

Ngati Porou claims settlement right of first refusal

Learn about the key aspects of the Ngati Porou 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 Porou area of interest

Ngāti Porou is one of the largest iwi in New Zealand, with 72,000 members, comprising 58 hāpu and 48 marae. The marae are located around the East Cape from Potikura in the north to Te Toka-a-Taiau in the south, covering an area of about 400,000 hectares.

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



Settlement Summary

Ngati Porou received redress through its Treaty settlement with the Crown.

Iwi:	Ngati Porou
Deed of Settlement signed:	22 December 2010 Ngati Porou Deed of Settlement: https://www.govt.nz/treaty-settlement-documents/ngati-porou/
Settlement Date:	8 May 2012
Legislation:	Ngai Porou Claims Settlement Act 2012 ("the Act")
RFR provisions:	The RFR provisions are covered by sections 98-127 and Schedule 4 of the Act. Sections 98–127 of the Act: http://www.legislation.govt.nz/act/public/2012/0031/latest/DLM3549064.html?search=ts_act%40bill%40regulation%40deemedreg_porou_reselel_25_a&p=1 Schedule 4 of the Act: http://www.legislation.govt.nz/act/public/2012/0031/latest/DLM3549185.html?search=ts_act%40bill%40regulation%40deemedreg_porou_reselel_25_a&p=1
Offer made to:	The RFR offer is in favour of Te Runanganui o Ngati Porou Trustee Limited, the trustee of Te Runanganui o Ngati Porou ("the trustee")
RFR period:	170 years from the settlement date (expires in 2182)
RFR memorials:	Yes

Definition of RFR land

Sections 98 and 99 of the Act define RFR land included in the settlement. General RFR land includes all the land listed in the RFR Land Schedule that, on settlement date, was vested in or held in fee simple by the Crown, held in fee simple by Housing New Zealand Corporation, or was a reserve vested in an administering body that derived title from the Crown.

Sections 98-99 of the Act:

http://www.legislation.govt.nz/act/public/2012/0031/latest/DLM3549064.html?search=ts_act%40bill%40regulation%40deemedreg_porou_resel_25_a&p=1

Deed of Settlement Schedule - RFR Land:

<https://www.govt.nz/assets/Documents/OTS/Ngati-Porou/Ngati-Porou-Deed-of-Settlement-RFR-Land-22-Dec-2010.pdf>

A deferred selection property listed in Part 1 of the Property Redress Schedule that has not been transferred to, and is no longer subject to the obligation to be transferred to, the trustee in accordance with the terms of the deed, is deferred selection RFR land.

Deed of Settlement Schedule - Property Redress:

<https://www.govt.nz/assets/Documents/OTS/Ngati-Porou/Ngati-Porou-Deed-of-Settlement-Schedule-Property-redress-22-Dec-2010.pdf>

RFR land also includes land obtained in exchange for a disposal of RFR land under specified sections. This is set out in section 99(1)(c) of the Act.

Section 99(1)(c) of the Act:

http://www.legislation.govt.nz/act/public/2012/0031/latest/DLM3549083.html?search=ts_act%40bill%40regulation%40deemedreg_porou_resel_25_a&p=1

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 101 of the Act:

http://www.legislation.govt.nz/act/public/2012/0031/latest/DLM3549087.html?search=ts_act%40bill%40regulation%40deemedreg_porou_resele_25_a&p=1

Expiry date of offer

The RFR offer expires on or after 40 business days after the day the trustee receives 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 102 of the Act:

http://www.legislation.govt.nz/act/public/2012/0031/latest/DLM3549089.html?search=ts_act%40bill%40regulation%40deemedreg_porou_resele_25_a&p=1

Subsequent disposal process

If the trustee does 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 trustee,
- the land is being disposed of within 2 years after expiry of the RFR offer and
- the trustee is 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 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://www.legislation.govt.nz/act/public/2012/0031/latest/DLM3549086.html?search=ts_act%40bill%40regulation%40deemedreg_porou_resele_25_a&p=1

Section 119 of the Act:

http://www.legislation.govt.nz/act/public/2012/0031/latest/DLM3549111.html?search=ts_act%40bill%40regulation%40deemedreg_porou_resele_25_a&p=1

Exempted disposals

Certain disposals can occur without making an RFR offer to the trustee. These exempted disposals are set out in sections 106-116 of the Act.

Sections 106-116 of the Act:

http://www.legislation.govt.nz/act/public/2012/0031/latest/DLM3549095.html?search=ts_act%40bill%40regulation%40deemedreg_porou_resel_25_a&p=1

The trustee 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 119 of the Act:

http://www.legislation.govt.nz/act/public/2012/0031/latest/DLM3549111.html?search=ts_act%40bill%40regulation%40deemedreg_porou_resel_25_a&p=1

Section 116 of the Act provides that specific exemptions apply to disposals of RFR land by Housing New Zealand Corporation or any of its subsidiaries. However, section 20 of the Kāinga Ora-Homes and Communities Act 2019 provides that Kāinga Ora-Homes and Communities may not exercise the powers conferred upon Housing New Zealand Corporation or any of its subsidiaries by section 116 of the Act.

Section 116 of the Act:

http://www.legislation.govt.nz/act/public/2012/0031/latest/DLM3549106.html?search=ts_act%40bill%40regulation%40deemedreg_porou_resel_25_a&p=1

Section 20 of the Kāinga Ora-Homes and Communities Act 2019:

<http://legislation.govt.nz/act/public/2019/0050/latest/LMS196222.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 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://www.legislation.govt.nz/act/public/2012/0031/latest/DLM3549115.html?search=ts_act%40bill%40regulation%40deemedreg_porou_resel_25_a&p=1

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://www.legislation.govt.nz/act/public/2012/0031/latest/DLM3549116.html?search=ts_act%40bill%40regulation%40deemedreg_porou_resel_25_a&p=1

Contact details

For more information about the Ngati Porou claims settlement contact:

Te Runanganui o Ngati Porou Trust

Ngati Porou
PO Box 394, Kaiti
GISBORNE 4010
Ngati Porou Trust website: <http://www.ngatiporou.com/>

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

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WELLINGTON 6011
Te Arawhiti website: <http://tearawhiti.govt.nz/>
Email: postsettlement@tearawhiti.govt.nz