approving legislation for Ngāti Mutunga o Wharekauri. In this case, an RFR landowner must offer the land to the trustees of more than one offer trust. Shared RFR offers are made simultaneously to each offer trust. A contract for disposal can only be entered into with one of the offer trusts.

If the trustees of both offer trusts seek to accept the offer, the RFR landowner has 10 working days to notify the trustees of both 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.

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

Section 92 of the Act:

<https://www.legislation.govt.nz/act/public/2021/0049/latest/LMS238355.html>

Section 95 of the Act:

<https://www.legislation.govt.nz/act/public/2021/0049/latest/LMS238360.html>

Section 97 of the Act:

<https://www.legislation.govt.nz/act/public/2021/0049/latest/LMS238362.html#LMS238362>

Subsequent disposal process

If the offer trust/s 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 93 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 93 of the Act:

<https://www.legislation.govt.nz/act/public/2021/0049/latest/LMS238357.html>

Section 113 of the Act:

<https://www.legislation.govt.nz/act/public/2021/0049/latest/LMS238385.html>

Exempted disposals

Certain disposals can occur without making an RFR offer. These exempted disposals are set out in sections 99 to 110 of the Act.

Sections 99 to 110 of the Act:

<https://www.legislation.govt.nz/act/public/2021/0049/latest/LMS238365.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 113 of the Act:

<https://www.legislation.govt.nz/act/public/2021/0049/latest/LMS238385.html>

The settlement also includes a specific exemption in relation to disposal of land by Health New Zealand (referred to as the Canterbury District Health Board in the Act) or any of its subsidiaries. The exemption applies if the Minister of Health considers the disposal will achieve, or assist in achieving, Health New Zealand's objectives.

Section 109 of the Act:

<https://www.legislation.govt.nz/act/public/2021/0049/latest/LMS238377.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 111 of the Act:

<https://www.legislation.govt.nz/act/public/2021/0049/latest/LMS238381.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 114 of the Act:

<https://www.legislation.govt.nz/act/public/2021/0049/latest/LMS238386.html>

Contact details

For more information about the Moriori claims settlement contact:

Moriori Imi Settlement Trust

PO Box 288
CHATHAM ISLANDS 8942

Toitū Te Whenua Land Information New Zealand

PO Box 5501
WELLINGTON 6145
Toitū Te Whenua 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/>
Email: postsettlement@tearawhiti.govt.nz