

Ngāti Mākino claims settlement right of first refusal

Learn about the key aspects of the Ngāti Mākino 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.

The following has been developed in collaboration with Te Arawhiti.

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

The Ngāti Mākino area of interest

Ngāti Makino are based in the Bay of Plenty Region. Their area of interest runs from Lake Rotoiti/Te Roto kite ā Ihenga i ariki ai Kahu and Lake Rotomā to the coast.

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



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

Settlement Summary

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

Iwi	Ngāti Mākino
Deed of Settlement signed	<p>2 April 2011. The deed was amended during the settlement process.</p> <p>Ngāti Mākino Deed of Settlement: https://www.tearawhiti.govt.nz/te-kahui-whakatau-treaty-settlements/find-a-treaty-settlement/ngati-makino/</p>
Settlement date	29 August 2012
Legislation	<p>Ngāti Mākino Claims Settlement Act 2012: (“the Act”) https://www.legislation.govt.nz/act/public/2012/0053/latest/whole.html#DLM4062622</p>
RFR provisions	<p>The RFR provisions are covered by sections 95 to 122 and Schedule 4 of the Act.</p> <p>Sections 95 to 122 of the Act: https://www.legislation.govt.nz/act/public/2012/0053/latest/DLM4062955.html</p> <p>Schedule 4 of the Act: https://www.legislation.govt.nz/act/public/2012/0053/latest/DLM4063024.html</p>
Offer made to	The RFR offer is in favour of the trustees of the Ngāti Mākino Iwi Authority (“the trustees”)
RFR period	100 years from the settlement date (expires 2112)
RFR memorials	Yes

Definition of RFR land

Section 96 of the Act defines RFR land included in the settlement. It includes all the land listed in Part 5 of the Attachments to the Deed of Settlement that, on settlement date, was vested or held in fee simple by the Crown.

Section 96 of the Act:

<https://www.legislation.govt.nz/act/public/2012/0053/latest/DLM4062974.html>

Deed of Settlement – Attachments:

<https://www.govt.nz/assets/Documents/OTS/Ngati-Makino/Ngati-Makino-Deed-of-Settlement-Attachments-2-Apr-2011.pdf>

RFR land also includes land obtained in exchange for a disposal of RFR land under specified sections. This is set out in section 96(1)(b) of the Act.

Section 96(1)(b) of the Act:

<https://www.legislation.govt.nz/act/public/2012/0053/latest/DLM4062974.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 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 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 98 of the Act:

<https://www.legislation.govt.nz/act/public/2012/0053/latest/DLM4062978.html>

Expiry date of offer

The RFR offer expires on or after 20 working days after the day the trustees receive the offer. However, a shorter expiry date of on or after 10 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 99 of the Act:

<https://www.legislation.govt.nz/act/public/2012/0053/latest/DLM4062980.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 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 97 of the Act, and a copy of the written contact to demonstrate that the subsequent disposal is not on more favourable terms than the RFR offer.

Section 97 of the Act:

<https://www.legislation.govt.nz/act/public/2012/0053/latest/DLM4062976.html>

Section 115 of the Act:

<https://www.legislation.govt.nz/act/public/2012/0053/latest/DLM4063000.html>

Exempted disposals

Certain disposals can occur without making an RFR offer. These exempted disposals are set out in sections 103 to 113 of the Act.

Sections 103 to 113 of the Act:

<https://www.legislation.govt.nz/act/public/2012/0053/latest/DLM4062984.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 115 of the Act:

<https://www.legislation.govt.nz/act/public/2012/0053/latest/DLM4063000.html>

RFR Memorials

All records of title for RFR land must be noted with a memorial protecting the trustees' interest.

If an RFR landowner creates a new record of title for an RFR property, the landowner must advise Toitū Te Whenua Land Information as soon as possible so Toitū Te Whenua can place a memorial noting the RFR on the title.

Section 114 of the Act:

<https://www.legislation.govt.nz/act/public/2012/0053/latest/DLM4062998.html>

In certain cases, the RFR landowner must seek a certificate from Toitū Te Whenua requesting the removal of the RFR memorial, before a transfer can occur.

Section 116 of the Act:

<https://www.legislation.govt.nz/act/public/2012/0053/latest/DLM4063001.html>

Contact details

For more information about the Ngāti Mākino claims settlement contact:

Ngāti Mākino Iwi Authority

PO Box 479

TE PUKE 3153

Ngāti Mākino Iwi Authority website: <https://www.ngatimakino.co.nz/>

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